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I WOULD RATHER BE RIGHT THAN PRESIDENT.—HENRY CLAY.

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President's Message.

Fellow Citizens of the Senate and House of Representatives:

The continued disorganization of the Union, to which the President has so often called the attention of Congress, is yet a subject of profound political concern. We may, however, find some relief from that anxiety in the reflection that this painful political situation, although before untried by ourselves, is not new in the experience of nations. Political science, perhaps as highly perfected in our own time and country as in any other, has not yet disclosed any means by which civil wars can be absolutely prevented. An enlightened nation, however, with a wise and beneficent constitution of free government, may diminish their frequency and mitigate their severity by directing all its proceedings in accordance with its fundamental law. When civil war has been brought to a close, it is manifestly the first interest and duty of the State to repair the injuries which the war has inflicted, and to secure the benefit of the lessons it teaches as fully and speedily as possible. This duty was, upon the termination of the rebellion, promptly accepted, not only by the Executive Department, but by the insurrectionary States themselves; and restoration in the first moments of peace was believed to be as easy and certain as it was indispensable. Expectations, however, not so reasonably and confidently entertained, were disappointed by legislation from which I felt constrained by my obligations to the Constitution to withhold my assent. It is, therefore, a source of profound regret that, in complying with the obligation imposed upon the President by the Constitution, to give to Congress, from time to time, information of the state of the Union, I am unable to communicate any definite adjustment, satisfactory to the American people, of questions which, since the close of the rebellion, have agitated the public mind. On the contrary, candor compels me to declare, that all this time there is no Union, as our fathers understood the term, and as they meant it to be understood by us. The Union which they established, can exist only where all the States are represented in both Houses of Congress, and where one State is as free as another to regulate its internal concerns, according to its own will, and where the laws of the central government are strictly confined to matters of national jurisdiction, and apply with equal force to all people of every section; and that such is not the present state of the Union, it is a melancholy fact, and we all must acknowledge, that the restoration of the States to their proper and legal relations with the Federal government, and with one another, according to the terms of original compact, would be the greatest temporal blessing which God in his kindest Providence could bestow upon this nation. It becomes our imperative duty to consider whether or not it is impossible to effect this most desirable consummation. The Union and Constitution are inseparable; as long as one is obeyed by all parties, the other will be preserved, and if one is destroyed, both must perish together. The destruction of the Constitution will be followed by other and still greater calamities. It was ordained not only to form a more perfect Union between the States, but to establish justice and domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.— Nothing but implicit obedience to its requirements in all parts of the country will accomplish these great ends, and without that obedience we can look forward only to continued outrages upon individual rights and incessant breaches of the public peace, national weakness, financial disonor, total loss of our prosperity, general corruption of our morals, and the final extinction of popular freedom. To save our country from evils so appalling as these we should renew our efforts again and again.

To me the process of reconstruction seems perfectly plain and simple. It consists merely in a faithful application of the Constitution and laws, and as the execution of the laws is not now obstructed or opposed by physical force, there is no military or other necessity, real or pretended, which can prevent obedience to the Constitution, either North or South. All rights and all obligations of States and individuals can be protected and enforced by means perfectly consistent with fundamental law. Courts may be everywhere open, and if open, their process would be unimpeded, and crimes against the United States can be prevented or punished by proper judicial authorities in a manner entirely practicable and legal. There is, therefore, no reason why the Constitution should not be obeyed, unless those who exercise its powers have determined that it shall be disregarded and violated as if some one or more of its branches. Is there any obstacle that can exist to perfect the Union of all the States? On the momentous question, and some of the measures growing out of it, I had the misfortune to differ from Congress, and have expressed my convictions without reserve, though with becoming deference to the opinion of the Legislative Department. Those con-

victions were not only unchanged, but strengthened by subsequent events, and further reflections upon the transcendent importance of the subject will be a sufficient excuse for calling your attention to some of the reasons which have so strongly influenced my own judgment. I hope that we may all finally concur in a mode of settlement, consistent at once with our true interests and with our sworn duties to the Constitution. It is too natural and too just to be easily relinquished. It is clear to my apprehension that the States lately in rebellion are still members of the National Union. When did they cease to be so? Ordinances of secession adopted by a portion—in most of them a very small portion of their citizens—were mere nullities. If we admit now that they were valid and effectual for the purposes intended by their authors, we sweep from under our feet the whole ground upon which we justified the war. Were these States afterwards expelled from the Union by the war? Directly the contrary was asserted by this Government to be its purpose, and was so understood by all those who gave their blood and treasure to aid in its prosecution. It cannot be that a successful war, waged for the preservation of the Union, had the legal effect of dissolving it. The victory of the nation's arms was not a disgrace of her policy. The defeat of secession on the battlefield was not a triumph of its lawless principle, nor could Congress, with or without the consent of the Executive, do anything which would have the effect, directly or indirectly, of separating the States from each other. To dissolve the Union, is to repeal the Constitution which holds it together, and that is a power which does not belong to any department of this Government or to all of them united. This is so plain that it has been acknowledged by all branches of the Federal Government. My predecessor, as well as myself and the heads of all the departments, have uniformly acted upon the principle that the Union is not only undissolved but indissoluble. Congress submitted an amendment of the Constitution to be ratified by the Southern States, and accepted their acts of ratification as a necessary and lawful exercise of their highest function. If they were not States, or were States out of the Union, their consent to a change in the fundamental law of the Union would have been nugatory, and Congress, in asking it, committed a political absurdity. The Judiciary has also given the solemn sanction of its authority to the same view of the case. The Judges of the Supreme Court have included the Southern States in their circuits, and they are constantly in banc and elsewhere exercising jurisdiction which does not belong to them unless those States are States of the Union. If the Southern States are component parts of the Union, the Constitution is supreme law for them as well as for all other States. They are bound to obey it, and so are we. The right of the Federal Government, which is clear and unquestionable, to enforce the Constitution upon them implies relative obligations on our part to observe its limitations and execute its guarantees. Without the Constitution we are nothing. By, through and under the Constitution we are what it makes us. We may doubt the wisdom of law, we may not approve of its provisions, but we cannot violate it merely because it seems to confine our powers within limits narrower than we could wish. It is not a question of individual or class or sectional interest, much less of party forbearance, but of duty, high and sacred duty, which we are all sworn to perform. If we cannot support the Constitution with the cheerful alacrity of those who love and believe in it, we must give it at least the fidelity of public servants who act under solemn obligations and commands which they dare not disregard. Constitutional duty is not only one which requires States to be restored, but there is another consideration which, though of minor importance, is yet of great weight. On the 22d of July, 1861, Congress declared by an almost unanimous vote of both Houses that the war should be conducted solely for the purpose of preserving the Union and maintaining the supremacy of the Federal Constitution and laws without impairing the dignity and equality and rights of States or individuals, and that when this was done the war should cease. I do not say that this declaration is personally binding on those who joined in making it, any more than individual members of Congress are personally bound to pay a public debt created under a law for which they voted; but it was a solemn public official pledge of national honor. I cannot imagine upon what grounds repudiation of it is to be justified. If it be said that we are not bound to keep faith with rebels, let it be understood that this pledge was not made to rebels only; thousands of true men in the South were drawn to our standard by it, and hundreds of thousands in the North gave their lives, in the belief that it would be carried out. It was made on the day after the first great battle of the war had been fought and lost. All patriotic and intelligent men then saw the necessity of giving such an assurance, and believed that without it the war would end in disaster to our cause. Having given that assurance in our extremity and peril, a violation of it now in the

day of our power would be a rude rending of that good faith which holds the moral world together. Our country would cease to have any claim upon the confidence of men. It would make the war not only a failure, but a fraud. Being sincerely convinced that these views are correct, I would be unfaithful to my duty if I did not recommend the repeal of those Acts of Congress which place ten of the Southern States under the domination of military masters. If calm reflection shall satisfy a majority of your honorable bodies that the acts referred to are not only a violation of national faith, but in direct conflict with the Constitution, I dare not permit myself to doubt that you will immediately strike them from the statute-book. To demonstrate the unconstitutional character of those acts, I need do no more than refer to their general provisions. It must be seen at once that they are not authorized to dictate what alterations shall be made in the constitutions of the several States, to control the elections of State Legislatures, State officers, and members of Congress, and electors of President and Vice President, by authority declaring who shall vote and who shall be excluded from that privilege, to dissolve State Legislatures, or prevent them from assembling, to dismiss Judges and other civil functionaries of States, and appoint others without regard to State law, to organize and operate all political machinery of States, to regulate the whole administration of their domestic and local affairs according to the mere will of strange and irresponsible agents sent among them for that purpose. There are powers not granted to the Federal Government or to any one of its branches, and not being granted, we violate our trust by assuming them as palpably as we would by acting in the face of a positive interdiction for the Constitution forbids us to do whatever it does not affirmatively authorize, either by express words or by clear implication. If the authority we desire to use does not come to us through the Constitution, we can exercise it only through usurpation, and usurpation is the most dangerous of political crimes. By that crime the enemies of free government in all ages have worked out their designs against public liberty and private right. It leads directly and immediately to the establishment of absolute rule, for un delegated power is always unlimited and unrestrained. The acts of Congress in question are not only objectionable for their assumption of ungranted power, but many of their provisions are in conflict with the direct prohibitions of the Constitution. The Constitution commands that a republican form of government shall be guaranteed to all the States; that no person shall be deprived of life, liberty, or property without due process of law, or be arrested without a judicial warrant, or punished without a fair trial before an impartial jury; that the privilege of habeas corpus shall not be denied in time of peace; and that no bill of attainder shall be passed even against a single individual. Yet the system of measures established by these acts of Congress does wholly subvert and destroy the form as well as the substance of republican government in the ten States to which they apply. It binds them hand and foot in absolute slavery, and subjects them to a strange and hostile power, more unlimited and more likely to be abused than any other now known among civilized men. It tramples down all those rights in which the essence of liberty consists, and which a free government is always most careful to protect. It denies the habeas corpus and the trial by jury.— Personal freedom, property, and life, if assailed by the passion, the prejudice, or the rapacity of the ruler, have no security whatever. It has the effect of a bill of attainder, or bill of pains and penalties, not upon a few individuals but upon whole masses, including the millions who inhabit the subject States, and even their unborn children. These wrongs, being expressly forbidden, cannot be constitutionally inflicted upon any portion of our people, no matter how they may have come within our jurisdiction, and whether they live in States, Territories or districts. I have no desire to save from the proper and just consequences of their great crime those who engaged in rebellion against the Government, but as a mode of punishment the measures under consideration are the most unreasonable that could be invented. Many of those people are perfectly innocent; many kept their fidelity to the Union untainted to the last; many were incapable of any legal offense; a large proportion even of the persons able to bear arms were forced into rebellion against their will; and of those who are guilty with their own consent, the degrees of guilt are as various as the shades of their character or temper. But these acts of Congress confound them all together in one common doom. Indiscriminate vengeance upon classes, sects, and parties, or upon whole communities, for offenses committed by a portion of them against the Government to which they owed obedience, was common in the barbarous ages of the world. But Christianity and civilization have made such progress that recourse to a punishment so cruel and unjust would meet with the condemnation of all unprejudiced and right-minded men.— The punitive justice of this age, and es-

pecially of this country, does not consent in stripping whole States of their liberties and reducing all their people, without distinction, to the condition of slavery.— It deals separately with each individual, confines itself to the forms of law, and vindicates its own purity by an impartial examination of every case before a competent judicial tribunal. If this does not satisfy all our desires with regard to Southern rebels, let us console ourselves by reflecting that a free Constitution, triumphant in war and unbroken in peace, is worth far more to us and our children than the gratification of any present feeling. I am aware it is assumed that this system of government for the Southern States is not to be perpetual. It is true this military government is to be only provisional, but it is through this temporary evil that a greater evil is to be made perpetual. If the guarantees of the Constitution can be broken provisionally to serve a temporary purpose, and in a part only of the country, we can destroy them everywhere and for all time. Arbitrary measures often change, but they generally change for the worse. It is the curse of despotism that it has no halting-place.— The intermitted exercise of its power brings no sense of security to its subjects, for they can never know what more they will be called to endure when its red hand is armed to plague them again. Nor is it possible to conjecture how or where power unrestrained by law may seek its next victims. The States that are still free may be enslaved at any moment, for if the Constitution does not protect all, it protects none. It is manifestly and avowedly the object of these laws to confer upon negroes the privilege of voting, and to disfranchise such a number of white citizens as will give the former a clear majority at all elections in the Southern States. This, to the minds of some persons, is so important that a violator of the Constitution is justified as a means of bringing it about. The morality is always false that excuses a wrong because it proposes to accomplish a desirable end. We are not permitted to do evil that good may come. But in this case, the end itself is evil, as well as the means. The subjugation of the States to negro domination would be worse than the military despotism under which they are now suffering.— It was believed beforehand that the people would endure any amount of military oppression, for any length of time, rather than degrade themselves by subjection to the negro race. Therefore they would be without a choice. Negro suffrage was established by act of Congress, and the military officers were commanded to superintend the process of clothing the negro race with political privileges torn from white men. The blacks of the South are entitled to be well and humanely governed, and to have the protection of just laws for all their rights of person or property. If it were practicable at this time to give them a government exclusively of their own, under which they might manage their own affairs in their own way, it would become a grave question whether we ought to do so, or whether common humanity would not require us to save them from themselves. But under the circumstances, this is only a speculative point. It is not proposed that they shall merely govern themselves, but that they shall rule the white race, make and administer State laws, elect Presidents and members of Congress, and shape, to a greater or less extent, the future destiny of the whole country. Would such a trust and power be safe in such hands? The peculiar qualities which should characterize any people who are fit to decide upon the management of public affairs for a great State have seldom been combined. It is the glory of white men to know that they have had these qualities in sufficient measure to build upon this continent a great political fabric, and to preserve its stability for more than ninety years, while in every other part of the world all similar experiments have failed. But if anything can be proved by known facts, if all reasoning upon evidence is not abandoned, it must be acknowledged that in the progress of nations negroes have shown less capacity for government than any other race of people. No independent government of any form has ever been successful in their hands. On the contrary, wherever they have been left to their own devices, they have shown a constant tendency to relapse into barbarism. In the Southern States, however, Congress has undertaken to confer upon them the privilege of the ballot. Just released from slavery, it may be doubtful whether, as a class, they know more than their ancestors how to organize and regulate civil society. Indeed it is admitted that the blacks of the South are not only regardless of the rights of property, but so utterly ignorant of public affairs that their voting can consist in nothing more than carrying a ballot to the place where they are directed to deposit it. I need not remind you that the exercise of the elective franchise is the highest attribute of an American citizen, and that, when guarded by virtue, intelligence, patriotism, and a proper appreciation of our free institutions, it constitutes the true basis of a democratic form of government, in which the sovereign power is lodged in the body of the people. A trust artificial-

ly created, not for its own sake, but solely as a means of promoting the general welfare, its influence for good must necessarily depend upon the elevated character and true allegiance of the elector. It ought, therefore, to be reposed in none except those who are fitted, morally and mentally, to administer it well; for, if conferred upon those who do not justly estimate its value, and who are indifferent as to its results, it will only serve as a means of placing power in the hands of the unprincipled and ambitious, and must eventually in the complete destruction of that liberty of which it should be the most powerful conservator. I have, therefore, heretofore urged upon your attention the great danger to be apprehended from an untimely extension of the elective franchise to any new class in our country; especially, when a large majority of that class in wielding the power thus placed in their hands cannot be expected correctly to comprehend the duties and responsibilities which pertain to suffrage. Yesterday, as it were, four million persons were held in a condition of slavery that had existed for generations. To-day they are freemen, and are assumed by law to be citizens. It cannot be presumed from their previous condition of servitude that as a class they are as well informed as to the nature of our Government as the intelligent foreigner, who makes our loved home his choice. In the case of the latter, neither a residence of five years and the knowledge of our institutions which it gives, nor attachment to the principles of the Constitution, are the only conditions upon which he can be admitted to citizenship. He must prove, in addition, a good moral character, and thus give reasonable ground for belief that he will be faithful to the obligations which he assumes, as a citizen of the Republic. Where a people, the source of all political power, speak by their suffrage, through the instrumentality of the ballot-box, it must be carefully guarded against the control of those who are corrupt in principle and enemies of free institutions, for it can only become to our political and social system a safe conductor of healthy public sentiment when kept free from demoralizing influences. Controlled through fraud and usurpation, anarchy and despotism must inevitably follow. In the hands of the patriotic and worthy, our Government will be preserved upon the principles of the Constitution inherited from our fathers. It follows, therefore, that in admitting to the ballot-box a new class of voters not qualified for the exercise of the elective franchise, we weaken our system of Government instead of adding to its strength and durability. I yield to no one in the attachment to that rule of general suffrage which distinguishes our policy as a nation, but there is a limit wisely observed hitherto which makes the ballot a privilege and trust, and which requires of some class a time suitable for probation and preparation, and to give it indiscriminately to a new class, wholly unprepared by previous habits and opportunities to perform the trust it demands, is to degrade it and finally destroy its power, for it may be safely assumed that no political trust is better established than that such indiscriminate and all-embracing extension of popular suffrage must end at last in its overthrow and destruction. I repeat the expression of my willingness to join in any plan within the scope of our constitutional authority which promises to better the condition of the negroes in the South by encouraging them in industry, enlightening their minds, improving their morals and giving protection to all their just rights as freedmen, but to transfer our political inheritance to them would in my opinion, be an abandonment of a duty which we owe alike to the memory of our fathers and the rights of our children. The plan of putting the Southern States wholly, and the federal government partially, in the hands of negroes, is proposed at a time peculiarly unpropitious. The foundations of society have been broken up by civil war. Industry must be reorganized, justice re-established, public credit maintained, and order brought out of confusion. To accomplish these ends, it would require all the wisdom and virtue of the great men who formed our institutions originally. I confidently believe that their descendants will be equal to the arduous task before them, but it is worse than madness to expect that negroes will perform it for us. Certainly we ought not to ask their assistance until we despair of our own competency. There is a great difference between the two races in physical, mental, and moral characteristics, which will prevent an amalgamation or fusion of them together in one homogeneous mass. If the inferior obtain the ascendancy over the other, it will govern with reference only to its own interests, for it will recognize no common interests, and will create such a tyranny as this continent has never yet witnessed. Already negroes are influenced by promises of confiscation and plunder. They are taught to regard as an enemy every white man who has any respect for the rights of his own race. If this continues, it must become worse and worse until all order will be subverted, all industry cease, and the fertile fields of the South grow up into a wilderness. Of all the dangers which our nation has encountered, none are equal to these ahead

which must result from the success of an effort now making to Africanize half our country. I would not put the considerations of money in competition with justice and right, but at the expense incident by reconstruction, under the system adopted by Congress to aggravate what I regard as an intrinsic wrong of the measure itself. It has cost millions already, and if persisted in, will add largely to the weight of taxation already too oppressive to be borne without just complaint, and may finally reduce the treasury of the nation to a condition of bankruptcy. We must not delude ourselves. It will require a strong standing army, and probably more than two hundred millions of dollars per annum to maintain the supremacy of a negro government after it is established. The sum thus thrown away would, if properly used, form a sinking fund large enough to pay the whole national debt in less than fifteen years. It is vain to hope that the negroes will maintain their ascendancy themselves without military power; they are wholly incapable of holding in subjection the white people of the South. I submit to the judgment of Congress whether the public credit may not be injuriously affected by a system of measures like this. With our debt and vast private interests, which are complicated with it, we cannot be too cautious of a policy which might by possibility impair the confidence of the world in our Government.— That confidence can only be retained by carefully inculcating the principles of justice and honor on the popular mind, and by the most scrupulous fidelity to all our engagements of every sort. Any serious breach of the organic law, if persisted in for a considerable time, cannot but create fears for the stability of our institutions. The habitual violation of the prescribed rules which we bound ourselves to observe, must demoralize the people; our only standard of civil duty would be set at naught, and the sheet anchor of our political morality is lost; public conscience can only be retained by yielding to every impulse, passion and interest. If we repudiate the Constitution we will not be expected to care much for mere pecuniary obligations. The violation of such a pledge as we made on the 22d of July, 1861, will assuredly diminish the market value of our other securities. Besides, if we now acknowledge that the national debt was created, not to hold the States in the Union, as tax payers were led to suppose, but to expel them from it and hand them over to be governed by negroes, our moral duty to pay it may seem much less clear. I say it may seem so, for I do not admit that it or any other argument in favor of repudiation can be sustained as sound, but its influence on some classes of minds may well be apprehended. The financial honor of this great commercial nation is largely indebted, and with a republican form of government, administered by agents of a popular choice, is a thing of such delicate texture, and the destruction of it would be followed by such an unspeakable calamity, that every true patriot must desire to avoid whatever might expose it to the slightest danger. The great interests of the country require immediate relief from these enactments. Business in the South is paralyzed by a sense of general insecurity, by the terror of confiscation and the dread of negro supremacy. The Southern trade, from which the North would have derived so great a profit under a government of law, still languishes, and can never be revived until it ceases to be fettered by arbitrary power, which makes all its operations unsafe. That rich country, the richest in natural resources the world ever saw, is worse than lost if it be not soon placed under the protection of a free Constitution. Instead of being, as it ought to be, a source of wealth and power, it will become an intolerable burden upon the rest of the nation. Another reason for retrieving our steps will doubtless be seen by Congress in late manifestations of public opinion upon that subject. We live in a country where popular will always enforces obedience to itself sooner or later. It is vain to think of opposing it with anything short of legal authority, backed by overwhelming force. It cannot have escaped your attention that from the day on which Congress fairly and formally presented the proposition to govern the Southern States by military force, to a view to the ultimate establishment of negro supremacy, every expression of general sentiment has been more or less adverse to the affections of this generation cannot be detached from the institutions of their ancestors. Their determination to preserve their inheritance of a free government in their own hands, and transmit it undivided and unimpaired to their own posterity, is too strong to be successfully opposed. Every weaker passion will disappear before the love of liberty and law, for which the American people are distinguished above all others in the world. How far the duty of the President, to preserve, protect and defend the Constitution, requires him to go in opposing an unconstitutional act of Congress, is a very serious and important question, on which I have deliberated much and felt extremely anxious to reach a proper conclusion. Where an act has been passed according to the forms of the Constitution by supreme legislative authority, and is regularly enrolled among the public statutes of the country, Executive resistance to it, especially in times of high party excitement, would be likely to produce violent collision between the respective adherents of the two branches of the government. This would be simply civil war, and civil war must be resorted to only as a last remedy for the worst of evils. Whatever might tend to provoke it should be most carefully avoided. A faithful and conscientious magistrate will concede very much to honest error, and even something to perverse malice, before he will endanger the public peace; and he will not adopt forcible measures, or such as might lead to force, as long as those which are peaceable remain open to him or his constituents. It is one that may arise in which the Executive would be compelled to stand upon its rights, and maintain them regardless of consequences. If Congress should pass an act which is not only in palpable conflict with the Constitution, but will certainly, if carried out, produce immediate and irreparable injury to the