Democrat and Sentinel.

THE BLESSINGS OF GOVERNMENT, LIKE THE DEWS OF HEAVEN, SHOULD BE DISTRIBUTED ALIKE, UPON THE HIGH AND THE LOW, THE RICH AND THE POOR.

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Message of GOV. SEYMOUR, OF NEW YORK.

Delivered on Wednesday, Jan. 7, 1863.

To the Senate and Assembly:—We meet under circumstances of unusual solemnity to legislate for the land, for the interest and for the protection of the people of the State of New York. The oath, which we have taken, to support the Constitution of the United States and the Constitution of New York and to perform our duties with fidelity, assumes new and special significance. It behoves us to look upon each of those Constitutions as equally sacred, for which is to be applied to its respective jurisdictions. At the time, the power of the one is properly defied by armed rebellion, while the other is endangered by the confusion and discord, growing out of civil war. This "oath, declaration or test" is not a mere ceremonial; it is a part of the tenure of the offices we hold. Until we have thus solemnly subscribed ourselves to the commands of these instruments, giving up our personal views and opinions and pledging ourselves to obey their requirements, we are not permitted to perform one official act.

To uphold the general government New York has sent since the outbreak of this war two hundred and twenty thousand soldiers in the field. To organize this vast army, my predecessor, and those acting under his instruction in his military staff, have used unwearied labor and shown high capacity. The duties growing out of its service have been greater than those following the recruits of other States, and in their performance compare favorably with the conduct of the war on the part of the general government. While our soldiers are pouring their lives to uphold the Constitution and restore Union, we owe it to them, who have shown an endurance and patriotism unsurpassed in the history of the world, that we requite their devotion in our less trying duty. We are to take care when they come back that their home rights are not impaired, nor they shall not stand on the threshold of civil life that the securities of their persons, the sanctity of their homes, the protection of their property have been left by us, while they were battling for their national interest in a distant field of love.

I consider it my duty to fill all vacancies in official stations in the army by persons of military merit as services or gallant conduct in the field; this is a measure of justice, it will serve to open the rewards which have been fairly earned and will stimulate both officers and men, by a laudable ambition, to excel in patriotic service as has hitherto prevailed.

OUR STATE AFFAIRS.

While so many parts of our country are laid waste by war, their towns and cities desolated, their homes destroyed, their citizens slaughtered and all that makes social repose, crushed out beneath the tread of armies, we have cause for gratitude that in this State the circle of its manifold public duties is in full and healthful operation; asylums for infirmities, suffering and want are preserved. Our schools, academies and colleges are in successful operation; industry is assigned to rescue the young and helpless from caverns of vice, are still engaged in the prevention of poverty and crime. Our prison, under a liberal system designed to reform as well as punish, still guards our community against convicted criminals. Our courts are open for the security and protection of persons and property. Mechanical and agricultural pursuits are in the main successfully conducted—the vast internal and foreign commerce has grown in proportions far beyond that of any former period. But for the overshadowing, gloomy cloud of war and its heavy drafts upon the blood and treasure of our citizens, there could not be found four millions of people in the enjoyment of greater happiness and prosperity.

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NATIONAL AFFAIRS.

The Constitution makes it my duty to communicate to you the condition of the State. I cannot do it is without speaking of the Union and of the war which afflicts our country and which also affects the external commerce of New York; taxes all its products; has taken more than 200 000 men from our workshops and fields and has carried mourning into the homes of our citizens. The genius of our government, and the interests of our people demand that the aspects of this war should be discussed with entire freedom. Not only is the National life at stake, but every personal, every family, every sacred interest involved. We must grapple with the great questions of the day; we must confront the dangers of our position. The truths of our financial and military situation must not be kept back. There must be no attempt to put down the full expression of public opinion. It must be known and heeded, to enable government to manage public affairs with success.

There is a yearning desire among our people to learn their actual condition. They demand free discussion. This should be cultured in an earnest; thoughtful, patriotic spirit. The solemnity of the occasion and the sufferings of the war should revive the virtue; the intelligence and the patriotism of the American people. The decay of these have brought our calamities upon us. There are now no causes for discord that have not always existed in our country, and which were not felt by the fathers in forming the Union. They had the greatness, the magnanimity and spirit to compromise and adjust them. The value of the Union they then formed has proved to be greater than they hoped. Yet we became indifferent to it when we were in the full enjoyment of its blessings. We became ignorant of the character and resources of other countries, while we had the full benefit of an unprecedented commerce with all portions of our land. It was when the world was astonished with the power and wonderful growth of our National Union, that eight political parties and passions were created by sectional differences and jealousies. Love of country, devotion to the Constitution and the flag, a sense of our high destiny as a people, and the value of our institutions, these, in a time of peace, and in legislative halls, in meetings, the people of the North and the South have spoken and acted upon. Hatred, passion and the fiend of party have ignored religious and sentiment. If the North and the South had understood the power and purposes of each other, the contentions would have been settled, the misapprehension, so bitterly and terrible in its effects, was systematically and laboriously inculcated.

CAUSES OF THE WAR.

Affrighted at the ruin that they have wrought, the authors of our present calamities at the North and South insist that this war was caused by an irrepressible conflict about slavery. This has been the subject not the cause of controversy. We are to look for the cause of this war in preceding disagreements, in things, more of class and conditions; in distrust of institutions; in distrust of public officers, and above all, in the base anger which have grown up in the two portions of the Atlantic States, the two extremes of our country, which, unlike the central States, have made them less well informed, and whose interests have led them less into collects, with regard to the condition and character of our whole people, than the living in the great central and west sections of our Union. There is no honest statement of our difficulties which does not teach that our people did refuse them selves as well as the control of the government from the valley of our rivers. There is not a calamity we are suffering which was not clearly foreseen by our fathers as the result of the passions and local prejudices which have grown up during the past fifteen years.

It is not too late to avert the calamity if we will enter upon the sacred duty in the right spirit and in the right way. When we do so, the effect will be seen and felt throughout our land and by the civilized world. We shall then strengthen our Government; we shall awaken the sympathy of all that is pure and noble and the world will recognize our capacity for self government, when we show that we are capable of self control.

RESPECT FOR LAWS AND RIGHTS.

In the first place we must maintain the conduct of our Fathers, and show the same to constituted authorities, and respect for legal and constitutional obligations. "The very idea of the power and right of the people to establish government, presupposes the duty of every individual to obey the established government." Yet a spirit of disobedience has seized the functionaries of Municipal, State and National authority in every part of our land. It is not only the underlying and prevailing cause of the evils, but also the immediate weakness of our institutions.

When the leaders of the insurrection of the extreme South say that Free States cannot exist together in the Union, and when this is echoed from the extreme North, the cause of our National Government is in peril. Parties simply say they cannot, because they will not, respect the laws and the Constitution. This spirit of disloyalty must be put down. It is the element of all social order and social security; with safety of persons and property.

In order to uphold our government, it is also necessary that we should show respect to the authority of our rulers. While acting within the limits of their jurisdictions, and representing the interests, the honor and the dignity of our people, they are entitled to deference. Where it is their right to decide upon measures and policy it is our duty to obey and give a loyal support to their decisions. This is a vital element of liberty. Without it, free government can not exist; public safety is unknown, no people can be safe in the enjoyment of their rights. This duty is peculiarly strong under our system, which gives the people the right at their elections to sit in judgment upon their rulers, to commend or condemn them, to keep them from official stations.

This war should have been averted; but when its floodgates were opened, the Administration could not grasp its dimensions nor control its sweep. Government was borne along by the current, and struggled as it best could with the resistless tide. Few seemed able to comprehend its military or financial problems. Hence we are not to sit in harsh judgment upon errors in conduct or policy.

But while we concede all these excuses for mistakes, we are not to adopt errors, nor sanction violations of principle. The same causes which extenuate their faults in judgment, must make us more vigilant to guard against their influences. Unusual dangers demand unusual vigilance.

ECONOMY AND INTEGRITY.

Economy and integrity in the administration of affairs are essential at all times! they are vital in periods of war. If the power of the people to sustain the expenses of war is broken down, it is in vain that we have sent our citizens into the field, and that they have shed their blood in unsupported efforts to save our country.

The opportunities which a state of war gives to unprincipled men to prey upon the public treasury, and the efficiency of checking their schemes, must be borne in mind, when we judge the integrity of our rulers. But while these difficulties should shield them from harsh judgment, they are additional reasons for vigilance and caution. It is in the nature of war to create powerful financial and ambitious interests, eager to profit by its excitement. It is one of the chief dangers that it builds up an active class who gain power and wealth by the taxation imposed upon the labor and property of the mass of citizens. This organized class use the National Treasury to support schemes of plunder or ambition, and the taxes wrung from the people are thus made to prolong the state of war and military government. The power of our rulers to avert these influences must be scrutinized, magnified by the most minute exposition of financial affairs.

Extravagance and corruption are violations of the faith pledged to the public creditors. The money loaned to the National Treasury was not be sought forward at a time of peace and confidence, but in a time of doubt and danger. These claims are held by the rich and the poor. The amounts owned by corporations represent the interests of women and children, the aged and infirm. The right of our soldiers to general economy and integrity is of the most sacred character. Never in the history of the world have armies of such numbers been made up of those who voluntarily left prosperous pursuits and happy homes to endure the dangers and privations of war. When defeat or destruction of life by violence or disease thinned the ranks of our armies, they promptly and freely stepped forward to the rescue of the country's flag. A fearful crime will be done by those who shall suffer national bankruptcy to turn into lust and ashes the pensions and bounties obtained at the cost of blood and health, and cause the sole reliance of those this made incapable of self support.

It is worse that a government should be overturned by corruption than by violence. Victorious people will regain their rights from them, but there is no hope for those who suffer corruption to sap and rot away the fabric of their freedom.

DUTIES OF POWER.

There are not only obligations resting upon the people toward our authorities, but under our political system there are duties as between departments of the Government and between the State and National Governments, which must be observed to secure the public safety. At this time these warning words of Washington have peculiar significance:

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres; avoiding in the exercise of the powers of one department to encroach upon the other. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominates in the human heart, is sufficient to satisfy us of the truth of this position."

"The Legislative, Executive and Judicial Departments are co-ordinate. It is equally unreasonable to resist the rightful authority of either. To overthrow the power of either department is revolution. Legislative right, executive power, and judicial independence are alike sacred. Disregard for the limits of State and National jurisdictions, and the interference of one Department with the duties of another, are not only opposed to the genius and organization of our civil government, but they have caused disasters in the conduct of the war.

While the War Department set aside the authority of the Judiciary, and overrides the laws of States, the Governors of States meet to shape the policy of the General Government, the National Legislature appoints committees to interfere with the military conduct of the war, and Senators meet in caucus to dictate the executive choice of Constitutional advisers. The natural results of meddling and intrigue have followed. While our armies have gained victories in field remote from the Capital, within its influence the heroic valor of our soldiers and the skill of our Generals are thwarted and paralyzed.

STATE RIGHTS.

Not only must the national Constitution be held inviolate, but the rights of States must be respected as not less sacred. There are differences of opinion as to the dividing line between State and National jurisdictions, but there can be none as to the existence of such separate jurisdictions, each covering subjects of legislation and jurisprudence essential to the public security and welfare. A consolidated government in this vast country would destroy the essential home rights and liberties of the people. The sovereignties of the State, except as they are limited by the Constitution, can never be given up. Without them our Government cannot stand. It was made and it can be changed by State agency. This is shown by the following provisions of the instrument itself.

"The ratifications of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

Again, three fourths of the States could now take away from the powers of the General Government, by demanding a convention in which amendments can be proposed, which, if ratified by three fourths of the States, become parts of the Constitution.

While they can thus take away or add to the power, the General Government, can in no way touch one right of the States, or impair their jurisdiction.

The obligations which rest upon the States to respect the Constitution, laws and authorities of the General Government, also demand that the General Government shall show equal respect for the rights and constituted authorities of the States.

The State legislation and authorities we look for the good order of society, the security of life and property, the protection of our homes and all that is nearest and dearest to us, in the relations, duties and passions of life. It is on grounds and demandings to show contempt for State authorities and laws. It undermines alike the foundations of State and National Government, by breaking up the social system where home laws are not respected the more general authority will not be regarded.

ARBITRARY ARRESTS.

Our people have therefore viewed with alarm practices and pretensions on the part of officials which violate every principle of civil order, of civil liberty and of constitutional law. It is claimed that in time of war the President has powers, as Commander-in-Chief of our armies, which authorize him to declare martial law, not only within the sphere of battle movements, where martial law cannot be enforced, but even over the whole land. That at his pleasure he can disregard not only the statutes of Congress, but the decisions of the national judiciary. That in loyal States the most intelligent class of officials may be clothed with power not only to act as spies and informers, but also, without the forms of law, to demand imprisonment of our citizens and carry them beyond the limits of the State, to hold them in prison without a hearing in a violation of the forms with which they are charged. Not only the passions and prejudices of these inferior agents lead them to acts of tyranny, but their interests are advanced and their positions secured by promoting discontent and discord. Even a mask of counsel has been held to be an offence. It has been counseled that "to be arrested for one knows not what; to be subjected, no one entitled to ask where; to be tried, no one can say when, by a law nowhere known or established; or to linger out life in a cell without trial, presents a reality of tyranny which cannot be exaggerated."

The suppression of journals and the imprisonment of persons have been grossly partisan, allowing to some the utmost freedom of criticism, and punishing others for the fair exercise of the right of discussion. Conscious of these gross abuses, an attempt has been made to shield the violators of law and suppress inquiry into their motives and conduct. The attempt will fail. Unconstitutional acts cannot be shielded by unconstitutional laws. Such attempts will not save the guilty while they will bring a just condemnation upon those who try to prevent the powers of legislation to the purposes of oppression. To justify such action no precedents drawn from the practice of governments where there is no restraint upon legislative power, will be of no avail under our system, which restrains the Government and protects the citizens by written constitutions.

I shall not enquire what rights States in rebellion have forfeited, but I deny that this rebellion can suppress a single right of the citizens of loyal States. I denounce the doctrine that civil war in the South takes away from the loyal North the benefits of one principal of civil liberty.

It is a high crime to abduct a citizen of this State. It is made my duty by the Constitution to see that the laws are enforced. I shall investigate every alleged violation of our statutes, and see that offenders are brought to justice. Sheriffs and District Attorneys are admonished that it is their duty to take care that no persons within their respective counties are imprisoned, not carried by force beyond their limits, without the process or legal authority. The removal to England of persons charged with offences, away from their friends, their witnesses and means of defence, was one of the acts of tyranny for we asserted our independence. The abduction of citizens from this State for offences charged to have been done here, and carrying them many hundreds of miles to distant prisons in other States or Territories, is an outrage of the same character upon every principal of right and justice.

The General Government has ample powers to establish courts, to appoint officers to arrest, and commissioners to hear complaints, and to imprison upon reasonable grounds of suspicion. It has a judicial system, in full and undisturbed operation. Its own courts, held at convenient points in this and other loyal States, are open for the hearing of all complaints. If its laws are not ample for the punishment of offences it is due to the neglect of those in power.

Government is not strengthened by the exercise of doubtful powers, but by a wise and energetic exertion of those which are incontestable. The former course never fails to produce discord, suspicion and distrust, while the latter inspires respect and confidence.

That a State, whose laws, whose acts, and whose officers have thus been treated with marked and public contempt, and whose social order and sacred rights have been violated, was at that very time sending forth great armies to protect the National Capital, and to save the National officials from flight or capture. It was while the arms of New York were shedding their blood against rebellion, that, without a conflict with its chief magistrate, a subordinate department at Washington undertook to overthrow all and invade its rights. Against these wrongs a full outrages the people of the State of New York, at its late election, solemnly protested.

The confusion of our people in these views, for a time only, was mistaken at home and abroad for an indifference to their liberties. But it was only in a spirit of respect for our institutions that they waited until they could express their will in the manner pointed out by our laws. At the late election they vindicated at once their regard for law and their love of liberty. Amidst all the confusion of civil war, they calmly sat in judgment upon the advocates of treason, voting against its candidates. Nor was this the only striking proof of respect for the Constitution. The minority, of nearly equal numbers, yielded to this decision without resistance, although the canvass was animated by strong partisan excitements. This calm assertion of rights, and this quiet submission to the verdict of the ballot box, vindicated at once the character of our people and the stability of our institutions. Had the supporters of the South thus yielded to constitutional decisions, they would have saved themselves and our country from the horrors of this war, and they would have been better prepared for every work and danger.

MARTIAL LAW.

The claim of power under martial law is not only destructive of the rights of States, but it usurps the legislative and judicial departments of the General Government. It centres in the President more power in the hand of the army, than as a representative ruler of the people. This claim has brought discredit upon it in the eyes of the world. It has strengthened the hopes of rebellion. It has weakened the confidence of loyal States. It tends to destroy the value of our Government in the minds of our people. It leads to discord and discontent in the North, while it has united and invigorated the South.

If there is a necessity which justifies that power, let us openly and honestly say there is a necessity which justifies a revolution. But this pretension is not put forth as a necessity which justifies a revolution, but it is a necessity which creates a revolution. It is a theory which exalts the military power of the President above the civil and constitutional rights. It asserts that he may, in his discretion, declare war, and then extinguish the State and National Constitutions by drawing the veil of martial law over our vast country.

"Martial law" relates itself to be a law where wants. It limits even its jurisdiction by its very terms. But the President asserts that under this head he has the right to set aside all the constitutional rights and the State rights, and all the limitations of power by enumerations. Loyalty is thus less than rebellion, for it stands without means to meet the arguments of its enemy. Among all the instances that have been cited in martial law in the history of the world, and almost all the perils attempted of its usages, it was never before claimed that the power of a military commander was superior to the powers of government.

More than two centuries since, that bold defender of English liberty that ever stood in parliament, Lord Chief Justice Coke, declared: "Where courts of law are open, martial law cannot be executed;" and also, that "the power that is above the law is only for the King to ask and grant." Are the English laws more sacred, or is English liberty more secure than ours?

It was one of the causes set forth in the Declaration of Independence, for renouncing allegiance to the King of England, "that he has affected to render the military independent of, and superior to the civil power." During the struggle for national life, citizens were assailed by enemies, spies, and informers, who invoked the pretext of the power, "Washington never claimed martial law, or claimed the right to do any thing inconsistent to make the military superior to the civil authority. On the contrary, he was most deferential to the latter. The feeling of the fathers on the subject can best be learned by the Constitutions, which were formed by the men who established our National Government; all of them had provisions inconsistent with this new and monstrous pretension.

Massachusetts, New Hampshire, Connecticut, Delaware, Pennsylvania, Maryland, North Carolina and South Carolina, eight of the twelve States which originally made up our Union, explicitly declared that the military power should in all cases, and at all times, be held in exact subjection to the civil authority, and be governed by it; this was expressed in each constitution in terms almost identical. It is incredible that a people who held these views, and who were jealous of their liberties, and who thus restrained State authorities under their immediate control, would give to the commander of the Army of the United States this despotic power; a power which the crown of Great Britain has not been permitted to exercise for nearly two centuries.

The measure of power to be exercised under our government is fixed by the Constitution. To make the measure of other governments of the despotic rulers across the sea here, would give subject to every outrage tyranny and wrong. It would do what was done by our fathers who framed our government; it would be the practice of despotism or the principles of monarchy under authorities that are subversive of the foundation of our Republic. The principle of uncontrolled despotic power claimed under martial law is of itself a reason why it cannot be admitted. The fact that it is inconsistent with the purposes, spirit, and genius of our institutions, is more than against the claim set up for its exercise to the extent of country and duration of time which we are asked to believe. If precedents which we seek to find in the decisions of monarchial governments from which the presidents are derived to justify it.

New York and other States, consented to make up the general Government entirely upon the assurance that the existing Constitution should be so amended as to secure more perfectly the rights of States and citizens. These articles were added by the unanimous vote of the States:

ARTICLE 4—"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated. And no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized."

ARTICLE 5—"No person shall be held to answer for capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; * * * nor be deprived of life, liberty or property, without due process of law."

The want of these restraints in the original instrument extinguished its adoption. They were inserted to satisfy the public demand. We are now told that they are of no avail, in any part of our country, when the Executive shall see fit to declare there is war or insurrection in any section of the land.

Such pretensions are in contradiction to the plain language of these clauses—and to their settled legal effect. If any difference of construction be possible, our Constitution provides for their determination. These questions will be carried before the proper judicial tribunals. If the theory of martial law is upheld by them, we will submit, and have the Constitution amended. If it is said to be unchanged, it must be given up.

So sacred did our fathers hold constitutional rights that they placed them beyond the reach even of the majority of our people. Written constitutions are made, not only to carry out the wishes but also to restrain the power of majorities and to uphold and protect the rights of minorities. They give the broadest extent to the right of rights as resistance against the whole power of our people. No matter how large a majority may be, it must not interfere with rights of persons, of property, or of conscience.

The President himself holds his place not by the will of the majority, but by virtue of the provisions of the Constitution, which placed him in his office by a vote of about 1 500,000, against the votes of about 2,800,000 who voted to agree among themselves as to opposing candidates. He continues regularly to hold his office, although the popular majorities, even in the States which placed him there, have in the recent elections declared themselves positively opposed to his administration. The majority are still bound to respect his constitutional rights, to uphold his powers, and sustain his acts done within the limits of rightful authority.

The rights of States were reserved, and the powers of the general Government were limited, to protect the people in their persons, property and conscience, in times of danger and civil commotion. There is little to fear in times of peace and prosperity. If we are not protected when there are popular excitement and commotions, our Government is a failure. If Presidential proclamations are above the decisions of the courts and the restraints of the Constitution, then that Constitution is a mockery. If it has not the authority to keep the Executive within its restraints then it cannot secure States within the Union. Those who hold that the civil power ceases to be of authority, must equally hold that there is no guilt in the rebellion.

We cannot be silent and allow these practices to become precedents. They are as much in violation of our Constitution as the rebellion itself, and more dangerous to our liberties. They look out to the Executive every temptation of ambition to make and prolong war. They offer despotic power as a prize for preventing peace. They are indocuments to each ambitious aspirant to produce discord and incite armed resistance to law, by decreeing that the conditions of war removes all constitutional restraints. They caricature the national hopes of unprincipled men, who find in the wreck of their country the opportunity to gratify revenge or ambition, or personal or political resentments. This theory makes the passion and ambition of an administration antagonistic to the interest and happiness of the people. It makes the restoration of peace the abdication of more than royal authority in the hands of those to whom is confided the Government of our country.

Of the same nature is the recent proclamation of emancipation. The President has already signed an act of Congress which asserts that the slaves of those in rebellion