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THE COURTS.

Eighth District Court—An Injunction Against the Slaughterhouse—The Attorney General Seeks to Have the Charter Forfeited.

Attorney General Belden has instituted a suit in the Eighth District Court, Judge Dibble, praying for an injunction to restrain the Slaughterhouse Company, through its president, Charles Cavaroc, from receiving, landing, stabling and slaughtering at the Cavaroc Slaughterhouse, on the left bank of the river, any animals intended for food in the markets of the parishes of Orleans, Jefferson and St. Bernard, or from allowing any other person or persons from doing the same during the pendency of the injunction; and further, that they be restrained from doing or allowing the acts above recited except at the grand slaughterhouse on the west bank of the Mississippi, below the present depot of the New Orleans, Opelousas and Great Western Railroad Company.

Judgment is also asked, after due proceeding, decreeing that the Slaughterhouse Company, defendants herein, have forfeited all their rights and powers as directors in the Crescent City Live Stock Landing and Slaughterhouse Company.

The Attorney General, in closing his petition, reserves the right at any time during the pendency of this suit to ask that the said defendants be enjoined from exercising any rights pertaining to the directors of the company, and to ask the appointment of directors in their stead, as required by law, that the ends of the law may be carried out.

In opening his petition the Attorney General recites the act creating the Crescent City Live Stock Landing and Slaughterhouse Company, and that act created a corporation as an agent of the State of Louisiana to carry into effect and enforce said law to protect the health of the city of New Orleans. That said corporation was created with the names of William D. Sanger, I. H. Pierson, J. R. Irwin, F. J. Pratt, L. T. Packwood, N. W. Tronis, H. V. Barringer, L. P. Langer, W. S. Mudgett, O. D. Russell, J. Viosca, S. P. Griffin, L. H. Crippen, William McKenna, A. J. Oliver and F. G. Clark, and their successors in office; that said corporation is purely and simply an agent of the State of Louisiana, created solely and exclusively for the purpose of carrying into effect and enforcing the law as above stated, and that as agent aforesaid the powers and duties of said corporation are strictly restricted to the provisions of said act.

That by the said act the said company are required to build a grand slaughterhouse for the parishes of St. Bernard, Jefferson and Orleans, and that they did so in the year 1869, on the west bank of the river, as above set forth.

That after the locating of said grand slaughterhouse, under the law, it was and is unlawful for any person, or persons, individually or collectively, or under a corporate name, to establish a place for slaughtering animals elsewhere than at the place named.

That the faithful execution of this health law, requiring the slaughtering of animals in the aforesaid slaughterhouse, intended for food, as aforesaid, is required by law of said company, agent of the State of Louisiana.

That on or about the fifteenth of March, the said company above named, or their successors, with F. J. Pratt as president, resigned and withdrew as directors, and that on the same day Charles Cavaroc, William Fagan, Joseph Gitzwiger, J. F. Aycock, William M. Maylie, B. Beaufoy, Louis Ruch, Paul Esteban and J. P. Rociede were elected by the stockholders as their successors, and that Charles Cavaroc was elected president, and now claims to be president.

That the present board of directors, in their capacity as aforesaid, became the agent of the State of Louisiana for the enforcement of the provisions of the said health law alone, under which they have their corporate existence. That by law they are to see that no animals are slaughtered for food for the parishes named except at the grand slaughterhouse above mentioned.

Petitioner represents that the said Charles Cavaroc, and the board of directors associated with him, are engaged in landing, stabling and slaughtering animals intended for food in the parishes named, at the Cavaroc place, on the east side of the river, in violation of the aforesaid act passed to protect the health of the city of New Orleans.

The said landing and slaughtering is in direct violation of the law requiring all animals to be landed and slaughtered at the grand slaughterhouse.

That said corporation, represented by Charles Cavaroc, have no more right to violate said health law in the manner above stated than though they were not directors.

That having violated the law and having been constituted by law as agents of the State to see to the faithful execution of said health law, by their acts they have forfeited said agency, and are no longer directors and incorporators in the Crescent City Live Stock Landing and Slaughterhouse Company.

And petitioner further says that the court may fully understand the extent of the acts constituting this flagrant and studied violation of the law, petitioner represents these same persons, before they became directors, were enjoined and prohibited from landing and slaughtering at the Cavaroc place. They are not only, therefore, so doing in violation of the external provisions of the law, but also in contempt of said injunction and the decrees of our courts. That having been enjoined, the fact that they have become directors of said corporation confers no right to violate the law and the orders and decrees of court.

And, as aforesaid, the directors of said corporation being the agents of the State to enforce said health law, and having violated said law and the orders and decrees of our courts, they have broken their faith with the State of Louisiana, have forfeited their agency and thrown upon said State the necessity of resuming, in manner regulated by law, the control of powers delegated to said agent.

That [illegible] sued only by virtue [illegible] to be such upon the [illegible] confided in them. That [illegible] the said directors, [illegible], to desist from [illegible] as herein complained [illegible] have paid no attention [illegible].

Ordered [illegible] ordered to show cause, on Monday, the twenty-fourth April, at ten o'clock A. M., why an injunction should not issue as within prayed for and according to law.

HENRY C. DIBBLE, Judge.

New Orleans, La., April 14, 1871.

The Possession of the Magazine Street Railroad—An Order by Judge Dibble.

Judge Dibble yesterday issued the following order in connection with the above-mentioned railroad:

It is therefore ordered that the receiver, John W. Hillman, appointed July 19, 1870, be required to hold the property in dispute [illegible] subject to the order of the honorable Seventh District Court for the parish of Orleans, wherein writs of seizure and sale have been issued at the instance of [illegible] and Charles Lanez, [illegible] the said receiver will only deliver the road upon the order of said court to put the purchaser or purchasers in possession. He will thereupon assume control of the balance of the proceeds of the sale of said property after the claims of the [illegible] creditors proceeding in said court have been satisfied.

He will administer such proceeds until the final termination of this cause. [illegible]

[illegible]

tion when the two openings were made, and the window frames set in.

The defendant, under article 863 of the Civil Code, and 307 of the Code of Practice, presented a petition to the court to dissolve the injunction on his giving bond, and to go on with the works, because his building might receive injury if the interstice between the frame and the wall should not be closed and cemented, and for the reason that an opening in a wall can not cause irreparable injury; the same can be closed at any time, and the things replaced in their former and original situation.

The prayer was granted, and a supplemental petition was presented by the plaintiff to reinstate the original injunction, and was argued upon a motion to show cause, and the injunction not allowed.

The Mexican Gulf Ship Canal and the City Drainage.

A rule *nisi* for an injunction, sued out by the Attorney General against the Mississippi and Mexican Gulf Ship Canal Company, came up for argument yesterday.

Defendant appeared and answered to the rule, denying that the State was entitled to an injunction.

1. That the petition asking for the injunction was not sworn to.

2. That on its face there were no legal grounds for an injunction.

3. That the allegations of the petition were false, and affidavits were filed showing their falsehood, and, even if true, there were no grounds for an injunction.

4. That if the company had done any acts to forfeit its charter, which was denied under oath in whole and in every particular, yet a writ of injunction was not a legal process in such a case, and was not authorized by law.

The Attorney General was not ready to proceed in the case, and desired it continued.

City Attorney Lacey, who represented one of the defendants in the rule, wished it continued; he wanted time to consider and determine what course the interests of the city demanded in the matter.

Counsel for the Mississippi and Mexican Gulf Ship Canal Company opposed the continuance, on the ground that an act of the Legislature was delayed and prevented from execution by an application for an injunction, a mere rule *nisi*, which, it was contended, on its face showed no grounds for an injunction, which was not sworn to, and yet was contradicted in all its allegations by several affidavits.

As for the city, it had no right to have the case postponed. It was virtually a third party, a stakeholder which would not be affected by any ruling of the case. It could not therefore continue the case when the party in real interest insisted upon a trial.

The counsel for the State contended for a continuance, and argued that it was to enforce an act of the Legislature providing for suits for forfeiture of charter, that this process was asked for. Judge Dibble stated that the injunction must be sworn to, and that he would give the plaintiff until Monday to meet the grounds stated in the return of the defendant. In the meantime, he wished to call attention to a very improper interference, in serving and issuing the process in this case by Mr. Brott, an officer of the Ship Island Canal Company, who had instructed the officer of the court to serve only the rule and not the petition in this case. Such interference he would not allow, and desired the parties to bear it in mind.

Sixth District Court—Another Verdict Against the City.

In the suit of a Jefferson City policeman vs. the city of New Orleans, for salary during the year 1869, which was tried yesterday before the Sixth District Court, and in which the Hon. William Rufus Crane appeared on behalf of the city, the jury brought in a verdict for plaintiff.

Judge Cooley, when the jury was about to retire, called up several of them to him in succession, and inquired *sotto voce* whether they could write. A negative was quietly given in each case, until Jacob Friedhoff, a white juryman, was reached, who replied very confidently in the affirmative, and he was thereupon appointed foreman of the jury.

The following is a true copy of the verdict returned and indorsed upon the papers. It is hardly necessary to add that counselor Crane was astonished beyond measure at the result, but consoles himself with the reflection that no oratory in the world could influence the authors of such a constructed verdict:

New Orleans Apriel 14 1871 in favor to the Pleintif to tow hundert and twenty fief Dolls mit Entret by Law Cost paid by Sity.

JACOB FRIEDHOFF, Foreman.

United States District Court, Judge E. H. Durell Presiding—In Admiralty—Mamie May vs. Philip Crooks.

This was an action brought by the libelant to recover damages from the respondent under the following facts:

The respondent, Captain Crooks, was the captain of the steamboat Ozark, which ran between Bayou Macon, on the Tensas river, and New Orleans; the libelant, Mrs. May, was a chambermaid on the boat in January last; on the twenty-seventh day of that month, while the boat was on her way down to New Orleans, and in the Tensas river, the libelant was put ashore at the Anchor landing, a place about twenty or twenty-five miles from the Mississippi river, for some alleged affront to the captain's wife by the libelant. At the time of her being put ashore she was sick, had been sick some two days before, and was abused and insulted by the respondent, compelled to arise from a sick bed and leave the boat in a drenching rain, and to wade in the mud at the landing over shoe top. The boat left the libelant at the Anchor plantation without a shelter, and with no clothing except what she had on.

The next day she hired a horse, and rode a distance of some twenty-five miles, as she states, to the Waterproof Landing, where she took the R. E. Lee, and arrived at this city on the thirty-first of January, very weak and feeble from her sickness and exposure. Shortly after her arrival here, she went before Commissioner Weller and obtained a summons for her wages and some expenses, who, it seems, allowed her $31 25, which was received by him from Captain Crooks, and he paid her out of that sum $26 25, as she states, charging her with half costs because she sued for her wages without making a demand for them.

In this suit, by her libel, she demanded $5000 damages, and by which it also appears that she was put to an expense of $29 75.

The respondent, by his answer, admitted the material allegations of the libel; set up as a justification alleged importunity, insult, and the slapping of the face of the captain's wife by the libelant.

This was denied by the libelant, and there was no proof in the case to sustain any such charge.

The respondent in his answer claimed or demanded a trial by jury, and this was overruled by Judge Durell.

Yesterday the proctor for the respondent, in addition to a former answer filed in this case, introduced an answer or exception to the jurisdiction of the court, which was overruled, at the cost of the proctor.

The testimony of the libelant in regard to the maltreatment of the libelant by the respondent, and his violent profanity and abuse, the condition of the libelant as to her health, etc., was corroborated by one of the colored servants of the boat, who had assisted her on shore.

After a brief argument by the proctors for the libelant and respondent, the case was submitted and taken under advisement by the court.

United States Circuit Court—Hon. E. H. Durell, District Judge, Presiding.

In the case of Mrs. M. Caldwell, widow, et al., the plaintiff was ordered to show cause on the twenty-sixth instant, why a new trial should not be granted.

In the case of the New York Mail Steamship Company vs. the city of New Orleans, judgment by default was rendered against the Bank of New Orleans, garnishee in the case, for the sum of [illegible], with five per cent interest from June [illegible], 1868, till paid, and costs; and the interrogatories in garnishment taken pro confesso.

In the case of Kingsley [illegible] vs. A. O. Walker, the jury rendered a verdict in favor of plaintiff for the sum of [illegible]

[illegible]

OUR RAILROAD CONNECTIONS

EXTENSION OF EXISTING LINES

LETTER FROM A. M. WEST

The Jackson *Pilot* alludes to certain correspondence in reference to railroads, in which Colonel McComb, of the Jackson railroad, is interested, in this editorial paragraph:

The able letter of General A. M. West, with the accompanying correspondence, will be found of interest to the public generally, and more particularly those living between Canton, Kosciusko and Aberdeen, where this road is about to be extended to. The article is a bold refutation of the haphazard writer of the *Clarion*, who styled the extension scheme as anything but honorable or desirable.

The letter of General West, vice president of the Mississippi Central railroad, and the correspondence referred to follow:

As there seems to be some misapprehension in the mind of the public relative to the character of the bill which has just passed the Legislature amending the charter of the New Orleans, Jackson and Great Northern Railroad Company, and granting to that company certain stock held by the State in other railroads, in consideration of the completion of the New Orleans railroad to Kosciusko and Aberdeen, I deem it proper to make a short statement of the facts connected with the passage of that law, which statement I am persuaded will justify, in the mind of every candid person, the action of the Legislature.

In 1852, nearly twenty years ago, the New Orleans, Jackson and Great Northern Railroad Company was chartered. One of the great benefits anticipated from it was the completion of a railroad through the northeastern part of the State, by way of Kosciusko and Aberdeen to the Tennessee line. That enterprise had languished for nearly twenty years. The Southern railroad, in the meantime, had been completed, to the Alabama line. The Central railroad had been begun and finished through the whole length of the State, intersecting with the Memphis and Charleston railroad, thus making two highways of travel from New Orleans to the North, and rendering the completion of the New Orleans road from Canton to Aberdeen useless, as a measure of general commerce and travel, and only important to the people living in the immediate district of the State through which it was to pass.

Nearly twenty years had passed since the original project was conceived, and the completion of this road to Aberdeen seemed more hopeless as each year rolled round. In this condition of things, I was called upon by some friends living along the line of the proposed road to inaugurate a plan by which the completion of the road might be assured. To that end I proceeded to enter into negotiations with the president of the New Orleans railroad, having in view the adoption of the measures necessary to attain the desired object. With the purpose of giving to these negotiations a definite shape, I prepared the project of a law to be submitted to the Legislature, and which, by conferring additional powers on the New Orleans, Jackson and Great Northern Railroad Company, would enable it to complete the road within a reasonable period.

This bill was submitted to the president of that road, and after various consultations and modifications resulted in the act which the Legislature has just passed, an act which I venture to say will secure the completion of the railroad as originally contemplated within a short period of time, if the people along its line will co-operate in the work with the railroad company in that generous and liberal spirit which this great undertaking calls for upon their part. The only objection urged by any one to the action of the Legislature in passing this law, is that provision of the act which transfers to this company the stock now held by the State in this and two other railroad companies. This stock is now worth in the market not more than $200,000 or $300,000, and it was obtained by the State by investing in these railroads a part of the money obtained from the sale of the five hundred thousand acres of land donated by Congress in the year 1841 for the purpose of internal improvements.

A brief reference to this act of Congress and to the subsequent legislation of the State will show that the stock transferred by this law was only held by the State as a trustee to be used for purposes of internal improvement, and not otherwise, upon certain conditions contained in the act of Congress. It was granted to the State by the federal government for that purpose, and for that purpose only; and the transfer of it by this bill has only carried into effect the original purposes and objects for which the land was, in the first instance, donated by the United States. Nor could the State in good faith have used the money arising from the sale of these lands except by appropriating it in the manner provided by this bill, or in some similar way, and for a similar purpose of internal improvement.

The act of Congress of 1841, before referred to, contains this provision:

"SEC. 9. The lands herein granted the States above named shall not be disposed of at a price less than one dollar and twenty-five cents per acre until otherwise authorized by a law of the United States; and the net proceeds of the sales of said lands shall be faithfully applied to objects of internal improvement within the States aforesaid, respectively, namely: roads, railways, canals, bridges and watercourses, and draining of swamps; and such roads, railways, canals, bridges and watercourses shall be free for the transportation of the United States mails and munitions of war, and for the passage of troops, without the payment of any toll whatever."

This grant was accepted by an act of the Legislature of the State, passed in 1842, which upon its face declares that said grant is accepted on the conditions specified in the ninth section of the act of Congress just quoted, and the same act provided for the location of the lands so granted.

By an act of the Legislature passed in 1848, the sale of the lands was directed, the proceeds to be paid into the State treasury to the credit of the internal improvement fund, and the State to be charged as a debtor to the said fund for the amount so paid, in an account to be kept by the Auditor. By an act passed March 16, 1852, the Legislature provided that whenever any incorporated railroad company in this State shall grade and lay down the superstructure of any railroad in this State for ten miles, that such company should be paid out of the internal improvement fund, in the treasury, a sum sufficient to pay for the iron rails for said ten miles, and for which the said company shall issue to the State a certificate of stock in said company to an equal amount, to be deposited in the treasury.

By an act passed March 2, 1854, the Legislature further provided that the money in the treasury belonging to the internal improvement fund, or which might thereafter come into the treasury, "be and the same is hereby given to the New Orleans, Jackson and Great Northern railroad and the Mississippi Central railroad as follows, to wit: One-third part thereof to aid in the construction of the New Orleans, Jackson and Great Northern railroad from the Louisiana State line to the town of Canton, in the State of Mississippi. One-third part thereof, in aid of the Mississippi Central railroad; and the other one-third part in aid of the New Orleans, Jackson and Great Northern railroad north of Canton to the Tennessee river. For the money so applied, the Auditor was to demand and receive certificates of stock in the said companies, in the name of the State, for the use of the internal improvement fund to an amount equal to the sums so applied.

By the fifth section of that act it is provided that so soon as the stock so subscribed can be sold at par, the same shall be invested in the stock of the Gulf and Ship Island railroad on certain conditions; and by the eighth section the Governor is authorized to represent the State as a stockholder in the companies to the extent of the stock subscribed for. The act reserves, of the internal improvement fund, a sum not to exceed $100,000 for the Mobile and Ohio railroad, under the provisions of this act of March 16, 1852.

It will be observed that the investments [illegible]

government material advantages, to wit: The transportation of mails, munitions of war and troops, free of toll. The cost of transporting the mails alone on the various lines of railway in this State is a very large item of expenditure, and is a constant and enduring drain on the national treasury. The income derived by the railways from this source is no inconsiderable portion of their profits, and enters materially into the calculation of those who engage in railroad enterprises. It is to be observed, further, that the investment made by the State of the fund granted by Congress was made by the purchase of stock in existing private companies engaged in building railroads.

It is plain that Congress expected an equivalent for the grant, and this equivalent was of a substantial character. If the State had expended the money on her own account in building railways, the conditions of the grant would have attached to those roads. When, however, the State merely invested the money in the stock of existing corporations, she purchased only that right which every stockholder obtains by his money, to wit: the right to participate in the profits of the enterprise, and in the management and control of the railroad. This right is considered a full equivalent for the money invested, or companies would not be formed. This investment in stock by the State occupies no better footing than a loan to the companies to be refunded with interest.

The effect of such investment is not to create on the companies any obligation to remit any portion of the anticipated profits of the enterprise. No stockholder looks beyond the dividend and his vote. By these investments, therefore, the conditions of the grant of the fund invested did not attach to the companies, for the obvious reason that they are not the recipients of the government bounty, and there is no ground on which the United States can legally or morally claim the free transportation of mail, munitions of war and troops from the companies in which the State has thus become a stockholder.

In applying the fund to existing corporations it was the duty of the State to grant the money on the condition that it be expended in the construction or extension of the railways, and on the condition that the privilege secured to the United States by the act of Congress should be guaranteed. Such an application would have afforded the aid intended by Congress, and at the same time have created the obligation on the part of the companies to transport the government mails, etc., and thus have fulfilled the duty resting on the State as a trustee of the fund. As the matter stands, however, the legislation of the State amounts merely to an investment of the funds for accumulation.

The result is that the State has assisted in the building of railroads with the bounty of the government of the United States, and devised immense incidental advantages which flowed to her people from these great lines. She has not fulfilled her duty as a trustee in securing to that government the privilege of free transportation. The State has not expended her own money and the stocks she holds are not her property. Indeed, according to the spirit of the act of Congress, the railroads have a better title to the fund, for they were the objects of the government's bounty, and by surrendering these stocks or transferring them on the condition of the extension of the lines, the State but fulfills her obligations in accepting the trust as well as carries into effect the purpose of Congress.

Looking at the measure as one between the State and the railroads, what are the facts surrounding it? The State, and the confederacy of which she formed part, literally took possession of these roads, and held them for four years, during the civil war—forced them to transport troops and supplies—wore them out, indeed, in this service; forced them to receive the war currency, which died worthless on their hands; in short, ruined the private stockholders, and rendered it impossible for the New Orleans and Jackson Railroad Company to fulfill the obligations of their charter to construct the road north of Canton. The Legislature had before it, therefore, the alternative: to claim the forfeiture of the franchise, which would have resulted in the sale of the road and its appurtenances to pay its debts—a result, as every one sees, which would have rendered the stock held by the State entirely valueless, or to remit the forfeiture and by judicious encouragement secure the completion of the road north of Canton. This object secured, a vast benefit will accrue to the people of the region through which the road is to extend, and to the State generally, and is an object well worth the stock held by the State, even if it were the property of the State.

Can the State hope to secure the construction of this road through the instrumentality of the present company, or any company, without State aid to an amount equal to the stock surrendered? Plainly, it can not. By the terms of the act remitting the forfeiture, the stock surrendered or transferred reverts to the State if the road shall not be completed within the specified time, and the State will lose nothing. If the road is completed within that time, and with the co-operation of the people as contemplated by the act, and I think it will be, would not the State be amply compensated?

No rational mind, it seems to me, can fail to see in this measure a most judicious application of the stock held by the State; and besides, it is, in the fullest sense, a faithful application of a trust fund to its objects, and in furtherance of the primary objects of the Legislature of 1854, to wit: the building of a railroad north of Canton to the Tennessee line; the State, by this measure, applies part of a fund granted by Congress for the purpose of aiding the construction of railways in the State, and which Congress contemplated would be so used. In the form in which that fund now exists, it is useless to the improvement fund, and the State. Is not the State under obligation, as a trustee, to make this application of it, rather than to risk its total loss by claiming a forfeiture of the charter; or let me ask, can the State secure the same amount of railroad improvement by any other disposition of this stock? As it now stands, the stock will bring but a small price in market, not exceeding one-fourth of its nominal value. If retained, the State will receive no dividend. In its present condition it fails to benefit the State, and fails to answer the will of Congress. The Legislature determined to utilize this stock, and if by the measure adopted the extension of the railroad from Canton to Aberdeen has been secured, if but fifty miles of additional railway communication shall be secured to the people, the act of the Legislature stands justified.

A. M. WEST.

JACKSON, Miss., April 12, 1871.

Messrs. William Yerger and Wiley P. Harris:

GENTLEMEN—I am about to publish the communication which accompanies this note, but before sending it to the press, I desire to have your legal opinion on the single point, whether the construction given to the act of Congress by the communication, and therein referred to, is correct, and whether the opinion expressed as to the effect of the investment in railroad stocks of the proceeds of the sale of lands granted by Congress to the State for internal improvements is a compliance with the terms of the act of Congress.

Respectfully, etc.,

A. M. WEST.

JACKSON, April 12, 1871.

General A. M. West:

SIR—In reply to your communication of this date, we give it as our opinion, that the act of Congress of 1841 contained a condition that the roads, railways, etc., constructed by the use of the proceeds of the land therein granted, should transport the mails, munitions of war, and troops of the United States, free of charge; and that any application of this fund which would not secure to the United States this privilege would violate the provisions of the law, and be inconsistent with the grant. We are of opinion, moreover, that the mere purchase of, or subscription to, stocks of railroad companies by the State, with the funds arising from the sale of these lands was not a compliance with the terms of the grant, because such investment created no obligation on the railroad companies to grant free transportation to the mails, etc., of the United States. We therefore concur in your construction of the act of Congress, and the legislation of this State.

Yours, respectfully,

W. YERGER,
W. P. HARRIS.

ENFORCEMENT OF THE FOURTEENTH AMENDMENT.

Speech of Hon. L. A. Sheldon, of Louisiana, Delivered in the House of Representatives, March 31, 1871.

The House having under consideration the bill (House resolution No. 320), to enforce the provisions of the fourteenth amendment to the constitution of the United States, and for other purposes—

Mr. Sheldon said: Mr. Speaker, in considering the bill which has been reported by the special committee of which the gentleman from Ohio [Mr. Shellabarger] is chairman, the question which meets us at the threshold is the constitutional power of Congress to enact it into a law. From the beginning of the government to this day there have been disputes upon some question or other as to the extent of the powers of the general government. Complaint on the one hand that the government was a "mere rope of sand," and fear on the other of too much centralization, the tendency of every government to increase its authority, and jealousy of the dignity and supremacy of the State governments, have kept the nation in a turmoil of disputations, without having fixed in the public mind the point where the authority of the State government ends and where that of the national government begins. In consequence of our dual system it is probable that we shall always have conflicting opinions on this subject.

My fear of centralization and despotism is not so great as my apprehension of confusion and anarchy. The right to live, to own and possess property, and exercise the civil and political franchises, are the dearest interests of mankind, and it is the highest duty of the government to provide means to protect and secure every citizen in the undisturbed enjoyment of these rights. The government of the United States was established not merely to declare the true principles of liberty, but to provide for their maintenance and perpetuation. It would be gravely defective if it were not empowered to enforce respect for all the declared rights of its citizens. The power to protect ought to correspond with the extent of the rights conferred. Whether the general government possesses the powers which it seems it ought to possess is the question.

Prior to the adoption of the late amendments, the constitution contained restrictive clauses, and some that are considerably latitudinous. The tenth article of amendments may be regarded as restrictive, but it leaves open to discussion the question as to what powers are delegated to the federal government. So with the celebrated resolutions of 1798 and 1799. Although proclaimed as well defined and infallible political tenets, they allowed as liberal a construction of the powers delegated by the constitution as was necessary to sustain the views of the most ardent centralizationist.

It is fair to presume that the convention in framing, and the States in ratifying the constitution, understood it to embrace the powers to accomplish all the objects for which it is declared to have been ordained and established, especially when those objects are consistent with the largest liberty and highest security of the people. Some of those objects were to "establish justice," "insure domestic tranquillity," and "promote the general welfare." The rights of the citizens have been more specially defined, if not enlarged, by the late amendments, and there is certainly conferred upon Congress the power to enforce them by legislation. It must be apparent that these amendments enlarge the power of the government in controlling the action of the States, and I believe that it can extend its powers, through its courts, in times of peace, directly to the individual citizen who is deprived of his rights, privileges and immunities, whether through the positive act or the default of the State authorities.

Section four of article four of the constitution imposes upon the United States the positive obligation, among other things, to protect the States against invasion, and, on application of the legislature or the executive, against domestic violence. This has been construed into a limitation of power. I regard it as an obligation or duty. It was necessary to impose this duty, for the State may at times not have any means to suppress domestic violence, as the militia may be wholly under the control of the United States.

It evidently was not contemplated that any State government would refuse to protect its citizens or neglect to make the attempt. The provisions obligating the government to act on the application of the State was undoubtedly framed under the pleasing presumption that the State authorities would act in the best of faith, and that the application would be made only when the State governments were unable to overcome the resistance to their authority.

Suppose the State governments are indisposed to act in the suppression of disorders, or refuse or neglect to punish for crimes against the citizens of the United States, where is there relief? In such case has the nation no power; is the government under no obligation to go to the rescue of the injured? The people of one State have an interest in the preservation of peace and order in another. The right to migrate and to engage in legitimate traffic belongs to every citizen. The interests of the people of all the States are so interwoven that violence and disorders in one are injurious to all. If the meanest citizen wanders into foreign countries he is followed everywhere by the protecting power of the whole nation. No act has been more universally praised than the rescue of Martin Koszta from the prison of the Austrians. The bosom of every American swells with pride when he contemplates the act of national devotion to him who was only an inchoate citizen of the republic. Shall it be said that the citizen may be wrongfully deprived of his life, liberty and property in his own country and at his own homestead, and the national arm can not be extended to him because there is a State government whose duty it is to afford him redress, but refuses or neglects to discharge that duty! Such a theory may be palpable to the minds of men who have been too much educated in the technicalities which make a remedy depend upon whether the form of action is trespass or case, but it must be impalpable logic, indeed, to those whose lives, liberties and property are all at the mercy of organized bands of marauders who can safely defy the power or command the inactivity of the State authorities.

In saying what I have thus far, it has been my purpose merely to combat those positions which, if correct, might, in my judgment, deprive the people of all protection in those rights which it is our boast that we possess. Contingencies may happen, when we least expect them, which may imperil them all. Local prejudices may become so strong and violent that they may overturn that sense of justice which we fondly hope, however, may ever dominate in the bosoms of all our rulers. We well understand the influence of popular sentiment, under elective governments, upon those who depend upon the popular will for place and power. Governors, judges and juries give way to a mania which sometimes seizes hold of the popular mind. Prejudices and passions, which make men forget their duties, are more likely to be local than national. It is better, therefore, to have a government less local and more general, and which is responsible to a whole nation and not alone to a small portion. Such a government is more likely to be impartial, and to remain uninfluenced by prejudices and passions.

But because I believe the large powers which I have endeavored to indicate exist in the national government, I do not, by any means, advocate the wisdom or expediency of their exercise at all times. Convenience and courtesy to the States suggest a sparing use, and never so far as to supplant the State authority except in cases of extreme necessity, and when the State governments criminally refuse or neglect those duties which are imposed upon them. The local authorities ought to understand best the wants and condition of the people over whom they rule. It is essential to the maintenance of peace and order, and to the inculcation of respect for and obedience to law, that the State governments should be respected and upheld by the general government. It is as much the duty of the national government to support that of the State and to maintain its authority, as it is to provide an ultimate remedy for the redress of every wrong inflicted upon the citizen.

It is not only a duty, but it is for the national weal, that it should take care that State authority is obeyed. The great difficulty in the South to-day is a want of moral power on the part of the State governments. Wherever disorders prevail are [illegible] In what State where violence and disorders prevail is the State government in sympathy with ku-kluxism, unless it be in Kentucky and Alabama? And disorders began in the latter before the present Governor was inaugurated. The affairs of the South have been so long managed by the general government that State authorities have formed the opinion that they are really without moral or legal power. If anything happens of an unusual character they turn their eyes toward Washington for succor.

The Southern States are all of sufficient age to be weaned, but not abandoned. The sooner the general government commences to teach them that they must rely on their own resources, and that they are only to be aided and backed up, the sooner will local authority be able to afford security in every emergency. Show me a State in a turbulent condition, and I will show you a State government lacking in some essential quality. The disorders in Louisiana in 1868 were greater than all that have occurred in all the South since the close of the war. The new State government had but just assumed control, the national administration was hostile, and the military authorities were unfriendly. The situation was unfortunate, and the State authorities had not had time to gather up their strength or to make manifestations of their power. Did you legislate especially then? Not at all. The State was left to its own resources. It is true the old hostile President went out and a new one came in, and was understood to be disposed to preserve peace and order at all hazards. This fact alone had an immense moral influence, and I would by no means underrate the beneficial effect of this fact. But the greatest cause of the happy change in that State from a condition of violence and bloodshed to one of profound and marked tranquillity was the ability and pluck of the State government in making its authority felt and respected. I should be recreant, however, to the cause of truth if I did not say in addition that the good people of that State gave their influence and efficient aid in bringing about the great change which has taken place.

I can conceive of a condition when a law should be passed embracing all the provisions of the bill under discussion. I do not think the present state of the country warrants us in going so far. In my judgment we have the authority to place upon the statute-book a permanent law empowering the President to suspend the privileges of the writ of habeas corpus whenever in his judgment a case of rebellion or invasion exists. But I should deem such action both impolitic and dangerous. It would be regarded as a suggestion that we were constantly liable to the dangers which alone justify its suspension. It would stand as an unpleasant commentary upon the stability and efficacy of a republican form of government. And I would not have the people resting under the hazards of an abuse of such authority. I have less difficulty in determining what law is constitutional than what will be practicable.

It is true that present wrongs demand remedies and suggest legislation. But I would legislate to meet apprehended as well as existing conditions. I would make a law applicable alike to every part of the country, and to be permanently upon the statute book. I had almost made up my mind to say that I would vote for any law of national application which gentlemen representing Northern constituencies think they can defend at home. It seems to me to be sufficient, and at the same time to be proper, to make a permanent law affording to every citizen a remedy in the United States courts for injuries to him in those rights declared and guaranteed by the constitution, and to empower the marshal in the execution of his writs to call upon the *posse comitatus* whenever he is opposed or resisted by force, and authorize the President to support the marshal with the army and navy and militia whenever such aid is applied for and is necessary. Such a law will meet the emergency, and it seems to me will be entirely defensible. I do not oppose a law authorizing the suspension of the privileges of the writ of habeas corpus because I have not confidence in the President, for I have as high an opinion of his wisdom, integrity and patriotism as any gentleman on this floor can have; but I do oppose it because I do not believe a case to justify it exists or is to be apprehended, and I fear the effect of a precedent when it has been resorted to without warrant from the existing or apprehended condition of the country.

Mr. Speaker: As alleged outrages and disorders in the South constitute the occasion for legislation at this time, I think this discussion should take a wider scope than the consideration of the laws which ought to be enacted to repress crimes and disorders. It ought to extend to all those measures which may tend to pacification, for such are quite as important as repressive measures. It involves the whole subject of the policy of the government toward the people of the States lately in rebellion. The enactment and enforcement of penal laws are necessary and indispensable; yet other means are essential to secure lasting contentment. A wise government will do all those just things which will soften animosities, and which will remove what any portion of the citizens properly deem to be grievances.

In discussing this subject we must look upon facts as they are, and not as they ought to be, and learn to expect from people everywhere such action as is natural rather than that which strictly coincides with the right. I have no doubt of the existence of outrages in certain localities in the South, and of an aggravated, and, perhaps, of an alarming character; alarming because they forebode anarchical tendencies, and a growing disposition to ignore and overturn social securities. Disturbances have existed before, not only in the South, but in other portions of the country. But bad as the condition is, or may have been, I have never believed, and do not now believe, that there is any purpose on the part of the responsible and influential people of the South to make another attempt to become independent of the government of the United States. Nor do I believe the present situation generally in the South to be worse than it has been, although the turbulence seems greater in certain localities, yet I do not believe the popular feeling to be less disposed to peace and order. The propensity to take life was always more developed in the Southern people than in the Northern. Slavery induced this propensity, as it led them into a war against the nation. I regard the present manifestations as the receding of the waves which were produced by that storm of blood which prevailed for four years, and spent its main force upon six hundred battlefields.

There is a struggle in the South on the part of those who ruled before the war to recover their lost domination. It is legitimate for any class of people to seek control or power if the means employed are consistent with the laws of the land. I think the Democratic party of the South do in many instances resort to appliances which cannot be justified, and are pointedly in conflict with that just and celebrated sentiment of Thomas Jefferson, that "error of opinion may be safely tolerated when reason is left free to combat it." They have not always left reason free to combat their principles. That the condition of those at the close of the war who had joined their fortunes with the confederacy was uncomfortable, I well understand. It is as hard to bear misfortunes which are self-imposed as it is to endure those which are brought upon us by others. Soldiers keenly appreciate the sting of defeat. The Southern people had lost their cause, and were broken up in their property. They had been unused to labor. The whole social fabric had become a shattered wreck. Although these calamities were the results of their own wrongful acts in warring against the nation, still the prospect was uninviting, and required the exercise of the greatest philosophy to pass out of such a state peacefully and successfully. It will take time, and patience, and industry, and the subduing of prejudices and passions to bring them out; and it is the duty of the nation to lend every aid legitimately in its power to hasten the day when the wrongs and disasters of the past shall be effaced from memory.

The white people of the South are most strongly prejudiced against the colored people—not so much, however, against them for their color as for their previous condition. The sudden and radical change which has made the slave a co-equal citizen does not commend itself so readily to the mind of the whilom slaveholder as to those of us who were reared and educated under other circumstances. While the war was progressing federals and confederates learned to regard each other as [illegible], and it was a feeling that pervaded the minds of the entire population of both sections. This feeling unhappily did not die away with the sound of the last discharge of fire-arms; it is hardly a law of mind that it should cease instantaneously. Hence N[orthern] soldiers and Northern men who settled in the South were regarded as inimical, and the feeling as a rule was reciprocal. [While] we believe that the people of the South were criminally wrong in engaging in rebellion, still we must concede that the great mass of them were [illegible]. Their opinions resulted from false [illegible] teachings of thirty years' duration.

Observation has shown us that conscience is largely the creature of education. [illegible] the people of the South look upon laws for the punishment of treason and restrictions upon political privileges and immunities as unkind and oppressive. These are [illegible] the facts which we are to consider, springing from which are some of the [illegible] from which the present condition of the South has resulted.

When the war closed there were two elements of population in the South whose future status was undetermined; the [blacks] who had never enjoyed citizenship, and a large number of the whites, who for their acts might be deprived of citizenship. The solution of the problem, so far as [illegible] franchised and citizenized both classes, [was] a wise policy. Whether the nation [should] have gone further and made citizens [illegible] need not now be discussed. Whatever [may] have been best then, it is clear to my [mind] what course should now be pursued. [It] would grant general amnesty at once. [It] will not be followed by any dangerous consequences. Good only will flow from [such] an act.

Why not grant amnesty? Is it [illegible] from fear of adding strength to a [political] foe? For such a reason it would be [illegible] to withhold it. But it will not add a [feath]er's weight to the one side or the other. [They] can vote now. Disqualification [is] only a limitation on the number of [men who] may hold federal offices. It has [been] urged that amnesty should be withheld [be]cause violence and outrages are perpetrated in the South. Disfranchisement [induces] acts of violence. That men feel [illegible] when their political privileges are [illegible] is rather natural in America. One man embitters a whole community [if he] attempts it, and if he does not make [com]plaint himself, his neighbors and friends [do] it for him. This is an age and a country of enfranchisement rather than of disfranchisement. It is morally and physically [impos]sible to maintain tranquillity in any [State] in any section, when any considerable portion of the people of that State or [section] are disfranchised. You may send [an] army to capture, and your courts to try [and] punish offenders, but you had better [send] also the full guard of citizenship to [those] who are without it. I would use force, [if] necessary, to quell disorders, but I [would] remove every exciting cause of dis[content].

But it is said that the white people of the South are opposed to the conferring of political privileges upon the blacks. [The as]sertion is true. I do not believe, however, that they will attempt to annul or [illegible] the fifteenth amendment any sooner [than] the Democrats will everywhere. [Their] opposition to it shall cease depends [upon] the action of the Democratic [party]. If that party says that the amendment shall not be executed, their partisans [in] the South will obey the mandate. [If], the contrary, the decision is to submit, the advice will be followed. The [exercise] of political franchises by the blacks [is] more tolerable to the hostile whites [if they] are permitted to enjoy as much themselves. Turn this question over as you will, look at it from every standpoint, [and] mind the arguments for amnesty are unanswerable.

Tennessee disfranchised more [than a] third of her adult population. The State government should speedily [fall into] the hands of the friends of those [who were] affected by this proscriptive policy [was] inevitable. No other result could have [been] expected. It required more than [the] aey of fifteen hundred State troops [under] Governor Brownlow to Governor S[enter to] prevent the popular uprising. The [illegible] in that State is to be most deeply [illegible] for she gave more of her sons to the army than any or perhaps all of the [States] which seceded, and she furnished [some of] the ablest, most unflinching and [self-sacri]ficing patriots of the South. Missouri [with] her proscriptive laws and the ties [illegible] were not strong enough to bind [illegible] their support. The Republican party [could] not afford to continue disabilities. [When]ever a liberal policy has been adopted [vic]tory has perched upon the Republican standard; the opposite policy has [been fol]lowed only by disasters.

Mr. Speaker, my own State has [had] carnivals of blood, more bloody than [any] other State or all other States [combined]. Her present condition is a source [of con]gratulation to my party for the wise [policy] which has been pursued. The New [Orleans] REPUBLICAN of a recent date holds the following language:

"There is no complaint as to Lo[uisiana] thanks to the superior intelligence [and] greater industry of our people, who found more profit in accepting the la[ws and] in attending to their material interests [than] in defending their ancient prejudices [and] in resisting the manifest will of the [nation].

The profoundest peace there prevails [and it] is as quiet as Vermont. This [is] largely due to the liberal policy adopted [by] the Republican party of the State. [It would] do injustice not to say that some [of it is] also due to the advanced grounds [taken by] the Democratic party in that State [which] must commend their example to [their] brethren in other States. The Republicans planted themselves squarely upon [the plat]form of amnesty, and struck from the constitution and abrogated all disqualifications for participation in the rebellion [by] a nearly unanimous vote at the ballot. The Democratic party in their State [con]vention passed resolutions accepting [the] principles of the fifteenth amendment [and] invited negro delegates to sit in convention with them on terms of equality. [After] these occurrences there was no war threatened or predicted. Peace has [reigned] upon the people ever since, and if [the] political parties of the nation would [follow] the examples which have been [set] them in the State of Louisiana [we might] confidently look for an early day [of] halcyon period throughout the South [and] the whole country.

The people of the Southern [States are] anxious to recover from the losses [of the] war, and to resuscitate their broken fortunes. They appreciate fully the advantages of works of internal improvement, and are turning their attention to [this sub]ject to the best of their ability. [illegible] of the government which encourages development of resources creates [a feeling] of satisfaction. Legislate as you [will to] enforce order and obedience to law, [with as] strong a hand as you may, still you [will ac]complish more in the way of removing exciting causes and in softening [animosities] by general amnesty acts, and by [liberal] and well adapted legislation to promote the development of the material resources of the South.

But, sir, I do not expect such [re]sults from the action of the general government as do gentlemen of more [ardent] temperaments. By far the most [depends] upon the action and efficiency of [the State] governments. The people themselves [will] sooner or later rise up in their [might and] put an end to crimes and disorders. [I de]plore turbulence everywhere, and [am will]ing to grant the requisite force for [sup]pression whenever it may be properly [and] safely employed. But I do not [believe] the republic or of the South [illegible] tally believe in the efficacy of force alone. Time, tolerance and [education] are potent remedies for [illegible]. May I venture to say, in conclusion, with all the terrible facts before [us], with all the exaggerations which [are] likely to occur, there is not a man [of] vigorous and thought who did [not at the] close of the war fear more extensive [and more] obstinate disorders in the South [than those] which have been experienced?

The Indianola *Bulletin* says:

We have had the pleasure of [illegible] Indianola, for a few days past, [our ante-]bellum friend, John C. Fr[illegible] Antonio, who has so long [been connected] with railroad interests. He tells [us that as] soon as the cars commence run[ning to Vic]toria, Messrs. Fred F. Sawyer [illegible] run a daily line of first class [coaches from] there to San Antonio, at the [rate of illegible] miles per hour day and night [connecting] with the El Paso line.