The Nation.

[Feb. 28, 1867]

This is the precedent which Congress would establish by inaction. The governments thus brought into existence, having the support of nearly all the classes within their respective States accustomed to political power and to the use of arms, could for ever keep down the unorganized and helpless majority. And as some government must exist in every State, and every attempt to establish different governments would be promptly crushed, after the fashion of New Orleans, the courts would be compelled to recognize the governments thus founded upon acknowledged, manifest, undisguised usurpation as having, nevertheless, ripened from governments de facto into governments de jure.

If it is said that Congress should take less stringent action than it has done, reply that, as far as the constitutionality of such action is concerned, Congress has a right to act upon the theory that nothing has been done toward restoring civil government since the Southern armies surrendered, and may do now whatever it could have done in May, 1863; and that as far as expediency is concerned, it is expedient and essential that severe and peremptory measures should be taken to break down usurpations which have been allowed to exist too long, and have of course gained strength by delay. Ordinary civil process would not suffice to cope with the evil. It would be subject to ineradicable delays and loaded with technical difficulties. This, we admit, would not be a sufficient reason for abandoning the ordinary process of law in dealing with an ordinary civil government. But Mr. Johnson's creations are the children of military rule, and may very probably be destroyed by the species of law to which they owed their existence. Military usurpations are legitimately dealt with by martial law.

Between the two precedents of reconstruction—both by the exercise of military power, used, however, in the one case under the authority and restraint of civil law, and in the other case in utter disregard and defiance of law—our choice is made without hesitation. A despotism which claims its origin from a statute cannot, with any grace, assert its right to exist after the repeal of the statute, but one which sprang from the will of a single man and is checked or amplified by his uncontrolled decisions, is capable of indefinite extension and continuance. We shall seek, as far as may be possible, to limit the scope and duration of military rule; but since it was unavoidable that it should exist under some conditions, we prefer it as enacted by Congress rather than as established by the President.

We have heretofore spoken of the evil influence of legalized disorder and oppression, such as we believe to exist in the South. The unsubdued masses at New Orleans, the applauded murders of Union soldiers in Georgia, the boasted "disappearance" of Northern men from Texas, the atrocious acquittal of Dr. Watson in Virginia, are but examples of a state of affairs constituting a precedent more damaging to republican government than any period of temporary military rule can be. The use of armed force to break up such monstrosities is no more inconsistent with republican institutions than is the use of the Italian army to break up Neapolitan brigandage inconsistent with constitutional government. The more thoroughly the work is done, the sooner can the ordinary forms of law be restored and the States be left to govern themselves, as we shall rejoice to see them do.

THE DUTY OF IMPEACHMENT.

We print on another page a letter containing our opinions on the impeachment question in a style in which we are always glad to have our opinions on any subject controverted, and urging forcibly a view of the duty of Congress in this matter which is somewhat novel, and which we admit to be deserving of attention. The advocates of impeachment have hitherto rested all their claims to a hearing upon expediency. They showed that Mr. Johnson was an "obstacle," which nobody denied; and they tried to show that he had committed certain offences which not only deserved impeachment, but which would ensure his conviction and removal; but none of them, so far as we know, has taken "H. F. B.'s" ground, that we are bound to impeach him as a moral duty, whether he can be convicted or not. "H. F. B." seems to be under the impression that we have opposed the movement solely or mainly from the fear that it would have an injurious effect on the trade and finances of the country. This is, however, a mistake. We have spoken of the probable effect of an impeachment upon business as
of the reasons for avoiding it, but not either as the only one or the principal one. Our principal reasons for not wishing to see an impeachment attempted were and are, that we do not think a legal conviction upon any of the charges which Mr. Ashley, General Butler, or Wendell Phillips have as yet seen fit to bring forward is at all likely. All the "usurpations" of which Mr. Johnson has been guilty consist, unfortunately, in the abuse of powers to which, in our opinion, he had no title, but which those who now clamor most loudly for impeachment would have been well content to see him exercise had he exercised them differently. In other words, the charge made against him is not that he usurped, but that he usurped for a wrong purpose. His performances in connection with the New Orleans massacre were undoubtedly atrocious, but we have yet to hear of a particle of legal evidence of his complicity in the designs of Mayor Monroe and his fellow-cutthroats. Removal from office for political opinions is, in our opinion, a grave offense; but it is an offense which all parties have encouraged or condoned. Mr. Johnson's guilt under this head really consists not in his having made political opinions a test of fitness for office, but in his having deserted his party. Had he removed officials for not agreeing with Thaddeus Stevens, the offense against political morality would have been, we admit, less heinous; but it would have been still an offense, and yet it would have called forth no reprehension whatever. The desertion of his party by the President is not, however, a high crime or misdemeanor.

As to his bad language, we doubt if anybody was more shocked and disgusted by it than we were ourselves, but there must be a great reform in this particular amongst politicians before bad language will be regarded as a fit subject for judicial punishment. There would be something very laughable in the trial of Andrew Johnson for foul-mouthed abuse, when such a matter of vituperation as Parson Brownlow was received with all the honors on the floor of the House. It has been hinted, though not openly charged, that Mr. Johnson has also sold pardons and offices for money, and done worse things. Here is a distinct and positive offense for which no justification or palliation can be found, either in the politician's code of morals or that of anybody else. Let anybody produce conclusive legal evidence of this or of anything like it, and we should urge a trial eagerly, and the trial would not last half a day; but we have not yet heard that the promoters of the impeachment have any such proof in existence. The charges they bring forward are vague, indefinite, difficult of proof, and rest, in many instances, on doubtful points of constitutional law. The trial of them might last two years and would probably fail in the end. It would not be regarded by either the country or the world as a judicial process, but as a piece of party warfare. In fact, General Butler and Wendell Phillips have done all in their power to prevent its being so regarded, as they have devoted themselves almost exclusively to showing not that Mr. Johnson was a criminal whom it was a duty to punish, but that he was a political "obstacle" which it was desirable to remove.

In considering the propriety, however, of treating him as an "obstacle," we must bear in mind that since the commission of all the offenses for which it is sought to put him on his trial—since his usurpations and bad language, his conduct has been submitted to the people of the North, and at least three-eighths of them have approved of it, and consider him an obstacle which ought not to be removed. These three-eighths are very slightly represented in Congress or the State legislatures, and we are, therefore, in discussing what ought to be done with Mr. Johnson, apt to lose sight of their feelings and opinions. They would all think the impeachment a mere piece of party warfare, and would look on him as a martyr if he were condemned on any charge now before the public. Of course the talk of armed resistance to the impeachment is all twaddle. It would be submitted to just as certainly as any other measure of Congress. His supporters at the North would not commit the supreme folly of rebelling on his behalf. What they would do would be to pay him back in our own coin whenever they got a chance. The first time the Democratic party found itself in a majority in the House—and it may find itself in a majority within the next five years, even if the Republican party succeeds in electing the next President—it would endeavor to get rid of the President by following out General Butler's programme, by getting up a string of charges against him, the soundness of which would not be of the smallest consequence if the precedent of suspension during trial were once established. The charges being preferred, out he would go, and this being all that was wanted, the proceedings would be allowed to run on for an indefinite period, and might at last be dropped. For instance, in the Congress of 1861 there would have been a strong majority against Mr. Lincoln had the South staid in the Union, and to this majority he was intensely obnoxious. How easy it would have been for the secessionist leaders under this new rule, instead of rebelling, to have impeached and deposed him, and thus having got the army and navy into their hands, to have let the trial drag on indefinitely. In short, we doubt if anybody has looked carefully at this matter of impeachment, as now presented to us, without seeing that it opens up a long vista of disorder if not of revolution, compared with which any present dragnetage of trade or commerce, or even the prolongation of Mr. Johnson's power for another year or two, is a mere trifle.

That we must regard the offenses charged against him as standing in the same category as murder and arson, and which therefore we are bound to try to punish, no matter what the consequences may be, we consider, with all respect to our correspondent, a very wild doctrine. These offenses are not made so by the crime which they are not acts on the criminality of which the civilized world is agreed, and therefore the question of prosecuting him for them is a simple question of expediency, just as the question of trying Southern traitors was, or as the question of trying Southern traitors is, or as the question of prosecuting the Fenians was. Offences against any political community—which political community—that community has a right to overlook if it pleases, or if it thinks it more advantageous to do so; a right which, let us add, we have never before heard disputed. Fifty years hence, to adopt "H. P. B."

Illustration, we do not think this passage would read so very badly in American history:

"In the year 1865, Andrew Johnson, a man who had been distinguished before the war as a truculent pro-slavery Democrat, illiterate, vulgar, and passionate, but who, during the struggle, had rendered great services to the Union in Tennessee, was nominated by the Republican party for the Vice-Presidency, though hardly anybody in the convention knew anything whatever of his real character. This was done simply as a compliment to the Union men of Tennessee, and without the remotest expectation that he would ever exercise any greater influence on legislation than falls to the lot of the President of the Senate. He was, however, unexpectedly raised to the Presidency by the assassination of Mr. Lincoln, and many prominent men of the party at once set to work to make the best of it by lauding him to the skies as a better man than Mr. Lincoln, as a man of stern moral and stronger mind, and fiercer zeal for liberty, who would punish traitors righteously and let the oppressed go free; and they urged him with might and main to use all the powers he could get hold of, doubtful and not doubtful, for this purpose. His not very wise head being turned by this applause, and muddled by stronger things than applause, he proceeded not only to use all those powers which the country had foolishly permitted him to assume, but to use them in defiance of the principles which he had nearly all his life defended, and for the protection of the men with whom he had nearly all his life acted. He broke his pledges, prostituted the public service, betrayed the freedmen, abused the pardoning power, and disgraced his office by his vituperation; but, nevertheless, nearly half of the Northern people and the whole of the Southern people stood by him, some from political sympathy and some because they believed it better to bear with him than to try to remove him, his term of office having half expired, and there being a sufficient majority in Congress to legislate over his head. Congress considered gravely the propriety of impeaching him, and were strongly urged to do so by about half of the Republican party, including many of its ablest and most upright members; but, in view of the uncertainty of a conviction, the vagueness of the charges, and of the danger of seeming to convert impeachment into an instrument of party warfare, they refrained. At the same time, they determined to change the character of their legislation, and forthwith framed a plan of reorganization of the South, to take effect at a certain fixed date and based on principles of justice and equality, in which certain
well-defined duties were imposed on the President, amongst others that of preserving order by military force, and resolved that the failure to perform these duties should be visited by instant punishment."

ENGLAND.

LONDON, Feb. 8, 1867.

The deáth of politically interesting topics is coming to an end. Parliament was opened last Monday, and the various questions which have for the last few months been more or less dormant will soon wake into fresh life under the stimulus of personal discussion. The usual ceremony took place with its usual accompaniments. A steady down-pour of London rain rather spoiled the outside show of heavy state carriages and running footmen and heralds and beekeepers and life-guardsmen, and all the rather cumbersome pageantry of a royal procession, but rather cleverly draped the ardor of the huge crowd which welcomed the appearance of the Queen. Between the House of Lords the sight was as grand as usual. Penny-farmers found ample scope for their powers of description in the splendid costumes of peers and peeresses and ambassadors and Indian princes collected in the noble chamber of the Upper House. The usual comic incidents took place of a disorderly rush to the bar of members of the House of Commons, struggling, pushing, and squeezing like a pack of school-boys. The speech was delivered in the same form as last year; that is, the Queen did not read it herself, nor did she put on her state robes, and the trumpeters did not perform the flourish which used to greet her during the lifetime of the Prince Consort. The Lord Chancellor, who is a man of impressive appearance, read the speech standing by the side of the Queen, and the curiosity of the public was doubtless as well satisfied as if it had come from the lips of her Majesty herself. It has seldom been listened to with more interest. The main result, so far as it indicates the probable policy of ministers, seems to be as follows: The Government promises to do something about Reform; what that something is remains sufficiently vague until Monday next, when Mr. Disraeli will show his cards. The absence of any direct mention of the ballot seems to make it likely that some temporizing course may be adopted—the most probable suggestion being, perhaps, that it will be proposed to proceed by resolutions, and thus to defer the final settlement for a session. Meanwhile it is premature to speculate, and we are only treated to the rather vague information that it is meant to extend the franchise and yet not to alter the balance of power—as if the balance of power was not the very thing that requires alteration. The plan of government is, however, to bring off opponents by offering a large instalment of practical reforms: and there can be no doubt that such reforms are urgently needed, and, if satisfactory measures are proposed, would go far to justify a delay in electoral reform. Thus, we are promised some sort of legislation with regard to army reform, trade unions, the extant provisions of the Factory acts, the condition of the mercantile marine, the management of hospitals in workhouses, the relations of landlord and tenant in Ireland, and various branches of commercial law. We are also told that the outstanding difficulties with the United States are to be satisfactorily settled. If any really efficient measures are passed upon all or any number of these various matters, the session will certainly not have been wasted. Very little discussion took place. The only opposition speeches came from the leaders in the two Houses, Lord Russell and Mr. Gladstone, and showed a curious contrast. Lord Russell has terribly fallen off from the Lord John of old days. He was querulous and impolitic. He went into the old story of which every one but himself is heartily tired, of the history of the various measures of reform which have broken down since 1832, and laid the whole blame upon the opposition of the Conservative party, though everybody knows that the insincerity of his own Whig cabinet has at least as much to do with it. He showed himself anxious to find fault, and found it in a quibbling and captious spirit. In fact, his speech was at once thin and sour, and suitable to a disaffected politician. Mr. Gladstone, on the other hand, spoke with characteristic generosity of his opponents, and promised to help them if they would deal straightforwardly with the questions concerned—a promise which I sincerely hope that circumstances may enable him to keep. The contrast between the two speakers suggests one great difficulty of the Liberal party. In the country at large, Mr. Gladstone is at present indisputably the most popular of our public men. He has a hold upon the public favor far stronger, for example, than that of Mr. Bright, who appeals to a smaller and perhaps more narrow class of voters. No one outside the House can doubt for a moment that Mr. Gladstone ought to be the leader whom all true Liberals should support. His great talents, thorough cultivation, and high character should lift him head and shoulders above all his followers. Yet in the House of Commons all this is reversed. He is personally unpopular; by the Conservatives he is hated rancidously; by his own side he is followed with, at best, a hesitating allegiance; and I believe that if a leader were to be selected by ballot, some insignificant nobleman, such as Lord Granville, would be chosen, and Mr. Gladstone put in a secondary position to a man infinitely his inferior. The reasons for this are various. In the first place, there is the most presentable reason, that he is not quite trustworthy politically. He has a high Church view, which makes him unsound upon all questions as the complete overthrow of the universal succession of Disentertainment. Then he is a man of rather too strong a temper, which makes him at times say more than he means, and deprives him of the coolness necessary for leadership in political as in military struggles. This is interpreted by his enemies into insincerity, though I believe that there is no more honest politician in the country; he has, however, the impulsiveness and versatility which it is easy to confound with a want of honesty. Again, he is said to be bad-tempered and arrogant—a charge which, so far as it is true, seems to me to be as much the consequence as the cause of dislike. In his position as leader last session he was subject to incessant attacks and brow-beating, which it would have required the temper of an angel to support. Lord Cranbourne, who has as bitter a tongue as most people, compared him one day, in a speech, to a pot-putting gory courteou. The Tories applauded. Next day Lord Cranbourne apologized—to the attorneys of England. This insolent, but not very witty, insult to one who is indisputably amongst our first statesmen—if not our very first—was received with fresh applause, a fact which pretty well indicates the temper of the Tory party. This bitter hostility is, in part, due to another cause. Mr. Gladstone is hated not merely because he is said to be arrogant, but because the great Whig families think him an arrogant plebian. They cannot bear to be led by a man who has no connection with the traditional leaders of their party, and they would rather have some insignificant King Log to rule over them than one whom they regard with a jealousy proportioned to his talents. Consequently, it is highly probable that there will be considerable difficulties in the way of forming the next Liberal administration, if not in the successful conduct of opposition even before they have to quarrel over the hollow points.

To turn from political questions, where, if we may prognosticate a coming storm, it is yet premature to guess at its precise violence and direction. Another interesting topic is revolving. Warrants were obtained yesterday against Colonel Nelson and Mr. Brand, and it is understood that Governor Eyre will attend when required. Their trial for the Jamaica outrages will commence immediately, and will doubtless stir the public mind more deeply than ever. The vehement party feelings which were excited by the American rebellion seem to have been all transferred to this narrow question, and it is scarcely possible to mention Governor Eyre's name at a London dinner-table without producing a storm. Opinions are very much divided as to the probable result of the measure, and The Times is consequently as determinedly in favor of it as some of its own leaders. Colonel Nelson and Mr. Brand (whose discussion with Mr. Buxton on this subject led to his dismissal from the royal navy) are said to be very strong; but there are many legal difficulties in the way of a conviction.

I think that your readers will thank me for calling their attention to a very interesting address which has just been delivered by Mr. Mill to the students of St. Andrews University. Like the other Scotch universities, the students have the privilege of electing a lord rector, whose office is now strictly confined to the delivery of an inaugural address; it might be well if some other official functions were equally curtailed. You may remember that Mr. Carlyle was elected not long ago to a similar office at Edinburgh, and addressed the students with that mixture of grave and humorous wisdom of which he is peculiarly capable when not interfered with by too many pet prejudices. It was chiefly attractive for the personal interest with which we could not but accept the words of a literary veteran expounding to young men the lessons of a laborious life. It is equally characteristic of Mr. Mill that his address was singularly free from any personal coloring. It was calm, dispassionate, and full-minded, and treated of the higher branches of education with a philosophic breadth very unusual in an English treatment of the subject. The curiously cramped and special system of our university course generally narrows, in a very marked way, our English discourses upon education. It seems to be forgotten that there are very possible subjects of training except classics and mathematics, or that they can be regarded from any but the traditional point of view. It is Mr. Mill's peculiar merit to rise above these common prejudices. He was chiefly doing full justice to the English system and to his most bitter opponents, to rise to a philosophical conception of the whole subject. He spoke kindly of our universities whilst condemning their deficiencies, and spoke with a special respect of his opponents both in metaphysical and religious questions. This
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