

CIVIL RIGHTS.

BY FREA. E. H. FAIRCHILD.

IN THE INDEPENDENT of Dec. 24th is an article on the "new civil rights bill" which astonishes and distresses me. Had it been an article from some correspondent, it would not have disturbed me; but, appearing as editorial, it seems to commit the dear old paper, which has been our hope and pride, to a political and civil policy which seems to me exceedingly erroneous and dangerous. It declares that "the questions which both bills undertake to decide are not within the jurisdiction of Congress"; that the question "as to the persons who shall compose juries in state courts is pre-eminently a matter which belongs solely to the jurisdiction of the states"; that "if we concede to Congress the power to pass any law that in any way relates to life, liberty, or property, to the equal protection of the laws, and also the exercise of the elective franchise, then we have made a concession which carries with it the power to do anything which a state legislature can do"; and that "what the South needs more than anything else, so far as the Federal Government is concerned, is to be let alone and left to the management of its own local affairs."

In the proclamation of emancipation the whole power of the United States was pledged, as it should have been, to the maintenance of the freedom of the emancipated. What does this mean? Does it mean that the states which exhausted their power in the effort to maintain slavery, and which now regard themselves as having been robbed of two billion dollars of property and still look upon the negroes as better fitted for slaves than for citizens, should be left alone to manage the questions of the life, liberty, protection, and the elective franchise of these people in their own way? It is perfectly preposterous. I can hardly conceive how a man who believes in equal rights and has any knowledge of the situation could suggest such a thing.

Suppose a state should authorize the selling of colored people, and not white people, for debt, has the General Government nothing to do in the matter? Suppose colored people should be prohibited from going off from the plantation where they are employed, and white people were authorized to arrest them as vagrants and return them and receive their reward from the wages of the person arrested, has the Federal Government nothing to do? Suppose colored people should be denied the right to vote, to be tried by juries, to act as jurors, to testify when a white man is a party, to hold office, to educate their children, to receive any portion of the school fund raised by general taxation, to travel freely by public conveyances; suppose they might legally be shot down for insulting white people; might be whipped when white people would be fined and killed when whites would be imprisoned, is nothing to be done about it? Any of these things are liable to be done, most of them have been done since emancipation, all of them were enacted into law for free colored people before emancipation, by the same states which the writer claims should now be let alone to manage these matters in their own way.

It is undoubtedly the province of the state legislatures to establish common schools, regulate hotels, theaters, cemeteries, and public conveyances, to prescribe the qualifications of jurors and other officers, of voters and teachers, and to protect the lives, liberties, and property of the people. All that we maintain Congress should do on these questions and all that the Civil Rights Bill undertakes to do is to prevent unequal legislation and unequal execution of laws on account of race or

color. This, too, is the duty of the states, and it is also the legitimate business of Congress. To leave these states to take their own course in these matters is to leave them to discord, distraction, and destruction. If all hope of legal distinctions on account of color were entirely removed by the action of Congress, I believe the South would soon settle into permanent peace. And such legislation, instead of tending "to divide the politics of the two races by any race line," would tend to obliterate all such distinctions. It is the effort to keep up these legal distinctions which unites the colored people in one party; and this is the cause of our trouble. Let the colored people be equally divided between the political parties and all difficulties on account of color would be ended. But such a division will never take place and never ought to take place while one party is determined to perpetuate and increase these distinctions.

But we are told in another article that these questions belong to the courts, and not to Congress. Why is it less dangerous for the Federal courts to interfere with state affairs than for Congress? But what can the courts do without law, except to decide that certain state laws are unconstitutional? And what would such decisions amount to when those laws and their execution were the result of an inveterate prejudice and in designed contempt of Federal interference? I can conceive of no way to defeat the operation of such laws except by the infliction of penalties upon those who maliciously enact or execute them. This is what the Civil Rights Bill proposes to do. If the states were in the main doing justice by the colored people, and there were little or no occasion to interfere for their protection, I would say, Let the bill go. But it is because there is abundant occasion for it that the colored people and their long-tryed friends say, Give us the law.

But for the interference of Congress there would not to-day be a state in the South where colored people could vote, hold office, act as jurors, sue or be sued, testify where a white man was a party, share equally in the common school fund, have equal advantages with other taxpayers in poor-houses, asylums, or cemeteries, or suffer equal penalties with white people for equal crimes.

I cannot see how the United States Government can redeem its pledges, or support the Constitution, or promote the general welfare without prohibiting and preventing civil distinctions on account of color.

I know that before the war all states made these distinctions; but they were the legitimate incidents of slavery. They have no place in the condition of universal freedom.

It is important "to remember that there are such realities as states"; it is equally important for the states to know that there is a nation and a constitution.

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