

BUREAU OF FREEDMEN AND REFUGEES.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

RETURNING

*To the House bill No. 613, with his objections thereto.*

JULY 16, 1866.—Ordered to be printed.

*To the House of Representatives:*

A careful examination of the bill passed by the two houses of Congress, entitled "An act to continue in force and to amend 'An act to establish a bureau for the relief of freedmen and refugees, and for other purposes,'" has convinced me that the legislation which it proposes would not be consistent with the welfare of the country, and that it falls clearly within the reasons assigned in my message of the 19th of February last, returning, without my signature, a similar measure which originated in the Senate. It is not my purpose to repeat the objections which I then urged. They are yet fresh in your recollection, and can be readily examined as a part of the records of one branch of the national legislature. Adhering to the principles set forth in that message, I now reaffirm them, and the line of policy therein indicated.

The only ground upon which this kind of legislation can be justified is that of the war-making power. The act of which this bill is intended as amendatory was passed during the existence of the war. By its own provisions, it is to terminate within one year from the cessation of hostilities and the declaration of peace. It is therefore yet in existence, and it is likely that it will continue in force as long as the freedmen may require the benefit of its provisions. It will certainly remain in operation, as a law, until some months subsequent to the meeting of the next session of Congress, when, if experience shall make evident the necessity of additional legislation, the two houses will have ample time to mature and pass the requisite measures. In the mean time the questions arise, why should this war measure be continued beyond the period designated in the original act; and why, in time of peace, should military tribunals be created to continue until each "State shall be fully restored in its constitutional relations to the government, and shall be duly represented in the Congress of the United States?"

It was manifest, with respect to the act approved March 3, 1865, that prudence and wisdom alike required that jurisdiction over all cases concerning the free enjoyment of the immunities and rights of citizenship, as well as the protection of person and property, should be conferred upon some tribunal in every

State or district where the ordinary course of judicial proceedings was interrupted by the rebellion, and until the same should be fully restored. At that time, therefore, an urgent necessity existed for the passage of some such law. Now, however, war has substantially ceased; the ordinary course of judicial proceedings is no longer interrupted; the courts, both State and federal, are in full, complete, and successful operation, and through them every person, regardless of race and color, is entitled to and can be heard. The protection granted to the white citizen is already conferred by law upon the freedman; strong and stringent guards, by way of penalties and punishments, are thrown around his person and property, and it is believed that ample protection will be afforded him by due process of law, without resort to the dangerous expedient of "military tribunals," now that the war has been brought to a close. The necessity no longer existing for such tribunals, which had their origin in the war, grave objections to their continuance must present themselves to the minds of all reflecting and dispassionate men. Independently of the danger, in representative republics, of conferring upon the military, in time of peace, extraordinary powers—so carefully guarded against by the patriots and statesmen of the earlier days of the republic, so frequently the ruin of governments founded upon the same free principles, and subversive of the rights and liberties of the citizen—the question of practical economy earnestly commends itself to the consideration of the law-making power. With an immense debt already burdening the incomes of the industrial and laboring classes, a due regard for their interests, so inseparably connected with the welfare of the country, should prompt us to rigid economy and retrenchment, and influence us to abstain from all legislation that would unnecessarily increase the public indebtedness. Tested by this rule of sound political wisdom, I can see no reason for the establishment of the "military jurisdiction" conferred upon the officials of the bureau by the fourteenth section of the bill.

By the laws of the United States, and of the different States, competent courts, federal and State, have been established, and are now in full practical operation. By means of these civil tribunals ample redress is afforded for all private wrongs, whether to the person or the property of the citizen, without denial or unnecessary delay. They are open to all, without regard to color or race. I feel well assured that it will be better to trust the rights, privileges, and immunities of the citizen to tribunals thus established, and presided over by competent and impartial judges, bound by fixed rules of law and evidence, and where the right of trial by jury is guaranteed and secured, than to the caprice or judgment of an officer of the bureau, who, it is possible, may be entirely ignorant of the principles that underlie the just administration of the law. There is danger, too, that conflict of jurisdiction will frequently arise between the civil courts and these military tribunals, each having concurrent jurisdiction over the person and the cause of action, the one judicature administered and controlled by civil law, the other by the military. How is the conflict to be settled, and who is to determine between the two tribunals when it arises? In my opinion, it is wise to guard against such conflict by leaving to the courts and juries the protection of all civil rights and the redress of all civil grievances.

The fact cannot be denied that since the actual cessation of hostilities many acts of violence—such, perhaps, as had never been witnessed in their previous history—have occurred in the States involved in the recent rebellion. I believe, however, that public sentiment will sustain me in the assertion that such deeds of wrong are not confined to any particular State or section, but are manifested over the entire country—demonstrating that the cause that produced them does not depend upon any particular locality, but is the result of the agitation and derangement incident to a long and bloody civil war. While the prevalence of such disorders must be greatly deplored, their occasional and

temporary occurrence would seem to furnish no necessity for the extension of the bureau beyond the period fixed in the original act.

Besides the objections which I have thus briefly stated, I may urge upon your consideration the additional reason, that recent developments in regard to the practical operations of the bureau in many of the States show that in numerous instances it is used by its agents as a means of promoting their individual advantage, and that the freedmen are employed for the advancement of the personal ends of the officers instead of their own improvement and welfare—thus confirming the fears, originally entertained by many, that the continuation of such a bureau for any unnecessary length of time would inevitably result in fraud, corruption, and oppression. It is proper to state, that in cases of this character investigations have been promptly ordered, and the offender punished whenever his guilt has been satisfactorily established.

As another reason against the necessity of the legislation contemplated by this measure, reference may be had to the "Civil Rights Bill," now a law of the land, and which will be faithfully executed so long as it shall remain un repealed, and may not be declared unconstitutional by courts of competent jurisdiction. By that act it is enacted "that all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

By the provisions of the act full protection is afforded, through the district courts of the United States, to all persons injured, and whose privileges, as thus declared, are in any way impaired; and heavy penalties are denounced against the person who wilfully violates the law. I need not state that that law did not receive my approval; yet its remedies are far more preferable than those proposed in the present bill—the one being civil and the other military.

By the sixth section of the bill herewith returned, certain proceedings by which the lands in the "parishes of St. Helena and St. Luke, South Carolina," were sold and bid in, and afterwards disposed of by the tax commissioners, are ratified and confirmed. By the seventh, eighth, ninth, tenth, and eleventh sections, provisions by law are made for the disposal of the lands thus acquired to a particular class of citizens. While the quieting of titles is deemed very important and desirable, the discrimination made in the bill seems objectionable, as does also the attempt to confer upon the commissioners judicial powers, by which citizens of the United States are to be deprived of their property in a mode contrary to that provision of the Constitution which declares that no person "shall be deprived of life, liberty or property without due process of law." As a general principle, such legislation is unsafe, unwise, partial, and unconstitutional. It may deprive persons of their property who are equally deserving objects of the nation's bounty, as those whom, by this legislation, Congress seeks to benefit. The title to the land thus to be portioned out to a favored class of citizens must depend upon the regularity of the tax sales, under the law as it existed at the time of the sale, and no subsequent legislation can give validity to the rights thus acquired, as against the original claimants. The attention of Congress is therefore invited to a more mature consideration of the measures proposed in these sections of the bill.

In conclusion, I again urge upon Congress the danger of class legislation, so

well calculated to keep the public mind in a state of uncertain expectation, disquiet, and restlessness, and to encourage interested hopes and fears that the national government will continue to furnish to classes of citizens in the several States means for support and maintenance, regardless of whether they pursue a life of indolence or of labor, and regardless also of the constitutional limitations of the national authority in times of peace and tranquillity.

The bill is herewith returned to the House of Representatives, in which it originated, for its final action.

ANDREW JOHNSON.

WASHINGTON, D. C., *July 16, 1866.*