

*Articles on any of the subjects usually discussed in this journal will be received from any quarter. If used, they will be liberally paid for; if rejected, they will be returned to the writers on the receipt of the requisite amount of postage stamps.*

*All Communications which pertain to the literary management of THE NATION should be addressed to the Editor.*

### THE MORAL OF THE MEMPHIS RIOTS.

THERE WAS one feature of the late riot at Memphis which is worthy of attention from its bearings upon the political status of the negroes. It appears by the more recent and trustworthy accounts of the affair that it began in an unsuccessful attempt made by the police to put a stop to the disorderly conduct of some negro soldiers. The row which followed was taken up by the citizens at large, and when renewed in the afternoon, after a short pause, it took the form of a general massacre of such of the colored population as showed themselves in the streets. This part of the tragedy appears to have been inconceivably brutal, but its brutality was, after all, not the most remarkable thing about it. Its most novel and most striking incident was, that the police headed the butchery, and roved round the town either in company with the white mob or singly, and occupied themselves in shooting down every colored person, of whatever sex, of whom they got a glimpse. In the half-organized attack made on the fort, also, the police were the principal assailants.

We are not going to furbish this occurrence up into an argument for the wholesale disfranchisement of the South, or for any greater severities against her white population than we are now inflicting upon them. Anybody who expects Southern whites and blacks to settle down into their true and just relations to each other without breaking one another's heads a good deal, knows little either of history or human nature. There will prevail at the South for a long time to come a good deal of envy, hatred, and malice towards the colored population, and they will show themselves in riots and outrages more or less flagrant. What was peculiar about the Memphis riot was that the officers of the law, the very persons on whom the colored population will have to rely for protection as soon as the troops are withdrawn, took a leading part in it, and we have very little doubt that, were any similar outburst of popular prejudice to take place to-morrow in any other town in the South, the local police, if they interfered at all, would interfere in the same way. "They would stand by their race," as Mr. James T. Brady once said, in a speech before the war, when Northern Democrats were trembling lest the Southern blacks should break loose, come North, and eat them all up. The negro would, when pursued by a mob, avoid "the guardians of the public peace" as vigilantly as he would any of the pack at his heels. We grant that under the State law and under the Federal law he would have his remedy against all his assailants. He could sue them either civilly or criminally, or both, for assault and battery, or assault and false imprisonment, or for a felonious assault. If his house was burnt or his furniture damaged by a popular rising, he could sue the county for damages. He might get a verdict, and he might not. We will suppose that he would; but which of us would live in any community where this was our main reliance for protection against mob violence? Which of us would keep our families in a town in which not only we were objects of popular odium, but in which, if an attempt were made to mob us, we might expect to see the policeman who patrolled our street taking the first pop at us with his revolver, or the sheriff of the county heading a party charged with the duty of ramming in our front door?

When the Freedmen's Bureau bill and the civil rights bill were first talked of, one of the strongest arguments used against them by their opponents was that they were unnecessary, that "the laws of political economy" would eventually secure protection for the negroes from their white neighbors themselves without any interference on the part of the Federal Government. No matter how much their old masters might dislike them, the necessity of employing them, of relying on them for prosperity and comfort, would sooner or later make the relations of the two races, if not cordial, at least amicable. The negro had only to wait a little and all would be right by-and-by. We always thought there was something in this argument, but we nevertheless always considered it a most ridiculous argument when addressed to the blacks

themselves. It was substantially this: "Your white neighbors are at present greatly incensed against you. They consider you the cause of all their troubles, and look upon themselves as having been robbed of your services. Therefore, for some time to come, they will probably maltreat you a good deal. They will most likely rob and murder you frequently; and more frequently they will flog you and deny you justice in the courts. Your house will, probably, be burnt now and then, and you will be driven from one part of the country to the other by mobs. But you must not mind this. They will get over their feelings toward you after a while, and get used to seeing you free, and then they will most likely let you alone, or at least not annoy you so much. The laws of political economy are all working for you, and you know whenever you want to travel abroad you can have a United States passport. In the meantime pay your taxes regularly, and put your trust in Providence. The Federal Government can do nothing else for you." The negro might very naturally reply that he cared nothing for the laws of political economy; that what he wanted was the protection of the Government to which he paid his taxes and owed his allegiance; that very likely the whites would get used to him after a while and let him alone, and, whenever that time came, of course he would not need any protection. But that it is precisely at those periods of a man's life when his neighbors do not like him, and want to attack him, that governments and police are needed, and that for any government to announce that it could do nothing at these crises was to destroy its sole claim on his fidelity.

This gap has been stopped by the civil rights bill. It forces the State either to protect its own colored population or let the Federal authorities do it. But the riot at Memphis reveals another gap which no legislative enactment can stop that does not in some way make the officers of the law responsible to those for whose protection they are appointed. We may rely upon it that the municipal authorities at Memphis would take good care that their police did not head anti-negro mobs, if negro opinion were of the slightest importance at election time. And officers of the law, whether State or Federal, will never, in our opinion, in any part of the South feel as they ought to feel, that the colored population are under the law, as long as that population has nothing to do with their appointment. We are here putting forward no new doctrine. There is not a State in the Union which does not recognize it in its constitution. In none of them is a right of action considered sufficient for a man's security; in none of them is any white citizen asked to rely on the conscientiousness of the governor, or of the mayor, or of the sheriff for protection against fraud or violence. Each man is in all of them armed with the right to help to turn the governor, or sheriff, or mayor, out of office if he does not do his duty. It may be said that resident aliens and women do not possess this right, and yet enjoy reasonable security. But if the population hated aliens as in China or Japan, or as the negroes are hated at the South, they would not enjoy reasonable security without the protection of their own governments, and it is happily still the custom for white men to consider to some extent, at least, the griefs and wrongs of white women as their own.

In a country in which officers are not chosen by the popular vote the idea of responsibility to the public is, of course, weak. Each official thinks of what his superior will say rather than of what the community will say, and the exclusion of any particular class from the franchise there of course makes little, if any, difference, in official eyes, between its claims to protection and those of voters. But our officials are all accustomed by long usage to consider themselves the servants of the voting population, and to look to it for reward and punishment, and the exclusion of a man from its ranks, therefore, inevitably weakens the official respect for his rights.

What has happened at Memphis is but a fair sample of scenes which we may often expect to witness at the South as soon as the Federal troops cease to do police duty. In our opinion nobody will suffer so little from these outrages as the negroes themselves. The killing of a few men or the sacking of a few houses is, after all, comparatively a small matter; but the spectacle of the officers of the law either looking quietly on at such outrages, or aiding and abetting in them, is a great matter. It was the utter loss of all respect for individual rights which

pro-slavery mobs were allowed to work at the South before the rebellion which made the rebellion possible, and there is no part of the Union which is not concerned now in having every man everywhere armed with every means of protecting himself with which legislation can supply him.

#### OUR SYSTEM OF LEGISLATION.

THE Legislature of this State, at its last session, hastily passed an act imposing a tax of one-half to one per cent. upon the gross amount of all brokers and auctioneers' sales of foreign merchandise. Nobody among the classes affected by this enactment heard or suspected of the pendency of any such measure until it had passed into a law, and the Legislature had adjourned. There is not the least reason to doubt that the Legislature passed the bill, and the governor signed it, without at all comprehending its effect. There is a very general and very absurd prejudice against brokers, which is fostered by the discreditable attacks of the press upon "middlemen" and "speculators," and when a draft of this bill was sent up to Albany, as it undoubtedly was by some outsider, the honorable member to whom it was entrusted congratulated himself, we dare say, upon the happy thought of making these obnoxious classes pay handsomely towards the expenses of the State. Such a trifle as three-quarters of one per cent. would surely not be felt by these men, rolling in wealth, as brokers are universally supposed to be. Probably the only doubt that troubled the minds of the majority was, whether they were justified in making the tax so small.

Yet the fact is, that no broker receives more than one per cent. on his sales, while the heaviest business is done for one-half, and a very large business at one-quarter of one per cent. This law, therefore, is equivalent to an income tax of from fifty to three hundred per cent. on the *gross receipts* of brokers in foreign merchandise. This is not taxation—it is confiscation.

Only one thing was left for the Legislature to do, in order that it might reach the climax of absurdity, and that thing was done, if we may rely upon the version of the law which we have seen. The bill did not state, it is said, the object to which the tax is to be applied, and is, therefore, unconstitutional. The Legislature has thus obtained for itself all the discredit of passing an odious measure without really succeeding in raising a penny of income for the State.

We leave to other journals the office of denouncing the members of the Legislature for their individual action, and of insinuating that their motives were corrupt. We do not ourselves place the least faith in such charges. There is no reason to believe that a single member of the Legislature fully comprehended the nature and consequences of the bill. If the minority had done so, they would surely have notified some of the New York brokers of its character. It is almost impossible to conceive of any corrupt motive for the passage of such a measure, applying, as it does, to all dealers of a certain class. The idea, broached in a certain paper which kept two correspondents at Albany last winter, neither of whom had brains enough to expose this bill before its passage, that Boston or Philadelphia merchants devised it as a means for ruining the trade of this city, is too ridiculous to need comment. Men of business do not go into such long-headed schemes of villainy in the vague hope of picking up a few grains of prosperity out of their neighbors' ruin.

The obvious fact is, that this gigantic blunder, involving a tax of millions of dollars, is the fruit of ignorance and haste. The moral to be drawn from it is, that our system of legislation needs reform, so as to secure to it those elements of accuracy, forethought, and deliberation which it now lacks altogether. And the first requisite to such a reform appears to us to be the establishment of a permanent council of legislation, as suggested by John Stuart Mill and others.

This council should, of course, have no legislative powers. It should not have the right of originating or rejecting laws. But every project of a law should be referred to it to be put into proper shape. It should report every measure back to the legislature, reduced to simple and grammatical language, conformed to a uniform standard of legislative style. It should suggest to the legislature the superfluity of clauses which reiterate old law, and the objectionableness of clauses which contravene natural justice; but should nevertheless report them back for the final action of the legislature. It should prepare and

publish daily, through the session, an abstract of the measures introduced. The legislature should not be allowed to pass any measure without first submitting it to this council, although it should have power to require a report by a certain day.

This council being permanent, the legislature might, and doubtless often would, refer to it bills of great length, to be reported upon at a subsequent session. Such large undertakings as the Political, Civil, and Penal Code, for example, will always be too much for a single session of the legislature, so long as the members feel bound to examine every line with their own eyes, and to judge of each with their own minds. But after such bills had been thoroughly examined and revised by a council, such as we have described, no sensible legislator would hesitate, having made up his mind upon the general principles involved, to vote in reliance upon the judgment of the council in respect to matters of detail.

The council might, perhaps, be allowed to go further, and to point out, through the governor or by direct report, such statutes as had become obsolete or incongruous with the existing state of affairs, for repeal by the legislature. Such suggestions are of a different nature from projects of new affirmative action, which we should not think it expedient for the council as such to propose, lest the jealousy of the legislature should be excited, and the usefulness of the council be marred in its primary work as a revising body.

There seems to be little doubt that a constitutional convention will be held in this State in 1867. We broach this subject thus early for the purpose of giving time for discussion, and of impressing our convictions upon the public mind at a time when its sense of wrong may be awakened in it some interest in those abstract questions which are so unpalatable to business men in general, though of tremendous importance in their practical results.

#### BETROTHED ANEW.

THE sunlight fills the trembling air  
And balmy days their guerdons bring;  
The Earth again is young and fair;  
And amorous with musky Spring.

The golden nurslings of the May  
In splendor strew the spangled green,  
And hues of tender beauty play,  
Entangled where the willows lean.

Mark how the rippled currents flow:  
What lustres on the meadows lie!  
And hark, the songsters come and go,  
And trill between the earth and sky.

Who told us that the years had fled  
Or borne afar our blissful youth?  
Such joys are all about us spread,  
We know the whisper was not truth.

The birds, that break from grass and grove,  
Sing every carol that they sung  
When first our veins were rich with love,  
And May her mantle round us flung.

O fresh-lit dawn! immortal life!  
O Earth's betrothal, sweet and true,  
With whose delights our souls are rife  
And aye their vernal vows renew!

Then, darling, walk with me this morn:  
Let your brown tresses drink its sheen;  
These violets, within them worn,  
Of floral fays shall make you queen.

What though there comes a time of pain  
When autumn winds forebode decay;  
The days of love are born again,  
That fabled time is far away!

And never seemed the land so fair  
As now, nor birds such notes to sing,  
Since first within your shining hair  
I wove the blossoms of the Spring.

EDMUND C. STEDMAN.

Copyright of Nation is the property of Nation Company, L. P.. The copyright in an individual article may be maintained by the author in certain cases. Content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.