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## GOVERNOR'S MESSAGE, NO. 1.

EXECUTIVE DEPARTMENT, COLUMBIA, November 27, 1866. Gentlemen of the Senate and House of Represen-

tatives : Your annual assembling at the seat of government has heretofore been the occaupon the continued happiness, prosperity and improvement of the commonwealth. I regret that no such greeting can be extended to you on the present occasion. We no longer hear the clash of arms, nor the tread of hostile armies, and our people have escaped the scourge of that terrible disease, which revels in the shocking carnival of death. Whilst the general health has not been good, the virulence and malignity of disease have been mitigated, and a com paratively small fatality has visited the sick room. For these blessings, our thanks are due the great Ruler of the Universe. In the depths of humiliation and contrition, let us invoke Him to avert the evils that are upon us—to stay the hand of our persecutors, to turn away the wrath, and bring to nought the counsels of those who would oppress and destroy us, and to restore to us the happiness and prosperity of for-

I therefore proceed to make such recommendations as will, in my judgment, pro mote the interest of our common constitu-

DISTRICT COURTS.

The third Article of the Constitutian of this State, in the third paragraph of the first Section, directs that " the General Assembly shall, as soon as possible, estab lish, for each District in the State, an in ferior Court or Courts, to be styled 'the District Court'—the Judge whereof shall be resident in the District, while in office; shall be elected by the General Assembly for four years, and shall be re-eligible—which Court shall have jurisdiction of ali causes wherein one or both of the parties are persons of color, and of all criminal cases, wherein the accused is a person of color; and the General Assembly is empowered to extend the jurisdiction of the said Court to other subjects. It is unfortunate that this clause was inserted in the Constitution. The first paragraph of the Section declars, that "the judicial power shall be vested in such superior and infe ours of Law and Equity as the General Assembly shall, from time to time, direct and establish;" and this is sufficient ly comprehensive to authorize the estab-lishment of any interior Court which the wisdom of the General Assembly may determine, whether it be a Police, District. County or Magistrate's Court. Here, the largest discretion is given to you; and such tribunals may be established as experience or necessity may dictate; but the clause already quoted requires the General Assembly to "establish District Courts, and these Courts must be continued until the Constitution is amended in the prescribed manner, or the instrument itself will be violated. In order that the largest discretion may be allowed the General Assembly, in devising the best judiciary system to meet our wants in the recently changed relations of society, I recommend that the present General Assembly provide for an amendment of the Constitution, by striking out the third paragraph in the Article aforesaid. The next General Assembly can consummate the amendment, and then, the Legislature will be left, with unrestricted discretion, to establish such superior and inferior Courts as, to them, shall seem meet. Whilst this amendment is being censummated, the District Courts may be put fully into operation, and one year's experience will, probably, decide whether they are adapted to the wants and meet the necessities of the public. If they should be found impracticable, inefficient, or too expensive, they may be abrogated, and some better system may be instituted. We are thrown upon novel times, and all our legis ation to meet our new situation is purely experimental, It would not be wise to discard and repeal the legislation of erch preceding session, because it failed to work smoothly or give entire satisfaction. When deficiencies are discovered, remedy them, by amendment or modification. No human wisdom is equal to the task of giving a perfect system of Courts and Laws, when an ancient system must be revolutionized, to correspond with radical chan-

litical relations. After one year's fair experiment, it may be found that the District Court is the desideratum. The Act of the last session, "to amend the Act establish ing District Courts," requires essential and material amendments, to reduce its expenses and secure its efficient operation. The boundary of its jurisdiction should be more distinctly defined. The services of a Grand Jury, as part of its machinery, should be dispensed with; the authority conferred on the District Judge, to examine and dismiss frivolous cases, renders the existence of such a body unnecessary. There is a well defined distinction between misdemea nors and crime, It is only when the pris-oner is charged with crime, that he is entitled to be tried on presentment found by a Grand Jury. Petty larceny, and other petty felonies, may be declared, by statute, to be misdem anors; and defendants, in all misdemeanors, may be tried without pre-sentment or true bill found by a Grand Jury. The venire for the Petit Jury should be reduced to eighteen. In the District Court, it would be seldom that two pannels would be required; and the Court, on such occasions, could be employed with other business not requiring the aid of a July. The Jury duty now exact ed will be very onerous on the people, and, as the law stands, it cannot be performed at an expense of less than eighty thousand dollars per annum. The modification suggested would reduce the expenses to one third of that sum, for both superior and inferior Courts. The expense, to the Treasury, of Juries might be dispensed with entirely, by taxing a Jury fee in every case tried. All traverses and imparlances should be abrogated in the District Court; and all indictments, recognizances and other papers, in the Superior Court, not disposed of, and in which jurisdiction is given to the District Court, should be transferred to the District, and made valid, as if originally returned to that Court. The District Boards should be required to make their annual returns to the District Judge; and it should be made the duty of the latter to examine the same, and to enforce the law against them for misteasance, malfeasance, or neglect of duty. When the District Judge is interested in any case, civil or criminal, of which his Court has cognizance, it should be transferred to the Superior Court for trial. The Court should be invested with exclusive juris diction, in cases over one hundred dollars, only where the contract, express or implied, between the employer and employee, is for agricultural labor. The law now provides that a prosecutor, who institutes a frivolous or groundless prosecution, may be adjudged to pay the costs of such prosecution. This is an ample safe guard against groundless prosecutions; and the law should be so amended, that the party making complaint before a Magistrate should be granted a warrant, upon his own recognizance, to prosecute, without requiring security. To require security to prosecute, is to deny justice to the poor, the ignorant, the dependent and the friendless. These are the ses that it is the peculiar province of the law to protect; those who have wealth and friends, can readily secure the protec tion of the law.

Doubts have arisen whether the Superior Courts of Law can take cognizance of any offence committed by a person of color, under the clause in the third Article of the Constitution, which declares that the District Court shall have jurisd ction of all cases in which a person of color is in-terested, or to which he is a party. The Civil Rights Act, passed by Congress of the United States, which must be respect ed and obeyed until pronounced unconsti tutional by the Supreme Court of the United States, gives the person of color the same rights in all the Courts, State as well as Federal, as are enjoyed by the white race; and so long as white persons are triable only in the Superior Courts for felony, the same privilege must be accorded to persons of color, notwithstanding the supposed prohibition in the State Constitution, as the Constitution of the United States, and the laws passed in conformity thereto, is the supreme law of the land. If the Civil Rights Act should hereafter be declared unconstitutional by the Supreme Court, or should it be repealed by Congress, the question under the State Constitution might then be full of embarrassment.

\* The Governor then recommends material changes in the punishment imposed in the Criminal Law. Murder, Aarson and Rape shou d be punished by death. Num erous felonies now punishable by death, should be changed to confinement at hard labor in the Penitentiary. It should be left discretionary with the Judges in the Superior and District Courts, to punish by imprisonment at hard labor in the Peni tentiary or by whipping. He then censures the gross neglect of duty on the part of some of the Sheriffs and Jailors

cape from their custody.

The Governor in speaking of free labor, says that the negro is invaluable to the productive resources of the State, and it their labor be lost by removal, it will convert thousands of acres of productive land into a dreary wilderness. For this reason he had felt it to be his duty to discourage their migration. His labor must be made sufficiently remunerative to subsist and cloth him, and schools must be established to educate his children, and charches built for his moral training. He recommends that the Commissioners of the Poor be directed to provide suitable buildings at the various District Poor Houses for their accommodation and to subsist them. The amount of taxes levied last year is \$419,-668,71, of which sum there has been paid into the Treasury \$327,637,25. The entire revenue from all sources into the Treasury for the present year is \$477,743,97. There has been paid out of the Treasury \$304, 668,94, leaving in the Treasury a balance of \$173,065,33. In the matter of Capitation Tax, it is recommended that it should be reduced one halt, and that the employer should be held liable for every poll in his service on the 1st March next. He says taxes should be imposed on almost every thing that is now taxed by the Internal Revenue Laws of the United States.

On the subject of the Bank of the State of South Carolina, the Governor says:

Heretofore, the interest on the public debt has been paid by the Bank of the State of South Carolina, but its loss of assets, growing out of the war, together with its large outstanding circulition, precludes the possibility of relying further upon it, and the debt, principal and interest, must be met by taxation.

The Treasurer, with the assistance of an additional clerk, can pay out, in future, all claims from his own counter; and I recommend that an appropriation be made to meet the salary of such clerk, and that the Bank be discontinued as the fiscal

agent of the State. The loss of assets, and the imposition, by the general banking law of Congress, of so heavy a tax on the circulation of all other than National Banks, made it mani fest that the Bank of the State of South Carolina can never resume business; and I recommend that its charter be rovoked or declared forfeited, and its books, papers and assets put in the hands of Commiss sioners for as early liquidation as may be

The whole amount of the public debt, principal and interest of this State, not including the debts contracted for or on account of the wa, was on the first day of October last, \$5,261,227,74 The Commissioners of Penitentiary to procure a site and to erect a suitable temporary en closure and temporary celts, have perform ed that duty, and have ordered the work on the cells to commence. The Engineer asks for an appropriation of forty-five thousand dollars to carry on the work for the next year. The Governor recommends the acceptance of the land scrip, donated by the Congress of the United States for the establishment of an agricultural and mechanical college, and suggests that said College be engrafted on the University of South Carolina, and save the State all expense for lands and buildings which is re. quired to be furnished. The Message recommends that the Board of Trustees of the University of S. C., which now consists of thirt .nine members, to be reduced to seven.

## THE PURCAASE OF CORN.

Pursuant to the resolution of the 21st of September last, passed by the General Assembly, I appointed Col. D. Wyatt Aiken, Agent of the State to make purchases of corn. Having satisfied homself fully that the double restriction imposed in the resolution rendered it impossible to effect purchases, he declined the appointment. I concurred fully in his conclusion, that the double restriction rendered the whole scheme nugatory, and I have not, therefore, appointed another Agent. The resolution required that three hundred thousand dollars of bonds should purchase and deliver in the State three hundred thousand bushels of corn. It is reasonably certain that the bonds could not have been sold for more than seventy cents to the dollar, and corn could not be purchased, in any market, and delivered, at one dollar per bushel. The correspondence between Col. Aiken and myself is herewith communicated.

The grain crop of the State has been gathered, and you are better prepared now, ges in social, domestic, industrial and po in the State, in allowing prisoners to esthan at the extra session, to determine the

deficiency, and what will be needed to supply the absolute wants of the poor. When you have fixed the amount, the grave question arises, how are you to sup-ply the funds to purchase it? The fever ish and unsettled condition of public affairs has not tended to appreciate the credit of the Southern States; and if the purchase of a large amount of breadstuffs, for distribution among the poor, is to be effected by the sale of the State bonds, it can only be accomplised at a ruinous dis-count. The question is earnestly commended to your gravest deliberation.

The firm of Browne & Schirmer, grain merchants of Charleston and Columbia, have made a proposition to furnish corn, and have requested me to lay it before you. They propose that, if the State shall advance to them twenty five thousand dollars, which they will give approved security to refund, they will engage to turnish sixty thousand bushels of corn per month, to be sold at actual cost, with transportation and two and one half per cent. commissions added, to the citizens of the State; invoices to be submitted to commissioners, and the corn to be subject to inspection by the commissioners or by an agent If a larger amount should be needed monthly, that larger amount will he furnished, upon condition that the State make a pro rata increase of the loan. The money loaned is to be returned as soon as the contract terminates. It is proposed by these gentlemen to establish depots for the sale of the corn in Charleston, Colum bia and Marion, from which points it may be readily distributed to every section of the State. The members of the firm are enterprising and trustworthy, and if such a contract is awarded them, they will doubtless fulfil its stipulations with fideli ty. If the necessities of the State should require the importation of one million of bushels, to supply the wants of those who must buy and are able to pay, the saving to the people of the State, by such an arrangement, would not fall short of two

hundred thousand dollars. I have been informed that a proposition of the same sort will be submitted to you by A. M. Riker, a grain merchant of Charleston, who can furnish you with satisfactory testimonials of integrity and business capacity These plans for supplying with corn the whole population, including the poords of Commissioners of the Poor who will be compelled to provide for a large number of indigent persons, at a profit of two and a half per cent. to the contractor, on cost and expenses, are commended to your favorable consideration.

In speaking of the pecuniary distress of our people, the Governor reiterates his recommendation, that imprisonment for debt be abolished, except in cases of fraud, and when a debtor is about removing his person or property out of the State, that the insolvent laws be so extended that a debtor may, by petition, on giving three months notice to all his creditors, require them to come in and prove their demands, and upon his surrendering his entire effects for their benefit, that they be perpetually barred from ever again proceeding against him in the Courts of this State; and that in all cases where a defendant is sucd and makes no defence to the action, no costs shall be taxed against him.

I invite your attention to the propriety of passing a homestead law, and of extend-ing the value of articles exempt from levy and sale, for the head of each family. Most of the States have made much more liberal and humane provisions than South Carolina for guarding the families of unfortunate and improvident debtors against being cast out upon the world, houseless and readless. The decisions of some of the State Courts have affirmed the constiutional power of their Legislatures to pass laws increasing their exemptions from levy and sale, even upon antecedent debts. It is not by any means clear that you are precluded from enacting such a law, either by reason, precedent, justice, or the constitution.

## THE INSANE ASYLUM.

I communicate herewith the report of Dr. Parker, Superintendent and Physician of the Asylum. You will learn from it that there are now in the institution 143 patients, of whom 56 are paying and 97 are charity patients. The latter list will soon be increased materially by transfer from the former, arising from the inability of present paying patients to raise funds further to support themselves. The institution is admirably managed in all its departments, and I commend it to your continuing favor. THE DEAF AND DUMB AND THE BLIND

The Commissioners of the / sylum for the Deaf and Dumb and the Blind, at Cedar Springs, in Spartanburg District, met in June last, and made the necessary arrangements for putting the schools into operation, under the supervision of Messrs.

house and schools were opened early in November, and they have now resumed their long suspended functions under the most favorable auspices. The schools are rapidly filling up, and promise to reach, at an carly day, the maximum number here-tofore attained. The reports of the Com-missioners and Superintendents will be soon transmitted to you. I beg to commend this noble and humane charity to your fostering care.

The last subject in the Message refers to the Constitutional Amendment proposed by Congress. The Governor discusses it briefly, but, with great force and ability, reciting the various acts of duplicity by the Government of the Unithd States after the surrender of our armies. We are sorry that we cannot place before our readers the whole of his remarks on this portion of the Message. The Governor concludes by saying, that the subject of adopting the Amendments proposed, has already been decided by the public opinion of the people of the State, and that he felt justified in saying, that, if the Constitutional Amendment is to be adopted, let it be done by the irresponsible power of numbers, and let us preserve our own self respect, and the respect of our posterity, by refusing to be the mean instruments of our own

A SHREWD EDITOR .- At a Welsh celebration in New York, Dr. Jones told the following amusing anecdote:

"The speaker said the editors were like ther shrewd men who have to live with their eyes and ears open. He related the story of an editor who started a paper in a new village in the west. The town was infested with gamblers whose presence was a source of annoyance to the citizens, who told the editor that if he did not come out against them they would not patronize his paper. He replied that he would give them a smasher, next day. Sure enough his next issue contained the promised 'smasher.' On the tollowing morning the redoubtable editor, with seissors in hand, was seated in his sanctum cutting out news, when in walked a large man with a club in his hand, and demanded to know if the sunor was in, "No, sir," was the reply, 'he has stepped out; take a seat and read the papers; he will return in a minute. Down sat the indignant man of cards, crossed his legs, with his club between them, and commenced reading a paper. In the meantime the editor quietly vamoosed down stairs, and at the landing below he met another excited man with a cudgel in his hand, who asked if the editor was in. 'Yes, sir,' was the prompt response. 'You will find him up stairs reading a newspaper. The latter on entering the room, with a furious oath, commenced a violent assault upon the former, which was resisted with qual ferocity. The fight was continued until they had both rolled to the foot of the stairs, and pounded each other to their hearts' content.'

TAKING A RECEIPT -The Hartford Times vouches for the truth of the follow-

ing story:
"Pat Malone, you are fined five dollars for assault and battery on Mike Sweeney. "I have the money in my pocket, and I'il pay the fine, if your honor will give me the resate."

"We give no recepts here. We just take the money. You will not be called upon a second time for your fine."

"But your honer, I'll not be wanting to pay the same till after I get the resate.' What do you want to do with it ?"

If your henor will write one and give it to me, I'll tell you." "Well, there's your receipt. Now what

do you want to do with it?" I'll tell your bonor. You see, one of these days I'll be after dying, and when I go to the gates of heaven I'll rap, and St. Peter will say, "Who's there?" and I'll say, "It's me, Pat Malone," and he'll say what do you want?" and I'll say I want to come in " and he'll say." to come in," and he'll say, "Did you behave like a dacent boy in the other world, and pay all the fines and such things! and I'll say 'Yes, your holiness,' and then he'll want to see the resate, and I'll put my hand in me pocket and take out my hand in me pocket and take out my resate and give it to him, and I'll not have to go ploddin' all over hell to find your honor to get one."

Antiquity .- A lawyer and a doctor were discussing the antiquity of their respective professions, and each cited anthority to prove his most ancient.

" Mine," said the disciple of Lycurgus, " commenced almost with the world's era. Cam slew his brother Abel, and that was a criminal case in common law !" "True," rejoined Esculapius, "but my profession is coeval with the creation itself. Old mother Eve was made out of a rib taken from Adam's body, and that was a surgical Henderson and Walker. The boarding- operation!" The lawyer dropped his bag.