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I would have a great number of names
 submitted, and I would have a list
 to show the names, then to the time when the
 result of a paper came in, I would have
 the names of the people, I would put in
 every name I could get. I would have
 of all the names with appropriate signatures
 and most commendations. It was not for
 fear that some of the names were out of your hands
 turned the eyes of the nation as it were
 upon me, and I would not give a name for
 anything or thing else, the people of the
 country would have not a word to say
 upon this matter in his hands.

When this question was first brought to my
 attention as a part of my work, I was much
 happy, that if this was ever to become my father's
 I would not support the proposed measure for
 his relief, because I was taken as with an
 delegate which determined as for it, but was
 my view in the matter, I began to investigate
 it, I thought it a legislative matter, and I
 was happy that it was in the hands of
 men, and the great number of the directors, I do
 not easily understand the purpose of such a
 case, and I was ready to see, the matter
 in my view, and indeed that I was not a
 legislative matter, a paper to be written, and
 as for the limitation upon my action, I
 was not concerned of the legislative
 restriction, and I was happy by my own

of their constitution, & it is the only thing
 that leaves open this question? Only this,
 "The Convention shall not pass any ordinance
 of legislation in their character." This, and nothing
 more.

The question comes back: "Is this legislation?"
 What is the nature of pardon? I have found no stat-
 ment so fully embodying the idea of pardon as
 that of the German jurist Fuerbach. He says, The
 powers of government are: 1st to make laws; 2^d to
 define laws; 3^d to execute laws; 4th to relieve from
 punishment. Now we have the power to prescribe rules of
 action; the power to provide punishment; the power to decide
 when those rules have been violated; and the power
 to relieve. The latter we call pardon. Our explicit
 idea of pardon can trace two ideas which were
 separate and distinct in Continental law, as they
 were in the Roman jurisprudence, on which the
 Continental law is founded. These two ideas are: 1st
 the power to relieve after any lapse of time, called rehabilita-
tion; 2^d to relieve from a sentence justly im-
 posed - commutation, mercy, grace. Unfortunately, there
 is no provision in our constitution by which pardon
 unjustly convicted of crime can have it washed
 away unless by pardon. We have almost daily in-
 stances when an innocent man is pardoned
 for what he never did.

Is pardon, in grace, a legislative act? The term
 legislation signifies the act of prescribing laws, rules
 of action for all within their limits. The life of
 the citizen is a road leading to law, but the
 province of the legislator is to set up an

of in repair than budget of the legislature
 has power to provide funds it is only to direct
 one part of the power to be exercised under
 a legislative act. It is not a power to be exercised
 the opposite of the legislative act, it is judicial
 department in power parallel with the judicial
 and the executive power must always remain in
 their places of control and Europe which have any
 parliamentary department, their two ideas of power
 are so separated that they are administered
 by different institutions. In Germany and other
 countries even in prussia disestablished Turkey—
 the judicial department can release from subject
 sentences, and the executive ^{has power to} release from subject
 sentences. In none of these instances did a
 jurist of the civil law ever regard pardon
 as a legislative act. It is simply an executive
 or partially an executive and partially a judicial
act what are the limits of power of
 this Convention?

But a delegate says this enumeration of
 rights is absolute, all power not delegated remains
 with the people, so the legislature is delegated
 all legislative power, in two distinct branches. It
 matters not what the subjects matter of legis-
 lation may be. Whether tends to establish law
 as a rule of action is legislation, sovereignty
 is exercised in several spheres. Executive
 domain is a sovereignty which, except in cases
 is exercised solely by the legislative branch. The
 judicial power of government—of the people—of
 the Commonwealth—invested exclusively in

them. The power of pardon is retained by the people
 and is exercised by the Executive branch, is vested
 in a person ⁱⁿ whose hands it is, but it is not
 the power given to other departments. Under the
 constitution, while we are now framing, the power
 to abolish might clearly be given to any of the
 Courts, and I hope that, at some time in the near
 future, the judicial branch of government
 may be invested with this power. The Executive
 department, while it traces the ^{pardon} residue of power
 - to pardon for just offences - is limited. It has
 not full power of pardon. It has no power to
 release in case of impeachment. The classes of
 offences are removed from the power of pardon:
 cases of impeachment and of disfranchisement for
 aiding in a duel, & government cannot have
 power to pardon without Congressional power
 to pardon. In the divine case in the human
 world these powers are coordinate. The State
 can pardon citizens. The State can pardon
 citizens. At the altar of justice and mercy
 stand side by side alike, in our human
 systems of government they are co-existent.

Now where does this power exist? We look
 over the entire field. We find few exceptions
 in fact the power of government distributed
 in different branches. But we find the Exec-
 utive with a limited power of pardon. Where
 is the rest of it? Where is the power of
 limited power of pardon? The residue remains
 with the people. What power have the
 people given into our hands? We need as

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Constitution. It is better & that better must
certainly should not be largely un-
likely in a country treated of in the text book.
The power of legislation, the power of defining
by text written in the power of courts, are mat-
ters of course to be adjudicated in the power of
Constitutional Convention, are so common in
these exercises. That the speculation upon them
are not so full as might be desired, I may be
allowed to remark that these bodies cannot
be submitted to any rigid rules. Mr. Garrison,
in his work, omits any mention of Conventions
called by the people. Look at the rationale
of the matter. This Convention has, we find,
all powers which are not denied to it
either by the Constitution or the limitations
of the Convention acts. The existing Constitution
is not a restriction on the Convention. The Consti-
tution does not limit it in this particular. In
some of the departments of the government it
gives power to prescribe their officers. It never
was a legislative act, for the legislature has
no such power. It prescribes a rule for ma-
nual conduct: it is simply relief from a
judicial action.

It does seem to me a peculiar hardship
— a peculiar anomaly — that there should be any
hiding behind — any hunting for — an excuse for
failure in not so consistent with the cir-
culation of the age. Merely, it would seem, for
the last two years, has been poured out
everywhere like a flood. It has come to be

a part, would perform spirit, in man and
nature, that will show a greater number
of modern numbers -

The center of our present movement is
concentrated on transportation. The first, among them,
the eye of the world directed to an education
and reform. Daily we have upon British
soil the unique & unique system. The ticket of
leave system, which has not been the basis
of our desperate criminals, transformed into
your citizens, is one of its peculiarities, more
than this. With the fall of the Confederacy
was inaugurated a wonderful thought in
the history of nations. There is no antecedent
instance of a rebellion put down without peace
terms. The rebellion of 1845 was followed
by bitter retaliation, but in the fall of this
~~1845~~ rebellion came the great spirit of magnanimity.
From that day to this the main cause
plaint in parts of the South has been that this
spirit has not been carried far enough. We
were told it was given away with a knife
way-hem-tension with a ruler out of repression
- with a lingering suspicion.

... have been taken the same in the gray mantle
side by side in Protestantism long gathered in the
~~plains~~ scene of that great common struggle for
liberty in which all our fathers joined, when
the colonies of the North and South met with
certain qualities of our kind came to the end of
the great struggle of rebellion. I will be reported

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"May I hope to pardon me quickly for
 a few lines from that journal 'Hygiene' which
 I have just seen in the 'Ed. de Rev. M. de
 Esquieu' the name is 'M. de la Roche' and I have
 been at study to take in evening, with days
 and hours, a sense of calm as a father that
 to study to. The poet says:

"At last there came a pain of mortal fear;
 The ear was silent, for his jaws were full
 Of tangled lines of many words;
 The man had utt'ered and believed his death hours,
 The time was ripe for mild exhortation,
 And thus it stammered from a ~~stammer~~ ^{stammer} by-
 "Gould! - my good fellow, - it quite makes me - why
 It really - my dear fellow - do just try
 Conciliation!"

"Tringie" his name like flint,
 The study butler seized upon the hint -
 At least he seized upon the fragment of
 And he ~~tripped~~ ^{tripped} and ~~tripped~~ ^{tripped} him neck and
 Just rolled rolling through the open shop -
 If luck came off he didn't care a feather -
 Now walking to the door, and smiling grim,
 He raised his forehead and his beam together -
 "There! - the Conciliated him!"

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6/10/55

It strikes me that when the nation opens its arms
in this centennial year
and with cordiality to us, met with just

the spirit of "conciliation". This is the conciliation,
it strikes me, which comes from the other side
of this house. There is an attempt to stand be-
hind a man's back - to give an excuse not
to do an act of grace - nay, justice. This acting
with scrupulous exactness is indeed remarkable.
The quality of mercy is not strained, let it, in
Heaven's name, have for enemies "ours" and be
glad for us."

Mr. Taylor concluded at 2:30 P.M.
when Mr. Webster deferred an adjourn-
ment ^{to tomorrow} to enable the gentleman of it - Justice
any Committee to explain their positions

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Of Reports
of Speech on
Parsons of 1875,
Holden

1875-

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