

THE TRI-WEEKLY NEWS.

By Gaillard, Desportes & Co.]

WINNSBORO, S. C., TUESDAY MORNING, JUNE 5, 1866.

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THE TRI-WEEKLY NEWS.

Cotton Tax.

WASHINGTON, D. C., May 24, 1866.

To the Editors of the National Intelligencer:

GENTLEMEN: With my thanks for the interest you have at all times manifested on the question of taxation and representation, respectfully ask room in your columns for these brief quotations, selected from numbers of similar import. A reliable and intelligent officer of one of our leading railroads in the South enjoys unusual facilities for gaining information from its very source, says: The proposed five cents per pound tax on cotton gives great dissatisfaction and discouragement to its producers. Every man I have seen who is raising cotton says he goes in from this time out for raising everything but cotton. It will more seriously affect the Northwest than the South.

On the same subject the internal revenue tax assessor at Memphis says:

A tax of five cents per pound on cotton will break many a good man whom I know, and who invested his money in good faith that the Government would protect his interest—men from the North as well as the South.

The same writer, on the subject of general taxation, says:

The amounts rendered on income for the year 1865 are coming in, and are far better than I had supposed they would be. There is one thing that can be said of the people of your district, and that is, they pay as promptly and cause the officers less trouble than any other district in the country; the only misfortune is, they pay any tax the officers say they ought to pay, without examining the law and having an opinion of their own. They are decidedly careless people. We are having several who are giving incomes above \$30,000, net, which is good. The increased tax on licenses, too, is going to run up large. Our collections here, for the fiscal year ending 30th June, will be in the neighborhood of two and a half millions of dollars, and you ought to use the argument that a people who pay in to the general treasury that amount ought not to be denied a voice in adjusting the rate of tax. If you will take the trouble to consult the records of the office of the Internal Revenue Bureau at Washington, you will find that the revenue district of Memphis has caused them less trouble in the line of claims for drawbacks and refunding than any district of equal importance in the Union.

I will not deny that to me, at least, this statement is a source of commendable pride. My constituents, as well as other communities in the Southern States, instead of moping about and complaining of their losses, or crazing their brain to devise plans to swindle the Government out of its dues, are at work to repair their ruined fortunes.

To my numerous letters advising them that the sure way to support the policy of the President, and thus establish their loyalty, is to make, a big crop, they have invariably responded favorably.

Unjust and impolitic as would be the imposition, without their consent, of this oppressive tax of five cents per pound on their cotton, if it is exacted they will pay it like men who felt able to work out their own salvation, but hereafter will devote their energies to corn, oats, wheat, pork, cattle, mules, &c., which they now buy at high prices from the Northern States, the culture and production of which, in their mild climate, and from their rich soil, is but child's play, or holiday work, as compared with cotton planting, the most laborious and unreliable of all farm work.

The certain success of this policy will then suggest the importance of manufacturing the plows, wagons, &c., now purchased to a fabulous interest at St. Louis Cincinnati; and next they will naturally say, possessing as we do the only cotton producing region of the United States, why not avail ourselves of this advantage given us by nature, and manufacture the peculiar production of our soil?

The history of the past five years tells whether this people has the energy and ingenuity to accomplish the result; and when accomplished, New England statesman will realize and mourn the

death of "the goose that laid the golden egg."

I only intended giving you the quotations, but have been unavoidably led into these thoughts, for which please excuse me. Yours truly,

JOHN W. LEFTWICH,
Memphis, Tenn.

General Winfield Scott.

And Mathuselah lived nine hundred and sixty-nine years, and he died. This is the expressive record of Holy Writ. The oldest man that ever lived died at last. The distinguished name at the head of this article had long since passed into history, and yet at the same time still lingered in the land of the living, and we naturally began to think that the old General would always occupy his place in our midst. But he, too, is gone. Eighty years of honor and distinction was no safeguard against death.

Gen. Winfield Scott was born January 12, 1786, in Petersburg, Va., and received his preparatory education in Richmond High School and William and Mary College. He was admitted to the bar in Richmond, and soon after visited Charleston, S. C., with the intention of settling there, and practicing his profession, which plan, however, he subsequently abandoned.

From his earliest boyhood he showed a predilection for a military career, and fortune soon interposed to assist him. The attack of the British frigate *Leopard* on the United States frigate *Chesapeake* aroused the indignation of the country, and a large force of volunteers was called out. Scott hastened to enroll himself in the Petersburg Troop of Horse as a private. His soldierly person and evident taste for arms attracted the attention of influential friends, and he was commissioned captain of light artillery May 3, 1808.

He was made Lieutenant-Colonel in the war of 1812, and ordered to the Niagara frontier. Before the end of the year he was elevated to the command of a double regiment, and in March, 1844, he was promoted to the rank of Brigadier-General. The Battle of Chippewa was the first of a long series of victories associated with his name.

After the declaration of peace, General Scott was offered the post of Secretary of War, by Mr. Madison, which, however, he declined, and proceeded to Europe, in 1815, on a secret mission of the Government. On his return to the United States he was assigned in command of the seaboard, and fixed his headquarters in New York city. Here he remained till the breaking out of the Black Hawk war in 1832. At the close of a brief campaign of a few months, he returned to New York, and in October visited Charleston on a highly important and delicate mission.

In 1835 his headquarters were transferred to Florida. In 1837 was sent to the Northern frontier, on the occasion of the insurrection in Canada. In 1841 he was made a full Major-General, and appointed Commander-in-Chief of the whole United States army; and on the 30th of November, 1846, sailed from New York for the Rio Grande, to direct the approaching campaign in Mexico.

His brilliant victories during the two years of the Mexican war are too familiar to all our readers to warrant any further allusion to them in a brief biographical sketch.

He was nominated for the Presidency at the Baltimore Wihg Convention in 1852. He was honored by Congress with the rank of Lieutenant-General, which grade was revived in his person as a compliment to his distinguished services to the nation. He was retired from the immediate command of the army, at his own request, November 1, 1861. Since then he has been living in dignified retirement at West Point, where he died on the morning of the 28th May.—*Charleston News.*

ITALIAN PROVERBS.—God sees, and God provides.

Wherever there are tears to be dried up, you will be sure to meet a woman.

Speak nothing but truth of the living, and truth of the dead.

There is more glory in forgiving than pleasure in revenging.

Deliberate beforehand on your words and actions for you can never recall them.

A philosopher, on being asked from whom he received the first lesson of wisdom, replied, "From the blind, who never take a step until they have felt the ground before them."

Governor Brown's Argument—Concluded

Gov. Brown also produced the decisions of Judge Trigg, United States District Judge for Tennessee, and Judge Busted, holding the same position in Alabama, and read parts of both decisions. The Court in each case held the law *ex post facto* and void. These decisions, he said, were precisely in point deciding the same question now before the Court. He then proceeded:

I beg the pardon of the Court for having taken up so much time reading authorities, but as they are in point, and are the opinions of able Judges, and as the question is an important one, I have relied upon the indulgence of the Court. These authorities establish the points I have taken against this law, to my mind beyond all question:

1. That the attorney is an officer of Court; that he has a property in that office; and that it is for life or good behavior.

2. That this act of Congress, violates the social compact, *Magna Charta*, and the Constitution of the United States, and depriving him of that property without due process of law, in this, that he is in effect convicted, and his property forfeited without presentment or indictment of a grand jury; that he is denied a trial by jury; that he is denied the right to be confronted with the witnesses against him; that he is denied compulsory process for obtaining witnesses in his favor; that he is denied the assistance of counsel for his defence; and that he is compelled to be a witness against himself in a criminal case, or that his silence is construed as conclusive evidence of guilt.

3. That the act is in the nature of a bill of attainder, and is an usurpation by the Legislative Department of the Government of the functions assigned by the Constitution to the Judicial Department, being a sentence of forfeiture, pronounced by Congress, which, being a judicial and not a legislative act, can only be done by the Judiciary after trial and conviction.

4. That the law is not and was not intended to be a law prescribing qualifications for office, but a penal law forfeiting his property for the commission of an act, which at the time of its commission had no such penalty annexed by law, and that the act or offense is punished by this law in a manner different from that prescribed by law at the time of its commission; and that the law is for this reason *ex post facto* and void.

But suppose the doctrine to have been fully established that Congress has power to forfeit the property which an attorney has in his office, for having borne arms against the Government, or countenanced those who did; and that it may use test oaths for the purpose of ascertaining who is and who is not guilty, compelling each to suffer the penalty of guilt if he refuses to answer—in other words, drawing contrary to all rule in such case a constructive sentence of guilt from a refusal to answer; and pronouncing and executing judgment accordingly. How does the case then stand? The office of the attorney would be forfeited, so soon as the court met and tendered the oath, and he refused to take it. But certainly not till then. Why not? Because Congress makes the refusal to take the oath as conclusive evidence of guilt; or rather it forfeits his estate because he is guilty; and makes the refusal to take the oath stand in the place of trial by jury, and a judgment of guilty rendered by the court. Just as if the Legislature of Georgia should pass an act (no matter how absurd) that when a man is found dead in any county, every man, woman and child in the county, who refuses to swear that he or she was not a party to his death, shall be taken by the sheriff and hanged, and all his or her property shall be confiscated.

But now suppose before the oath is tendered to any, or any one is executed, the pardoning power should grant a full and free pardon to every person in the country, could the sheriff after the pardon, with knowledge of its existence, proceed to hang every one, or to seize the property of any one as forfeited? All must admit that he could not. The pardon having been granted before judgment or execution, it leaves the accused in precisely the same condition in which they stood before the charge was made against them; not only with the right to life and liberty, but to the peaceable enjoyment of all their property.

Now the truth is, that most of the attorneys of this Court have received, either under the General Amnesty Proclamation of the President, or upon special application, full pardon from the President of the United States, before any Court has been held in the State, or the test oath has been tendered to, or refused to be taken by any one. Admit, then, that the refusal to take the test oath stands in place of a conviction of guilt, and it can have no application to any one pardoned before trial or conviction. It certainly follows, then, that the property of an attorney in his office which was not forfeited prior to his pardon, cannot now be forfeited for the offense for which he was pardoned. In support of this position I quote the following authorities:

It seems agreed that a pardon of treason or felony even after an attainder, so far clears the party from the infamy and all other consequences thereof, that he may have an action against any one who afterwards calls him traitor or felon; for the pardon makes it, as it were, a new man.—2 Bacon's Abr. 416.

The court will please note the language, that the pardon, even after an attainder, clears the party from the infamy, and all other consequences thereof. A much stronger case than the one now at Bar, unless the act of Congress imposing the test oath is held by the court to be a bill of attainder, and if so, it is unconstitutional and void. But if the act is not a bill of attainder the pardon granted before conviction or attain-

der must necessarily leave the party in the precise legal status which he occupied prior to the commission of the offense.

It was formerly doubted whether the pardon could do more than take away the punishment leaving the crime and its disabling consequences unremoved. But it is now settled that a pardon, whether by the King or by act of parliament, removes not only the punishment, but all the legal disabilities consequent on the crime. 9 Bacon Abr. 415; 2 Russell on crimes, 975; Hob. 681; 2 Hal's P. C. 272, 2 Sale, 690; 1 Lord Raym. 39; 4 State Trials, 681; Cas. Temp. Holt, 688; 5 State Trials, 171; Fitzg. 167.

The effect of such pardon by the King is to make the offender a new man, to acquit him of all corporeal penalties, and forfeitures annexed to that offense, for which he obtains his pardon. 4 Blackstones Com. 402.

I might add other authorities, but deem it unnecessary. Those already quoted establish the position beyond controversy, that the effect of the pardon is to acquit the offender of all penalties and forfeitures annexed to the offence. It follows conclusively that the attorney or applicant for admission to the bar who has received a pardon, before indictment or conviction, stands before this Court in precisely the condition in which he would have stood; and with all the rights which he would have had, if he had never committed the offence. To hold that Congress can change this, is to hold that Congress has power to destroy the pardoning power vested by the Constitution in the President of the United States alone.

I trust I might safely rest this case here, but before I take my seat I desire to make a few remarks on the law of nations as to the relative rights and duties of those who were lately at war with each other. In doing so I shall carefully avoid any expression intended to reflect upon any one in position, or any reference to present party divisions. Suffice it to say that after four long and dreary years of bloody conflict, Gen. Lee surrendered his army, and tendered his sword to Gen. Grant.

The latter with a magnanimity that if he had done no other great deed, must have immortalized his name in history; appreciating the ability, the merit and the motives of his great antagonist, returned it to him as reported, with the kindest expressions, saying: you are not conquered, but overpowered by superior numbers and resources. And in this connection, excuse me for saying in this place, that the Southern people owe a debt of gratitude to General Grant for the firmness with which he has stood by the terms of the capitulation; the liberality which has characterized his whole conduct since that time; and the many acts of kindness which he has performed for Southern men in adversity and distress. All these are the noblest of his nature. Soon after this surrender, President Lincoln fell a victim under the hand of the black-hearted, bloody assassin, and the present excellent Chief Magistrate was called to the position at a most critical and trying period in our history. As a Southern man who had stood by the Government during the struggle, he had been bitterly denounced by the whole Southern people. Without knowledge of the loftiness of his soul, the expansiveness and intensity of his patriotism, and the purity of his motives, they shook with anxiety and fear when he grasped the helm of power while they lay prostrate at his feet. Had there been vindictiveness or revenge in his nature, or had his mind been cast in a smaller mould, the country would still have been drenched in blood after the thunders of battle had been hushed—the South would have been utterly ruined, the prosperity of the whole country destroyed, and re-union with fraternal feelings would have been an impossibility for generations to come. But rising above all personal and selfish considerations, and looking alone to the good of the whole country, he issued his Proclamation extending universal amnesty, with limited exceptions to the whole people of the South, by which he pledged the faith of the Government, (for he as Commander-in-Chief war its representative,) that on the acceptance of the terms proposed by him, and on taking the oath of allegiance, the people of the South should be restored to all their rights in the Union under the Constitution. The people en masse, Attorneys at Law included, Judge Law among the rest, accepted the terms, and many who were not embraced in the general amnesty, on special application received pardon. Here then are found the terms of the capitulation to which the several States in the aggregate capacity, as well as the people individually, have faithfully conformed. They have even changed their State Constitutions, submitted to a revolution in their whole social and labor system, and given up hundreds of millions of dollars in their slaves, to make the compliance on their part full and complete.

In conclusion, I have only to add that I have satisfied my own mind, and I trust the mind of the Court, that the statute requiring the test oath is in violation of the Constitution of the United States, and is for that reason void. And that the Divine law and the laws of nations agree, that when war is at an end, and peace is proclaimed or amnesty and pardon granted to the vanquished as to the applicant in this case, all the past must be buried in oblivion, and no one should be called to account for what was done "during its continuance." And that he who forfeits the property of those who have made peace; for acts done during hostilities, violate the law of nations; while he who sheds the bloods of those who have conformed to the terms of the capitulation after hostilities have ended, "sheds the blood of war in peace," and violates not only the law of nations, but the law revealed by the living God.

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