

The Edgefield Advertiser.

"WE WILL CLING TO THE PILLARS OF THE TEMPLE OF OUR LIBERTIES, AND IF IT MUST FALL, WE WILL PERISH AMIDST THE RUINS."

EDGEFIELD, S. C., JUNE 19, 1861.

VOLUME XXVI.—No. 21.

SIMKINS, BURISOE & CO., Proprietors.

Selected Poetry.

Be a Woman.

Oh! I've heard a gentle mother,
As the twilight hours began,
Pleading with a son on duty,
Urging him to be a man.
But unto her blue-eyed daughter,
Through with her world's work as ready,
Points she out the other duty,
"Strive my dear to be a lady."

What's a lady? Is it something
Made of hoops and silks and airs,
I used to decorate the parlor,
Like the fancy rugs and chairs?
Is it one that wastes on novels,
Every feeling that is human?
If 'tis this to be a lady,
Tis not this to be a woman.

Mother, then, unto your daughter
Speak of something higher far,
Than to be mere fashion's lady—
"Woman" is the brightest star.
If ye, in your strong affection,
Urgo your son to be a man,
Urgo your daughter no less strongly
To raise up and be a woman.

Yes, a woman—brightest model
Of that light and perfect beauty;
There the mind, and soul and body,
Blend to work our life's great duty.
Be a woman—naught is higher
On the catalogue of virtue
Than to be brighter, better name.

Be a woman—son to duty,
Raise the world from all that's low,
Place high in the social heaven,
Virtue's fair and radiant bow.
Lead thy influence to each effort
That shall raise our nation's name;
Be not fashion's glitt'ring lady,
Be a brave, true, whole-souled woman.

Miscellaneous.

Lincoln Indicted.

We give below a few extracts from the opinion delivered by Chief Justice Taney in the case of Merryman, a citizen of Maryland, arrested and detained by General Calhoun, commanding in Maryland. We regret that our limited space will not permit us to publish the entire opinion as it is worthy of the great reputation of the venerable jurist who for more than twenty-five years has expounded the Constitution of the United States in the spirit of its majesty.

The Habeas Corpus Case in Baltimore.

Before the Chief Justice of the Supreme Court of the United States, at Chambers. The application in this case for a writ of habeas corpus is made to me under the 14th section of the Judiciary Act of 1789, which renders effectual for the citizen the constitutional privilege of the writ of habeas corpus.

The case, then, is simply this. A military officer, residing in Pennsylvania, issues an order to arrest a citizen of Maryland upon vague and indefinite charges, without any proof, so far as appears. Under this order his house is entered in the night, he is seized as a prisoner and conveyed to Fort Mifflin, and there kept in close confinement. And when a habeas corpus is served on the commanding officer, requiring him to produce the prisoner before a justice of the Supreme Court, in order that he may examine into the legality of the imprisonment, the answer of the officer is, that he is authorized by the President to suspend the writ of habeas corpus at his discretion, and in the exercise of that discretion, suspends it in this case, and that ground refuses obedience to the writ.

As the case comes before me, therefore, I understand that the President not only claims the right to suspend the writ of habeas corpus himself, at his discretion, but to delegate that discretionary power to a military officer, and to leave it to him whether he will or will not obey judicial process that may be served upon him.

No official notice has been given to the courts of justice or to the public by proclamation or otherwise, that the President claimed this power, and had exercised it in the manner stated in the return. And I certainly listened to it with some surprise, for I had supposed it to be one of those points of constitutional law upon which there was no difference of opinion, and that it was admitted on all hands that the privilege of the writ could not be suspended except by act of Congress.

Having, therefore, regarded the question as too plain and too well settled to be open to dispute, if the commanding officer had stated that upon his own responsibility, and in the exercise of his own discretion, he refused obedience to the writ, I should have contented myself with referring to the clause in the Constitution, and to the construction it received from every jurist and statesman of that day, when the case of *Farr* was before them. But being thus officially notified that the privilege of the writ had been suspended under the order and by the authority of the President, and believing, as I do, that the President has exercised a power which he does not possess under the Constitution, a proper respect for the high office he fills requires me to state plainly and fully the grounds of my opinion, in order to show that I have not ventured to question the legality of this act without a careful and deliberate examination of the whole subject.

It is the 24th article of the Constitution that provides for the organization of the Executive Department, and enumerates the powers conferred on it, and prescribes its duties. And if the high power over the liberty of the citizen now claimed, was intended to be conferred on the President, it would undoubtedly be found in plain words in this article. But there is not a word in it that can furnish the slightest ground to justify the exercise of the power.

As to his powers in relation to the civil duties and authority necessarily conferred on him are carefully restricted, as well as those belonging to his military character. He cannot appoint the ordinary officers of Government nor make a treaty with a foreign nation or Indian tribe without the advice and consent of the Senate, and cannot appoint even inferior officers, unless he is authorized by an act of Congress to do so. He is not empowered to arrest any one. He is not empowered to arrest any one who consents to be arrested, and whom he may, from the evidence before him, believe to be guilty—nor can he authorize any officer, civil or military, to exercise this power; for the 6th article of the amendments to the Constitution expressly provides that no person "shall be deprived of life, liberty or property without due process of law"—that is, judicial process. And even if the privilege of the writ of habeas corpus was suspended by act of Congress, and a party not subject to the rules and articles of war was afterwards arrested and imprisoned by regular judicial process, he could not be detained in prison or brought to trial before a military tribunal, for the article in the amendment to the Constitution, immediately following the one above referred to—this is, the 6th article—provides that "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

With such provisions in the constitution, expressed in language so clear to be misunderstood by any one, I can see no ground whatever for supposing that the President, in any emergency or in any state of things, can authorize the suspension of the privilege of the writ of habeas corpus, or arrest a citizen except in all of the judicial power. He certainly does not faithfully execute the laws, if he takes upon himself legislative power, by suspending the writ of habeas corpus—and the judicial power also, by arresting and imprisoning a person without due process of law. Nor can any argument be drawn from the nature of sovereignty or the necessity of government for interference in times of tumult and danger. The government of the United States is one of delegated and limited powers. It derives its existence and authority altogether from the constitution, and neither of its branches, executive, legislative or judicial, can exercise any of the powers of government beyond those specified and granted. For the 14th article of the amendment to the constitution in express terms provides that "the powers not delegated to the United States by the constitution, nor prohibited to the States respectively, or to the people."

I believe, the severity against imprisonment by executive authority, provided for in the 6th article of the amendments of the constitution, which I have before quoted, is nothing more than a copy of a like provision in the English constitution, which had been firmly established before the Declaration of Independence.

But I am not left to form my judgment upon this great question from analogies between English jurists, or the decisions of English courts, although upon this subject they are entitled to the highest respect, and are justly regarded and received as authoritative by our courts of justice. To guide me to a right conclusion, I have the comments on the constitution of the United States, and also the late Mr. Justice Story, not only one of the most eminent jurists of the age, but for a long time one of the brightest ornaments of the Supreme Court of the United States, and also the clear and authoritative decision of that court itself, given more than half a century since, and conclusively establishing the principles I have above stated.

But the documents before me show that the military authority in this case has gone far beyond the mere suspension of the privilege of the writ of habeas corpus. It has, by force of arms, thrust aside the judicial authority, and officers to whom the constitution has confided the power and the duty of inspecting and administering the laws, and substituted a military government in its place, to be administered and executed by military officers. For, at the time these proceedings were had against John Merryman, the district judge of Maryland, the commissioner appointed under the act of Congress—the district attorney and the marshal—all residing in the city of Baltimore, a few miles only from the home of the prisoner. Up to that time there had never been the slightest resistance or obstruction to the 1792 act of Congress or judicial officer of the United States in Maryland, except by the military authority.

And if a military officer, or any other person, had reason to believe that the prisoner committed any offence against the laws of the United States, it was his duty to give information of the fact, and the evidence to support it, to the district attorney; and if would then have brought the district judge or commissioner, and if there was sufficient legal evidence to justify his arrest, the judge or commissioner would have issued his warrant to the marshal to arrest him; and upon the hearing of the party would have added him to jail or committed him for trial, according to the character of the offence as it appeared in the testimony, or have discharged him immediately if there was no sufficient evidence to support the accusation. There was no danger of any obstruction or resistance to the action of the civil authorities; and therefore no reason whatever for the intervention of the military. And yet, under such circumstances, a military officer, stationed in Pennsylvania, without giving any information to the district attorney, and without any application to the judicial authorities, advances to himself the judicial power in the District of Maryland, undertakes to decide what constitutes the crime of treason, or to

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We have seen no better fighting material, he remarked, than is contained in this same regiment, to which Lieut. Col. belongs.—New York News.

LEATHER, SHOES, &c.—If our ports are rigidly blockaded, there will be soon a scarcity of Leather and Shoes in the South. This can be remedied by our tanneries at once putting forth all their powers to make Leather. Let all the hides that the country can produce be put in the tan vats so as to give us Leather in due time. Texas, Mexico, and Arkansas can no doubt furnish raw hides in sufficient quantities, in addition to the domestic supply. The hides of all cattle, sheep, &c., slaughtered in our camps should be preserved for the tanneries. With Leather we can make shoes so much as we need. Our soldiers must have shoes; so must our slaves, and so must we all. Brogans for hard service are what is first needed; and then the usual varieties for the various walks of life. The shoe trade in the South is bound to be profitable, and the manufacture of shoes to rapidly increase.—Huntsville (Ala.) Advocate.

CAPT. WERTH'S INTERVIEW ENCOUNTER WITH THE ENEMY.—From a reliable source we derive the following account of the interesting interview between Capt. Werth, Pittman's Company, and a scouting party of the Hessians, in the neighborhood of Hampton, on Friday last. It differs somewhat from our yesterday's statement. Capt. Werth and another officer, accompanied by a reconnoitering expedition some distance in advance of the main body, separated at the forks of the road, each going on his own hook. After Capt. W. had proceeded a short distance, he found himself suddenly in the presence of five of the enemy. Having no idea of surrendering, he instantly drew his revolver, and without pausing, each party commenced firing.—Capt. W. killing two of the party, the remainder retreated. The male ridden by one of the party, however, was killed by Capt. W.'s last shot, the rider having slipped off at the instant and taken to the bushes. Capt. W. seems much chagrined that the bad ground on which the reconnoitering occurred prevented his logging all five. When this affair is reported for the Northern press, it will be of course stated that it is scouts were attacked by a whole troop of dragoons. Capt. W. is now on his way to the front, and will, in a few days, be in the hands of the enemy.

THE HAMPTON LEGION.—The following is a roll of the field officers and companies of the Legion. Six companies are now in camp near Columbia, and the others have been ordered to come forward:—Wade Hampton, Colonel; B. J. Johnson, Lieutenant Colonel; J. B. Griffin, Major; T. G. Barker, Adjutant; C. L. Goodwin, Quartermaster; T. Beegs, Commissary. ARTILLERY.—Washington Artillery, Charleston, Capt. S. D. Lee. CAVALRY.—Brooks Troop, Greenville, Capt. J. F. Lannan; Edgefield Hussars, Edgefield, Capt. M. C. Butler; Beaufort District Troop, Beaufort, Capt. T. O. Sorinen, Jr. INFANTRY.—Washington Light Infantry Volunteers, Charleston, Capt. J. Conner; Davis Guards, Greenville, Capt. W. M. L. Austin; Gist Riflemen, Union, Capt. H. J. Smith; Roman Guards, Greenville, Capt. T. L. ...

DEBTS DUE AN ALLIEN ENEMY.—There are three points upon which we have supposed that our commercial friends might desire to have some information. 1. Can trade be carried on between the citizens of belligerent nations? 2. Can debts due to an alien enemy be collected? 3. May they be seized and forfeited by the State? 1. On the first point, it is clear that no trade can be legally carried on between the citizens of belligerent nations. All commercial intercourse between them is interrupted by hostilities, unless specially licensed by their respective Governments. All contracts, therefore, made in pursuance of such intercourse, are void. 2. The same principle governs the collection of debts. No alien enemy can sue in the courts of a country, or collect in any way a debt due to him by a citizen of the State at war with his Government. 3. The third point is attended with more difficulty. May debts due to an enemy be seized and forfeited by a State? Debts due directly by a State cannot be seized and forfeited by itself. It cannot even touch the sums which it owes the enemy. Everywhere, in case of war, the funds confided to the public of the world are exempt from seizure and confiscation. For instance—suppose New York capitalists own the bonds of any of the Confederate States, or a citizen of the Confederate States own the bonds of any of the United States—they are not amenable to confiscation. The reason is, that in these cases the debt exists by the very nature of the bond of the indebted State. There is no other reliance for payment during peace; and the existence of war should not alter the obligation, since the power of enforcing its payment is not affected by the war. For this reason the debts of a nation to individuals of another nation are not rightfully abolished by war, and are not liable to confiscation. But it is often otherwise with respect to debts due from one citizen of a nation to a citizen of another nation, when these nations are at war. As a general rule, all the property of an enemy is liable to seizure and confiscation as prize of war. But Gratius lays it down: "That with respect to debts due to private persons, the right to demand them is suspended during the war, but will renew with peace." Mr. Wheaton sums up the doctrine as follows: "It appears, then, to be the established rule of international usage, that property of the enemy, found within the territory of the bel-

lion to borrow money from the banks would be supplied that the banks would yield to the relief of the State, but patriotic soldiers and the nation whose existence was to be tested by blood. No man would be willing to die in a civil war, and being intimidated by those who were large slave-owners, and who if the truth was known, are literally staking in their life, for their darling idol, slavery and property, worth \$100,000, as it undoubtedly will cost or more, to protect this is the main object of these men, and to extend slavery to the rich lands further South, which would of course pay them better than the poor, worn-out lands here? While we would not impugn the judgment of the large committee of able gentlemen who had the case under consideration, we nevertheless think they have done very leniently with the stamp, who, after living in a community six years, and earning his livelihood among them, could pen such a libel and slander as the above against them. We take the following from the *Journal's* account of the trial: "Mr. Deane, the postmaster, was examined and the letters read to the meeting. Mr. Deane was allowed full permission to make his statement and any explanation or defence which he might be able in answer to the charges preferred against him. He did so, and acknowledged the authorship of the various subscriptions, which of course did not amount to anything, and only satisfied the committee still more strongly of his guilt. After all the evidence had been presented, and the defence heard, the committee was addressed by Messrs. Wm. M. Shannon, H. A. James, Chesnut, W. R. R. Workman, and Thos. J. Warren. The Court room, which had been crowded by citizens, was cleared, and the committee, with closed doors, proceeded to consider the case. "The committee decided that it was not a case requiring capital punishment, and after the deliberation, determined that deportation beyond the limits of the Confederacy should be the penalty."

A CONFIDENTIAL DESPATCH.—The following incident, described to us by an eye-witness, speaks for itself. Lieutenant Colonel ... an officer who did gallant service to his country in Mexico, but who now commands in the ... regiment, which passed through this city on Sunday, was approached in one of our principal hotels, and enthusiastically addressed by a gentleman: "Colonel ... I heartily congratulate you upon this service upon which you have entered." "May I inquire what your politics are?" responded the Colonel. "I am a republican," replied the other. "I know then, sir," continued the Colonel, "that I permit myself to receive the congratulations of no member of the infamously party, to whose barbarism are attributable the calamities that overwhelm the country, unless he is himself willing to volunteer in suppressing the movements he has helped to inaugurate. Volunteer with me, sir, and if there is any fighting to be done, you shall have a chance to cross the gates of hell in short order. Yes, sir, and when we have put down this atrocious secession heresy, I am willing to return and aid in cutting from their palps the white cravats, scarves, and what have been disturbing the tranquility of the republic for so many years."

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DEBTS DUE AN ALLIEN ENEMY.—There are three points upon which we have supposed that our commercial friends might desire to have some information. 1. Can trade be carried on between the citizens of belligerent nations? 2. Can debts due to an alien enemy be collected? 3. May they be seized and forfeited by the State? 1. On the first point, it is clear that no trade can be legally carried on between the citizens of belligerent nations. All commercial intercourse between them is interrupted by hostilities, unless specially licensed by their respective Governments. All contracts, therefore, made in pursuance of such intercourse, are void. 2. The same principle governs the collection of debts. No alien enemy can sue in the courts of a country, or collect in any way a debt due to him by a citizen of the State at war with his Government. 3. The third point is attended with more difficulty. May debts due to an enemy be seized and forfeited by a State? Debts due directly by a State cannot be seized and forfeited by itself. It cannot even touch the sums which it owes the enemy. Everywhere, in case of war, the funds confided to the public of the world are exempt from seizure and confiscation. For instance—suppose New York capitalists own the bonds of any of the Confederate States, or a citizen of the Confederate States own the bonds of any of the United States—they are not amenable to confiscation. The reason is, that in these cases the debt exists by the very nature of the bond of the indebted State. There is no other reliance for payment during peace; and the existence of war should not alter the obligation, since the power of enforcing its payment is not affected by the war. For this reason the debts of a nation to individuals of another nation are not rightfully abolished by war, and are not liable to confiscation. But it is often otherwise with respect to debts due from one citizen of a nation to a citizen of another nation, when these nations are at war. As a general rule, all the property of an enemy is liable to seizure and confiscation as prize of war. But Gratius lays it down: "That with respect to debts due to private persons, the right to demand them is suspended during the war, but will renew with peace." Mr. Wheaton sums up the doctrine as follows: "It appears, then, to be the established rule of international usage, that property of the enemy, found within the territory of the bel-

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