THE GREAT DRAINAGE CASE.

JUDGE MACKET'S DECISION. STATE OF SOUTH CAROLINA,

COUNTY OF ANDERSON. In the Court of Common Pleas. Oliver H. P. Fant and Joshua Jameson, County Commissioners of Auderson County, as Commissioners of Health and Drainage, Plaintiffs, against J. A. Keown, W. D. Evins, R. S. Bailey and Warnock, Defendants .- Cam-

plaint on Assessment for Drainage. This cause came on to be heard before me at the February term, 1878, of the Court of Common Pleas of Anderson County. A separate camplaint was filed as to each defendant, and the defendants filed their several answers, but, by agreement of counsel, the four cases were heard together, and are to be determined

The plaintiffs allege that they "are County Commissioners of Anderson County, in said State, and as such are Commissioners of Health and Drainage for said County, by virtue of the Act of the General Assembly, entitled 'an Act to constitute the County Commissioners of Anderson County, Commissioners of Health and Drainage, and to define their powers and duties therein,' approved

II. "That on the 19th day of July, 1875, at Anderson, S. C., the defendants, with others, constituting more than one-third drained according to the true intent and meaning of said statute, a copy of which petition is herewith filed as part of this ting the County Commissioners the Com-

other obstructions between said shoal and the bridge above, in such places as there are no lands to be benefited, be done, and the expenses thereof be borne by the landowners along said streams in the ratio of the number of acres of bottom land each one has along said streams to be benefited by drainage.

IV. "That thereupon the plaintiffs con-

tracted to have said work done, and entered into a contract with Joseph B. Moore to blast out the rock obstruction at said Majors' Shoal, on said Rocky River, below defendants' lands, the ex-pense of which was twenty-three hundred and four thirty-seventh-hundredths dollars, (\$2,304.37,) which being assessed on the landowners according to the num-ber of acres to be benefited, belonging to each, made the sum of one hundred and sixty-five forty-five-hundredths dol-lars (\$165.45) due by the defendant, R. S. Bailey, on fifty-eight (58) acres of land, which amount was duly assessed

V. "That the said work of blasting has been completed, and the plaintiffs are now entitled to said assessment against said defendant to pay their obligation for said work. Wherefore, plaintiffs demand

The complaints filed as to the other defendants herein contain the same alle-gations as the foregoing, except as to "the number of acres to be benefited," and the amount assessed on their lands respectively: J. A. Keown being assessed for \$126.30, on 44} acres; W. D. Evins, \$171.95, on 60} acres; and Mary Warnock, \$262.55 on 92 acres.

The petition of landowners referred to in the above cited complaint is as fol-"THE STATE OF SOUTH CAROLINA

"To the County Commissioners of Anderson County, as Commissioners of Health and

son County, and State aforesaid, being, at least, one-third of the landowners for a distance of not less than five miles up and down Rocky River and Beaverdam, respectfully show unto your honorable body that the general health of a considerable portion of the citizens of Anderounty in said Rocky River and Little Beaverdam is seriously affected by the sluggish and filthy condition of said streams, and that there is a large scope of bottom lands along said river and creek which are utterly worthless, and opinion of your petitioners, without said streams are ditched from Enoch Majors' Shoals, below the bridge, on R. Q. Anderson's land, to the upper line of L. D. Stringer, on Little Beaverdam creek, being a distance of over five miles. Your petitioners, therefore, pray that your conorable body shall ascertain the facts stated above, and, if satisfactory, shall have an estimate made of the cost of said proposed drainage in said river, creek and tributary streams, and proceed to have such water courses ditched, and shoals blasted out, and drained, according to the true intent and meaning of the statute, on such subject made and provided, approved March 14, 1874."

This petition bears date July 19th, 1875, and the names of the defendants herein are attached thereto; the defendant Mary Warnock denies in her answer that she signed the said petition, and further denies that she authorized person to sign her name thereto. It apwas attached to the petition by her eldest son, J. D. Warnock, and, although he acted in good faith in the premises, he had no authority to sign his mother's name to the said petition, and she refused to ratify his action therein. In the view, however, that I have taken of the case, I do not regard this point as material.

The defendants answering, severally deny that their properties have been benefited by the work done by the plaintiffs, alleging that no part of their respective lands has been drained thereby. further allege that the Act of the General Assembly, under which the said work was done, and the assessment upon their property levied, is unconstitutional and void.

It appears from the documentary evid-nce submitted on behalf of the plain-tiff, that after having duly considered and determined to grant the petition herein, they, on the testimony of a competent engineer, entered into a contract with Joseph B. Moore, on the —— day - 1875, based upon proposals submitted by the said contractor, wherein it was stipulated that he should open a channel for the Rocky River, at the lower channel for the Rocky River, at the lower and upper Majors' Shoals, and that he should be paid therefor by the plaintiffs, forbids the Legislature from delegating in the vicinity of a city by the title of according to the number of cubic yards to the County Commissioners the powers of excavation at the following rates: of assessment and taxation vested in cents; loose rock exeavation per cubic

zontal to twelve inches vertical in earth." The rock excavation to be without slope. The excavation "to be taken down to the with a uniform bottom.'

sessment for payment of the same, the sembled." sity of blasting out the rock in said shoals to the depth of four feet below the bed of said stream, and the estimated cost of doing this work alone was put down at the sum of six hundred dollars. cost of draining said stream. The engineer so employed represented the necesaggregate assessments on the landowners to cost as much more as this work alone law.

and perhaps more." The work of excavating having been the acreage, at the rate of about two dol-lars and eighty-five cents (\$2.85) per acre.

of the landowners on Rocky River and Before proceeding to decide the issues beaverdam and tributaries, filed their of law and of fact that arise upon the Beaverdam and tributaries, filed their petition to the plaintiffs, as Commissioners as aforesaid, in due form, praying, among other things, that they proceed to have such water courses ditched, and the shoals blasted out, naming Majors' Shoal shoals blasted out, naming Majors' Shoal assessment in question, the plaintiffs on Rocky River, and that said stream be herein filed their complaint in this ac-

complaint.

III. "That pursuant to said petition the plaintiffs took charge of the same, and granted said petition, and, among other things, adjudged that the blasting out and removing of the shoal, known as Enoch Majors' Shoal, and the removal of other obstructions between said shoal and the bridge above, in such places as there are no lands to be benefited, be done.

The complaint and answers were there-fore considered only as serving to exhibit, respectively, the judgment of the County

Commissioners in the premises, and the reasons given therefor, and the grounds of appeal from said judgment.

The learned counsel on behalf of the defendants assail the constitutionality of the Act empowering the County Commissioners to levy the assessment complained of on the following grounds:

First: That it violates Sec. 23, Art. 1, of the State Constitution, which declares that "private property shall not be taken or applied for public use, or for the use of corporations, or for private use, with out the consent of the owner, or a just compensation being made therefor."

Second: That it violates Sec. 37, Art.

1, of the Constitution, which declares

that "no subsidy, charge, impose tax or duties shall be established, fixed, laid or evied, under any pretext whatsoever, without the consent of the people, or heir representatives lawfully assembled.' Third: That it violates Sec. 11, Art. 1, of the Constitution, which declares that 'the right of trial by jury shall remain

Fourth: That it violates Sec. 14, Art. "no person shall be arrested, imprisoned, despoiled or dispossessed of his property immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, out by the judgment of his peers or the

Fifth: That it violates Sec. 19, Art. 4, appeal to the State Courts from the deisions of the Board of County Commis-ioners, while this Act makes the decison of the Circuit Judge final.

Sixth: That it violates Sec. 36, Art. 1, of the Constitution, which declares that "all property subject to taxation shall be taxed in proportion to its value." This case presents no feature that makes

the first objection to the constitutionality of the Act at all pertinent. No private property has been taken either for public e, or for the use of a corporation, or for private use.

The clause of the Constitution cited in support of this objection is a restriction

cise of the right of eminent domain. In the interest of the citizen it imposes a limitation upon the sovereignty of the The right of eminent domain is that

the State government in the exer-

supreme right of property, inherent in the sovereignty by which the private property of the citizen, acquired under ts protection, may be taken or controled for the benefit of the public against the

Pollards Lessee vs. Hogan, 3 Howard

In the exercise of this right the State compels the citizen to surrender something beyond his due proportion for the public benefit, for which he is entitled to claim special compensation; while in the exercise of the power of taxation, the State requires the citizen to contribute only his due proportion in money for the support of its government at a rate fixed by law, which must be uniform and ac cording to value. In the latter case the but shares only in the general benefit re fleeted back upon the community by the just application of the whole proceeds derived from taxation. To exercise the righ of eminent domain there must be a taking of property from its owner by the power of the State. To constitute a tak-ing the owner must be dispossessed of his property or be deprived in some form of Until he is disturbed in the possession or free use and enjoyment of his proper y, there is no taking, and he has no right of action, and is not entitled to compen sation under this clause of the Constitu

Barb. 616; Radeliff vs. Mayor, &c., of Brooklyn, 4 N. Y.; Fuller vs. Eddings,

541 et. seq.

The defendants herein do not even allege that they have been dispossessed of any portion of their property or that any injury has been inflicted thereon. They do not complain that they have been in- Cruikshanks vs. City Council, 1 McCord jured, but only deny that they have been

of assessment and taxation vested in them by this Act. It does not appear that this Section of the Constitution was intended to inhibit the Legislature from delegating its power of taxation in the manner prescribed in the Act under constitution with the assent of two parts of the landowners through whose S. I. n. 62(1).

without an Act of the Legislature au-thorizing them so to do, then this clause of the Constitution might be successfully invoked against their action in the premises, as "without the consent of the peoafter the plaintiffs had levied the first as- ple or their representatives lawfully as-

In this case, however, the defendants herein, with others of the original petitioners, filed their protest authority. So far from forbidding by against the further prosecution of the work under the contract. In this protest the defendants state that, "at the time of filing the petition referred to, as is known that the delegation of such that the delegation of the power of the delegation of the delegation of the power of the delegation of the to your body, a survey was made of said power, for it declares (Section 8, Article stream for nine miles, commencing at 9.) that "the corporate authorities of Enoch Majors' Shoals, by a competent counties, townships, school districts, engineer, and estimates were made of the cities, towns and villages may be vested

down at the sum of six hundred dollars. alike to constitutions and statutes, that This work is still unfinished, and the whenever a common law term is used in gate assessments on the landowners a statute, without any express statutory said stream and within the nine definition, we are remitted to the commiles aforesaid amount to something over | mon law to ascertain its full force and the work, as originally contemplated, is to cost as much more as this work alone law. It is that inviolable right—the liberty of the citizen-which every per-son accused of crime in the Courts has of being tried by a jury of his peers, concompleted according to the contract, the sisting of twelve good and true men, law-plaintiffs levied an assessment, to pay for fully drawn and empanelled and duly designated for drainage. The assessment was not made upon the value, but upon the acreage, at the rate of about two designated for drainage. The assessment in criminal accusations, and the term as used in the Constitution relates to the trial of persons accused of criminal of-fences. To hold that every party to a civil action is entitled under the Constitution to have the issues of fact arising upon the pleadings determined by a jury, would be to abolish our whole system of equity jurisprudence, which is more an-cient even than the right of trial by jury. But whatever may be the rights of par-ties in other civil actions, the defendants herein having voluntarily set this statute in motion, and invoked the judgment of

the Court under its provisions, are clearly estopped from urging this objection. Where a constitutional provision is designed for the protection of the property rights of an individual, it is competent sent to such action as would be invalid if taken against his will. (Cooley Con. Lim. 181; Baker vs. Braman, 6 Hill, 47.) The reasons given for overruling the third objection apply equally to the fourth, which is urged upon the same

The fifth objection is, in my judgment, as untenable as those which precede it. The objection that the Act is unconstitu-tional because it provides that the decistional because it provides that the decision of the Circuit Judge shall be final, on appeal from the judgment of the County Commissioners, cannot prevail when urged by a party who has himself, by own voluntary action, sought such tribunal. He must be deemed by his acts to have waived every such constitutional objection. This has long since been set. objection. This has long since been set-ded law in this State. In the case of tled law in this State. In the case of People vs. Murray (5 Hill, 468,) it was held that where parties were authorized by statute to erect a dam across a river, provided that they should first execute a bond to the people conditioned to pay such damages as each and every person might sustain in consequence of the erec-tion of the dam, the damages to be as-sessed by a Justice of the Peace, in an

I shall now proceed to consider the sixth and last objection urged against the constitutionality of the Act, on the ground that it authorizes a system of taxation, other than ad valorem, contrary to the provision of the Constitution, that "all property subject to taxation shall be of the Constitution, which provides that in all cases there shall be the right of provision similar to this has been incorporated into the Constitution of every American State, and it has received judi cial exposition in a long line of authoritative decisions. It may be now safely held that the constitutional requirement, that property shall be taxed in propor-tion to its value, relates only to the general tax levied to defray the ordinary charges of the State government, and does not prohibit the levying of an assessment or tax for local improvements based upon the special benefit conferred upon the owner of the property, the value of which is enhanced by such improvement. Indeed, this is in effect a tax cording to value, for it is presumed that the property benefited shall alone be taxed. Says that eminent jurist, Mr. Justice Cooley, in his admirable work on Constitutional Limitations, (pp. 497-498,) 'it would seem that the constitutiona requirements that taxation upon property shall be according to value do not in clude every species of taxation. Assessments for the opening, making, improving or repairing of streets, the drainage of swamps, and the like local works, have been generally made upon property with some reference to the supposed benefits which the property would receive there-from. Instead, therefore, of making the assessment include all the property of the municipal organization in which the improvement is made, a new and special taxing district is created, whose bounds are confined to the limits within which property receives a special and peculiar

enefit in consequence of the improvement. The Constitution of Michigan provides that "all assessments shall be on property at its cash value. The Supreme Court of that State, however, held that a local tax, levied in the city of Detroit to meet the expense of having a public street, although levied not in proportion to value all the p but according to an arbitrary scale of mutual. the constitutional provision. (Williams vs. Detroit, 2 Mich, 560.)
In the case of Weeks vs. Milwaukie,

10 Wisconsin 242, the Court held that these local burdens are generally imposed under the name of assessments instead of taxes, and that therefore they are not covered by the general provision in the of taxation. Hence, an exemption of hurch property from taxation has been held not to preclude its being assessed for improving streets in front of it.

(Lockwood vs. St. Louis, 24 Missouri 20; Le Fever vs. Detroit, 2 Michigan The general principle laid down in the

above cited cases is also strongly supported in Sharp vs. Spier, 4 Hill 76; and The following case is cited as nearly or In support of the second objection it all fours with that under consideration.

taxed in proportion to its value." The by one of the learned counsel (James L. Supreme Court of that State held that Orr, Esq.,) on behalf of the Defendants. Accompanied by Gen. Geary, afterthis clause referred to the general or ordinary taxation to defray the ordinary expenses of the State, and its subordinate expenses of the State, and its subordinate local governments, and not to assessments for local improvements; that assessments for such purposes need not be laid on the ad velorem principle, but the Legislature is at liberty to adopt a different basis of apportionment—such as frontage, superficial contents, or benefits received. (Emery vs. Gas Company, 28th Cal. 345; See Dillo on Munic. Cor. Vol. 2, Sections of the Paintiffs, I find the following communication, addressed to the Chairman of the Paintiffs, I find the following communication, addressed to the Chairman of the Paintiffs, I find the following communication, addressed to the Chairman of the Paintiffs, I find the following communication, addressed to the very sentence. President Lincoln's assassination was uppermitted the prosected the was admitted to the print, I was admitted to the Chair I was admitted to the Chairman of the illustrious commander. Gen. Lee at West I was admitted to the Chairman of the illustrious commander. Gen. Lee at West I was admitted to the Chair I was admitted to the citer of the illustrious comma

The defence upon the merits under the Statute is based upon the ground that the Defendants have not been benefited by the work done, and are therefore not le-gally bound to pay the assessment levied on their property to defray the cost of said work.

Upon this question of fact ten (10) witnesses were examined at the hearing before me. Maj. T. B. Lee, the engineer in charge of the work, testified that the area of drainage effected by the excava-tion at the Shoals did not extend more than a mile above the Shoals. It was in proof that the lands of the Defendants that are assessed to pay the cost of such excavation are situated from four (4) to six (6) miles above the Shoals. Mr. Moore, the contractor, testified to the same effect as Major Lee, and both concurred in the statement that neither of from the work done. The Plaintiff Fant, Chairman of the Board of County Commissioners, testified in the cause, and stated that he "could not say that the Defendants had received any benefit" from the work which they are assessed to

Not one witness testified that the De-fendants had been benefited thereby while, on the contrary, nine out of the ten witnesses testified that neither of the Defendants had received any benefit whatever from this ill-judged excavation,

effected at a cost of \$2,304.

The Defendants petitioned under the Act to have the lands lying along the waters of Rocky River and Beaver Dam Creek "drained" for the reasons set forth in their petition. The benefit to be conferred by the proposed improvement was the drainage of the lands within the area designated in the said petition. The Commissioners did not even stipulate with the Contractor that the drainage prayed for should be effected by the proposed excavation. It was simply a con-tract to excavate an indeterminate number of cubic yards of earth and rock. The depth of the excavation was not stipulated, but was left to the discretion of the engineer, who supervised the work on behalf of the Commissioners. I am constrained to find, as a matter of fact, that the Defendants herein have not been their property has been assessed.

The Defendants having received no

action on the bond to recover those damages, the party erecting the dam was precluded by acting under the statute from objecting to its validity, and insisting on his right to a common law trial by incoming the common law trial by and authorized thereto by Defendants' petition, and that the Defendants thereby contracted with these Plaintiffs to pay the assessments necessary to defray the cost of said work, the same having been executed in pursuance of their said petition. It does not appear to me that this position is tenable. The filing of the petition was simply a part of the machinery of the Act. The condition precedent on which the County Commissioners were empowered to make contracts for such drainage." What the terms and condiwhether they should contract at all, was a matter confided by the statute to the adgment of the County Commissioners. That judgment the Defendants had no power to control. While expressing the opinion" in their petition that the blastne out of the lower and upper Majors Shoals would effect the desired drain they remit the whole matter to the judge ment of the County Commissioners This clearly appears from the closing paragraph of their petition, which is in

the following words: "Your petitioners therefore pray that your honorable body shall ascertain the acts stated above, and, if satisfactory shall have an estimate made of the cos of said proposed drainage in said river, creek and tributary streams, and proceed shoals blasted out and drained, according to the true intent and meaning of the statute on such subject made and pro-

But the Commissioners had no "estimate made of the proposed drainage,' for they simply entered into a cont to have an excavation made in Majors specific sum per cubic yard, the nur of cubic yards being left undetermined. The cost of the work was therefore at unknown quantity at the date of th cannot in any legal sense be held to have entered into a contract with the Commissioners to pay for the proposed work without regard to its beneficial results. It is of the essence of a contract that it shall, for a legal consideration, bind

upposed benefit, was not invalid under every contract that the party who justly complains of a breach of its terms have a right of action to enforce it. But the Defendants could not, under the statute, have enforced a demand that the Commissioners should grant their petiproceeding to execute the proposed Cincinnati Commercial, drainage after they had decided to grant the petition, and had informed the Defendants that they had rendered a favorable judgment thereon. The only liability that the Defendants could incur by the beneficial provisions of which they thus invoked. It was a liability to an assessment for drainage, to be imposed

water course, the County Commissioners river. "The District of Highlands," The Act | shall, upon position, personal service, and

the excavation was "to be twelve feet at bottom, with a slope of six inches hori-

had levied the assessment complained of levy special taxes on such real estate to of the Act that the Defendants were not pay for such grading and paving."

It was held that the Act was constitutional, and that "the levy of a tax on the serted this view by imposing the assesspetition of the requisite number of land-owners on the land abutting the roads who were not petitioners. The liability improved, rated by the number of acres of each owner's tract, could not be adjudged unconstitutional for unjust ine- strongly reinforced by the decision of the quality." (Malchus vs. Highlands, 4 Bush, 547.)

ANDERSON, S. C., THURSDAY MORNING, AUGUST 28, 1879.

It is further urged on behalf of the Commissioners, that the Defendants, by their second petition, protesting against Hazen, who knew Gen. Lee at West

of the Board of County Commissioners, announcing the entire completion of the filled me with horror. If there were work under the contract, the excavation | blemishes in his character, his life exlawing previously been finished at the lower Shoal. As shown by the date of this lived some splendid and rare virtues lower Shoal. As shown by the date of this

or protest was filed:
"Anderson, Co., Sept. 23d, 1876.
"Hon. O. H. P. Fant, Chairman County

"SIR-Mr. Moore has finished his work I herewith return the amount of excava-tion done by him, under said contract: 733 cubic yds. earth excavation 923 cubic vds, solid rock excavation

Total,1656 cubic yds, excavation.

Respectfully,
Thos. B. Lee, Engr."

I am unable to perceive that the second petition affected in any degree the action of the Commissioners, under any contract entered into by them.

The petitioners might well have been alarmed at the further prosecution of a scheme of drainage, signalized in its ini-tial stages by the explosion of seventybeneficial result, and at a cost of more than two thousand dollars, which, according to the testimony of the Supervising Engineer, was at the rate of one hundred and forty-four dollars (\$144) an inch for Grant, who seemed to be paying no attenand forty-four dollars (\$144) an inch for every inch that the River was lowered between the two Shoals. All their hopes of receiving any benefit from the plan of drainage adopted had been "blown into this air." and it was their right and daty, public good, to file their protest against

its further prosecution. learned counsel for the plaintiffs, are in-tended to test the questions involved, there being twenty-two others of the same class still awaiting determination. I have given to them full and earnest consideration, and have arrived at the conclusion in the light of the law and the evidence, that the property of the defen-dants is not liable for any assessment imposed thereon to pay the costs of any work done under the contract for drainage entered into as alleged, by the County Commissioners of Anderson County acting as Commissioners of Health and

decreed, that the appeal of the defen-dants, appellants herein, be sustained, and the judgment of the said Board of County Commissioners, levying an assessobjecting to its validity, and insisting on his right to a common law trial by jury. (See also Lee vs. Tillotson, 24 Wendell 339.)

Counsel on behalf of the Commissioners insists arguendo that they, in effect, acted as the agents of the Defendants in the prosecution of this work, being moved lants and the respondents herein, do each pay their own costs.

T. J. MACKEY. Circuit Judge. August 16th, 1879. HOME MADE FERTILIZER.-Judge R. F. Moore, one of the most successful farmers of our county, hands us the following formula for composting home

is as good as any of the standard com-mercial fertilizers in the market, and cheap because it costs nothing except a little labor.

The formula for one ton of the fertilizer is as follows: One thousand poundof rich- loam earth (procured from the fence corners, or wash places, or surface dirt from the woods,) and fifteen bushels of cotton seeds; put into the stables of: horse or cow, cover with a sufficient amount of leaves or straw to prevent the

when it may be put in a pen and another supply in the stable.

By this method, Judge Moore says that a ton of fertilizer for each horse or cow can be made, equal to the best fer tilizer offered in the market, which is dis tributed in the same way, and in same quantities as guano. All who succeeded as a farmer and he is no castle builder. We hope our farmers will themselves the thousands of dollars paid fertilizer manufacturers .-- Georgie

stall from becoming muddy or dirty. Let it be tramped twenty or thirty days

A RELIC OF THE MOUND BUILDERS. While excavating for a spring for reun-ion purposes to-day on the lands of Rev W. H. McFarland, near this place, John S. Gallup came in contact with what ap-peared to be a smooth cut stone and dug lown to the foot of the third step, where he found a basin made in the solid rock that will contain fifty barrels or more of water. It was cleaned out, and a stream is pouring into it from the crevice of the rock at the rate of 16,000 gallons a day There is no written account of the citizen had no knowledge of their exis-tence. This was probably an important ers' period. At any rate it is a subject is regarded as a great curiosity and won derful discovery, and is the theme of all conversation on the streets to-night.-

Liberia in 1877 has returned. She does not give a very cheerful account of her experiences in that free republic.— Among other things, she says that "the natives season everything very highly with pepper, and when a child is born among them they stuff its month with upon their properly benefited by the same.

This is the manifest meaning and init strong and healthy." Also she says. tent of the statute. Its language is as follows: "That in cases where one-third of the landowners upon any water course tions the case of one Reuben Cayho for a distance of not less than five miles who stole something from one of them, up and down the stream in said County and they caught him, tied a big rock shall desire to drain the lands upon such around his neck and threw him in the

AFTER APPOMATTOX.

visited Gen. Robert E. Lee, and had an The Constitution of California provides that "all property in the State shall be taxed in proportion to its value." The by one of the learned counsel (James L. The writer says:

> communication, the work at the Shoals was completed before the second petition or protest was fied:
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> | Manual Communication of the work at the Shoals was completed before the second petition or protest was fied:
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> | Manual Communication of the work at the Shoals was completed before the second petition or protest was fied: pared, the South would be treated with honorable propriety and with a gallant generosity; that good-will and friendli-"SIR-Mr. Moore has finished his work at the upper Majors' Shoal on Rocky River, in conformity with his contract. of whom he spoke in the most friendly of whom he spoke in the most friendly words and terms. He scribed to him the possession of the noblest attributes of American manhood, that he possessed all the requisites and talents for the organization of armics. "I wish," said Gen. Lee, "to do simple justice to Gen. Grant, when I say that his treatment of the transfer Scriber Virginia is with the Army of Southern Virginia is with-out a parallel in the history of the civilized world. When my poor soldiers, with famished faces, had neither food nor raiment, it was then that Gen. Grant immediately issued the humane order that forty thousand rations should be tial stages by the explosion of seventy-two barrels of gunpowder without any And that was not all of his magnanimity. I was giving directions to on of my staff officers when making out the list of things to be surrendered, to in-

Lee's manner, when, with a spirit of chivalry equal to his skill and gallantry he told, with moistened eyes, this and many other instances of the magnanimi-ty so nobly displayed by his illustrious rival. I asked him who was the greatest of the Federal generals. "Indeed, sir, I have no hesitation in saying Gen. Grant. Both as a gentleman and an organizer of victorious war, Gen. Grant hath excelled all your most noted soldiers. He has exhibited more real greatness of mind, more consummate prudence from the outset and more heroic bravery than any one on your side." The conversation turned to Gen. Sherman, of whom he commander of men Sherman has dis-played the highest order of military genius. Throughout his recent campaign, when he had to pass through an unbeing dilatory, patient without being dispirited, personally brave, but never rash. Judged by Napoleon's test, 'Who did all that?' he is, in my opinion, among the most successful of the Federal officers who have played a prominent part in the history of the war. course of conversation he spoke of Sheridan as a most brilliant and magnetic

FAILURE. To the question: "What was the cause of the failure of the South?" the General milingly said:

WHY THE CONFEDERACY PROVED A

"I am not a very good extemporaneous speaker, nor am I a very good extem-poraneous answerer of questions. The nest conspicuous reason was the superiority in men and in resources of the North. The United States had all the advantages -a land of boundless wealth. cities secure from the horrors of civil war, and a constant stream of emigrants to fill up the depleted ranks of your armics. The numbers against us were enormous. The population of the South With five to one against them the outherners performed a mighty work and ade a gigantic step towards their in-

Another cause lay in the vanity of many of our people. The first battles of the war being favorable to us, the South was wild with confidence and the whole country was thrown into a ferment of exwhether one in a thousand of our people any doubt of an immediate and a successful termination of the struggle. The public meetings were in every case too enthusiastic. The people were carried away by acclamation. The cheering proved to be our folly. This excess of confidence lost us New Orleans and

many other cities.
"A much more serious difficulty ares from the mistaken view of the Southern cause by the Philanthropists of the Old World. They were ted to believe that we were lighting for the perpetuity of slavery, and that the establishment of the Confederacy would be the reopening of the African slave trade. This opinion shook the faith of great and good men in the lumanity and righteousness of the South. The conscript law was another effective check to our success. Instead of being a benefit, it was a curse—a badge of disgrace. The rich were fa-vored; falsehood and dissimulation were its natural results, suspicion and mistrust should have prevailed. The attitude pre-served by Mr. Davis and other leaders in opposition to the arming of the negroes, a policy which I always believed to be expedient, proved most disastrous. The wide spread poverty of the country, acfurther efforts were hopeless-these and other forces worked to one final result, the failure of the Confederacy."

THE FOREIGN ELEMENTS IN BOTH AR-MILS. Our next topic of conversation was the

foreign element in both armies. Speak-ing of the Iri-h, he declared with connot reconcile with their notions of consistency and honor, how Northern Trish-

erners contending for independence and equality of rights." I suggested that the soldiers of Irish origin in our armies States, the reconciliation of all classes, When the army of Gen. Sherman was Irishmen who for centuries had gallantly Irishmen who for centuries had gallantly entire country. Foremost amongst the contended for the freedom of the Celts Confederates, and first in peace, Gen. Lee could be so inconsistent and recreant to was not only a chivalrous gentleman, but every principle of right as to be engaged he was eminently a Christian. In all in a war for a Govornment whose cornhis acts he was gifted with so rare a erstone was slavery. Besides that, kindliness of demeanor, that he never though Irishmen were revolutionists at home, they were conservatives in the brilliant, though brief experience as in-United States, and that there was an in-finite difference between a war in the after the war closed, gave the strongest interest of oppression and one in favor of

the oppressed.

Adverting to the character of the Irish as soldiers the General was very enthusiastic, saying that they played a prominent part in all the wars of the world for the last three centuries—now on one side, now on the other. "The Irish sol-dier fights not so much for lucre as through the reckless love of adventure, and, moreover, with a chivalrous devotion to the cause he espouses for the time being. Cleburne, on our side, inherited the intrepidity of his race. On a field of battle he shone like a meteor on a cloudy sky! As a dashing military man he was all virtue; a single vice does not stain him as a warrior. His generosity and benevolence had no limits. The care which he took of the fortunes of his world. This confession was made at a officers and soldiers, from the greatest to dinner at which a dish of rusty bacon, the least, was incessant. His integrity was proverbial, and his modesty was an equally conspicuous trait in his charac-

Cleburne's equal in military genius, rivalled him in bravery and in the affecions of his soldiers. The gallant stand which his bold brigade made on the heights of Fredericksburg is well known. Never were men so brave. They enno-bled their race by their splendid gallan-try on that desperate occasion. Though totally routed they reaped harvests of glory. Their brilliant though hopeless assaults on our lines excited the hearty applause of my officers and soldiers, and Gen. Hill exclaimed, 'There are those

green flags again." HIS ESTIMATE OF WEBSTER, CLAY AND CALHOUN. var we drifted to the old statesmen. Gen. Lee referred despondingly to the nation's lack of statesmen. Speaking of Webster he said: "I never saw a more striking object than Webster in the Senate. The flect of his fine figure and princely air, flash in the midst of darkness. What Paganini was in music that Webster was in oratory; the one charmed Europe with one string, the other electrified mul-titudes with his eloquence. He once titudes with his eloquence. He once complained to me of the wrongs done him by the reporters, but in vain; the world would read whatever bore his hon-large sum does not exceed one-half world would read whatever bore his hon-ored name, and the grub worms were ever ready to gratify the desire by fragments or rather caricatures of his mighty clo-quence. His speeches indicate the powers of the great orator—they are lofty jamin to limit his practice. The bit not impassioned, correct but not Usarv Clay was every inch a pafluent. Henry Clay was every inch a patriot and an orator. I heard him on stantially the grievances of which the nation complained, and then standing bolt upright, with clenched hands and a laways welcome as one of the most geniand all, they stood regarding him with hough they were listening to the inspired voice of a prophet. Henry Clay was the greatest actor off the stage. Calhoun brilliant and effective orator and debater was the favorite of the South. Morally, in that body twenty odd years ago, or he is to be rated higher than either Webvation of whatever was minute. He was attracted by the lofty and ideal. Similarity, resemblance, pictures and analysis caught his eye. They were seized sis caught his eye. They were seized and secured and thrown down upon his page in gorgeous groups and splendid His logic was compressed and concealed; the train of reasoning he eemed to be pursuing might be clear nd continuous to his own mind; all its facts logically articulated from end to end; but it was like a stream of water, working utterance, and in the restraint of a viits way under ground, that showed itself now and then, or by a succession of openings and jets, the one apparently

cep, the other light and sparkling. He was distinguished for his power of conspeeches. His eloquence and logic set fire. I heard him in one of his altercations with Clay. I was surprised that Mr. Calhoun's eloquence did not produce the least reply. It fell like a thunderbolt upon an iceberg, glanced along, hissed nd was extinguished."

Jefferson Davis, Yancey, Breckenridge and Toombs, whose names hementioned, lay one day and stop three, instead as well as a set of equally prominent of laying three days and stopping as "politicians," and "they," said he, "brought on the war." He went on to say: "I was opposed to the war at the outset. I wept when I heard of the bompardment of Fort Sumter! I sought retirement so that I might not hear or see precipitate the havor that subsequently swept their fields and cities. But when Virginia, my native State, seconded, there course for me to pursue, namely, to follow her fortunes."

STONEWALL JACKSON.

Referring to the great loss sustained by the Confederacy in the death of Stonewall Jackson, Gen. Lee remarked: "In surprise marches and in the art of creating the resources of war, Jackson far surpassed the level of his age, and rose to a comparison with Hannibal and Napoleon, the two greatest commanders of ancient and modern times. In every and refused to pick up a dollar, thinking ges as this would occur:
"We are about to open the campaign.

he was fully entitled to the re-pect and general debility. Read the People's consideration of the gallant soldier to Common Sense Medical Adviser careful-

and the prosperity and happiness of the evidence of his loyalty and goodness of heart, and clearly presaged the glory which would have crowned his career

A Southern Exile's Career. A few days ago, in an article on the

Tehuantepec route, we related the inci-dent of Butler's seizure of the bank box and appropriation thereof as constituting the whole property of the then sec-retary of State of the Confederate States. The contents consisted of Tehuantepec bonds, and the Confederate secretary, when informed of Butler's exultation over his capture, remarked with a smile that with the loss of those bonds he would be left without a dollar in the world. This confession was made at a cooked with cow-peas and washed down with corn coffee, composed the whole menu. A gentleman over fifty, who had for thirty years enjoyed and income of \$20,000 per annum, was reduced to this condition in two years by his devotion to duty, to principle and to the demands of honor and patriotism. It was a grand sacrifice, worthy of conspicuous record among the many other similar examples tion and duty on the part of those who have been so grossly maligned as inter-ested and designing politicians in the

late war. In 1865 the impoverished Secretary of State of the late Confederacy, after the downfall of the Confederacy, and the dis-persion of its government, tramped on foot from Central Georgia, and escaped in an open boat to Nassau, with a single ten-dollar gold piece in his pocket, which Then as we talked of the causes of the he gave to the negro who rowed the small boat that so safely carried him beyond the reach of the pursuing foe. In 1879, fourteen years afterward, this fugi-tive becomes the recognized head of an institution of all others the most excluprominence and success—the bar of England. One gratifying proof of the reality of this achievement is furnished by the fact, which we learn authentically, that Mr. J. P. Benjamin, Queen's counof his yearly income from his practice in the highest courts of Great Britain. To these courts the large pressure upon his time and labor has compelled Mr. Ben-jamin to limit his practice. The briefs triot and an orator. I heard him on British aggression. Never certainly had I ever beheld so powerful an exhibition amount of his labor within the compass I ever beheld so powerful an exhibition amount of his labor within the compass of natural oratory. The grace of the attitudes into which he threw his flexible We doubt if these have ever been equalifigure, the striking gestures of his arms, and, above all, the fire which shot from and success at the English or American his brilliant eyes, imparted an effect to the continually-charming accents of his voice of which the most accomplished his labors are incessantly prosecuted in actor might be proud. At one moment his office for at least twelve hours out of countenance distorted with passion, he al and vivacious of companions. So far poured out a tide of invectives. The from being affected by this intense labor effect on his audience was electric-one his physique exhibitis a scarcely perceptible change from that which he exhibisparkling eyes and trembling limbs, as ted when he was a leader at our bar, and at that of the United States Supreme Court, a Senator from Louisiana and when Secretary of State of the Confedeter or Clay. He was keen in the obser- rate States fourteen years ago. His hair still maintains its raven hue, unfrosted by sixty-seven years of trial and labor; his flashing eyes have all their old brilliancy, needing no aid of glasses to perform their work, and his handsome face wears still that winning smile which is rarely preserved by masculine countenances and is one of the happiest constituents of womanly beauty. The only perceptible change observable in his manner is in be properly described as boyish in its freedom and gayety.—New Ocleans Dem-

How to Increase Egg Products .densation. Metaphors, tropes and fig-ures of all kinds were never found in his If an increase of eggs be desired in the poultry yard, before large sums of money are expended in the purchase of ever lasting layers, we would recommend the system of keeping no hens after the first, or at the most, their second year. Early pullets give the increase, and the only wonder is that people persist as they do in keeping up a stock of old hens, which one. In some parts of England it is the invariable rule to keep the pullets only one year. Feeding will do a great deal-a surprising work indeedold hens are concerned; they may put on fat, but they cannot put my of the political leaders, the great end | The tale is told, their work is over; and aim of whose statesmanship was to nothing remains to be done with them but to give them a smell of the kitchen fire, and the sooner they get that the better. Of course there are some old fa-vorites whose lives ought to be spared as long as they can send forth their representatives. Judicious mating, by which we mean the advantage of a comparatively vouthful cockerel, may be the means of even exhibition poultry making

gerat.

tion of the rule upon which we insist. A Frequent but Fatal Mistake. As the Irishman, who had just landed

their appearance from the eggs of the

relation of private and public life his to go where they were "thicker," came character was perfect. The South has to want, so those who fancy that a cough produced some able soldiers, and a or cold will cure itself, and refuse to use lew in point of military talent were his Dr. Pierce's Golden Medical Discovery. equals, but it cannot and never could boast of one more beloved, not by personal friends alone, but by every soldier blood-purifier. It speedily cures a cough and officer that served under him. His or cold, and consumption in its early dispatches, even when announcing the stages readily yields to it. It has no grandest success, were brief statements known equal in controling and curing all of facts unvarnished; many such passa | scrofulous tumors, ulcers, and eruptions Some fancy because the Discovery is ad-We are about to open the campaign.

I have prayed carnestly to God that He will enable me to pass through it in His fear knowing no greater earthly blessing than to have a constituent of the pass of than to have a conscience at ease in the would gradually overcome all faintness nausea, dizziness, weakness, and lame discharge of duty."

I left the presence of Gen. Lee impressed with the consciousness that pride, harted, revenge had no place in his noble nature, and that having lowered this process the Golden Medical Discovery cures many diseases, though all are his colors and sheathed his sword, dependent upon impoverished blood, and