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Evening Telegraph

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WEDNESDAY, DECEMBER 26, 1866.

The Rebellion and State Status. OUR Burlington correspondent writes us a long letter, reviewing our article of a few days since, concerning Senator Cowan's late speech. His entire communication is longer than we can conveniently find room for, but we very willingly give such portions of it as are essential to the discussion in hand. He

In your comments upon the quotation you make from his (Mr. Cowan's) speech, you appear to have lost sight entirely of his real position; and in your illustrations to prove its fallacy, you most un vittingly give strength to his argument. You start out with the proposition, "that the assumption that lies at the bottom of all his fallacies is, that a State cannot really do what it cannot legally do." Now, suppose as had laid down the legal postulate, that a corporation is strictly limited to those powers which are specially conferred upon it, and any attempt to exercise any powers outside those limits would make their exercise null and vold; or suppose he had said, "that any acts of a State, who, wi hout on ent of Congress, kept troops or ships of war in time of peace, entered into any agreement or compact with another State or foreign power, or engaged in war, unless invaded, or in immment danger thereof as will not adm t of delay"-that all such acts would be void. Do you doubt the truth of either of these positions? Are theynot axiomatic? And yet this is just what Senator Cowan asserted. No more, no less. Your illustrations wou d have the same application in answer to the above postulates, as in answer to the postulate taken by Senator Cowan. The logic of his argument is s'mply that, notwithstanding the ordinances of secession, the Southern States remained by legal contempla ion in the Union, disorganized by the act of their people, who attempted to maintain the ordinances of secession; but that the State was not in fault, for the reason that the offense was not committed by the State. The people who voluntarily concurred in the act were rebels against the Government of the United States, and punishable as such none the less, because they have usurped also the authority

Our chief ground of criticism upon Mr. Cowan was that, in the same speech, he took two precisely antagonistic positions; first, maintaining that the Rebellion was the work of individuals and not of the States, and next, that it was the work of the States and not of individuals. When he wished to relieve the States, in the'r corporate capacity, from all responsibility for the Rebellion, he maintained that the States could not rebel, but that it was the mere personal affair of their inhabitants. When he wished to save the Rebel inhabitants of the States from the pains and penalties of treason, he maintained that they had not committed treason, because, in waging war against the Union, they had done so in obedience to their States. It was this juggle of hiding the responsibility of the State behind the people, and the guilt of the people behind the State, for the purpose of screening both from all the consequences of the Rebellion, that we denominated "political thimblerigging." Our correspondent in his defense of Mr. Cowan conveniently overlooks this

Our correspondent seems to us to have fallen into the same fallacy that we ascribed to the gentleman whom he assumes to defend. Despite the ordinances of secession and ether revolutionary acts, he affirms that the State was without fault, "for the reason that the offense was not committed by the State." Now, in what sense was it not committed by the State? Is it denied that the State of South Carolina, for instance, as a corporate political entity, passed an ordinance of secession, confederated with several other States, raised armies, made war, etc.? It cannot be denied, except upon the assumption that these acts being "void," were not "committed" by the State; and that involves the identical tallacy which was originally exposed, viz., that a State cannot really do that which it cannot legally do.

Our correspondent seems to think that much is gained by calling the rebellious and revolutionary acts of the Southern States "void." But what is a void act? Is it an act that has not in fact been committed? If so, then it is not an act at all. A "void" act is simply one that has no legal or binding force. It lacks the element of positive legality. An illegal act is one that is contrary to law. All illegal acts are void, but not all void acts are illegal. Now, the revolutionary acts of the Southern States, such as their ordinances of secession, their formation of the so-called Confederacy, their raising of armies, and their waging war against the Union were not only "void"-that is destitute of positive legality-but they were much more; they were in the highest degree illegal-being contrary to, and forbidden by the great organic law of the nation, the Constitution.

To hold, therefore, that the States were "not in fault" because their rebellious acts were void acts, when they were also much more than void, is illogical and absurd. The very fact that these acts were not only without legal sanction, but in the highest degree illegal and revolutionary, constituted the nations great warrant for prosecuting the war.

One of the greatest elements of strength in the Rebellion was that it was not a mere insurrection, not a mere sporadic and miscellaneous movement of the people outside of their civil organizations, but that it was organized and prosecuted by the States as States, in their corporate, political capacity. By means of this they gave their movement a coherency and a power that it could not otherwise have obtained. It was essentially

a State sovereignly-movement from the start. The States seceded as States, made war as States, confederated together as States. The people acted constantly wi hin the forms of their State organizations. Why overlook these patent historic facts, and attempt by mere verbal quibbles and fallacies to make out that the States did not do anything?

The Supreme Court of the United States has fully and explicitly settled this very question. In the prize cases which came up on appeal from the District Courts of Southern New York and Massachusetts, an opinion was delivered, March 9, 1863, confined to the general questions of law which were raised by all the cases. In this decision the Court

"I hey (the applicants) coptend also that insurrection is the act of individuals, and not of a Government or sovereignty; that the individua's engaged are subjects of law; that confiscation of their property can only be effected under municipal law; that, by the law of the and, such conviction cannot take place without the conviction of the owner of some offense; and, finally, that the secession ordinances are a dlities, and ineffect sal to release any citizen from his al egiance to the national Governnent; consequently, the Constitution and laws of the United States are still operative over persons in all the States for punish neut as well as protection."

This is Mr. Cowan's case, stated better than he or his Burlington attorney has done it. But the Court goes on to reply :-This argument rests on the assumption of two pro-

established law of nations," We have sho vn that a civil war, such as that now wo e' between the Northern and Southern States, is properly conducted according to the humane regulatious of public law, as regards capture on the

positions, each of which is without foundation in the

Under the very peculier Constitution of this Government, aithough the citizens owe supremo alle gience to the Federal Government, they owe also a qualified allegiance to the State in which they are domictled; their persons and property are subject to its laws. Hence in organizing this Rebellion they have acted as States, claiming to be sovereign over all persons and property within their respective limits, and asserting a right to ab-olve their citizens from their al eg'ance to the Federal Government Several of these States have cousp'red to form a new confederacy, c'aiming to be acknowledged by the world as a sovereign S ate. Their right to do so is now being decided by wager of battle. The ports and territory of each of these States are held in hostility to the general Government. It is no loose, unorganized insurrection, having no definite bound, ary or possession, It has a boundary marked by lines of bayonets, and which can be crossed only by force. South of this line is enemy's territory, because it is claimed and he'd in possession by an organized, hostile, and belligerent power.

This decision settles the matter, both in accordance with the reason of the case and with the practice of the Government throughout the war. No metaphysical absurdities or verbal fallacies can reach the stable basis upon which it rests. This decision also affirms the right of the general Government to treat the inhabitanis of the seceded States both as public enemies and as traitors.

The true theory in regard to this whole matter is, that the moment the Southern States, as organized political communities, commenced war upon the Union, that moment they ceased to be "States in the Union," and became hostile, Reb-1, belligerent States. Their territory was still within the limits of the country, claimed and contended for by the United States, and their citizens still owed allegiance to the Federal Government; but the States themselves, as corporate organizations, had no longer any standing in the Union. When the armies of the Rebellion were overthrown, these States, although still de facto States, were properly dissolved by President Johnson, just as the "Confederacy," which they had wickedly formed, was also dissolved. And from the overthrow of these States by President Johnson, the whole subject of reconstruction must now take its practical departure. Mr. Cowan's theory is not only vicious in itself, but it has no practical relation whatever to the question as it now stands, for those old Rebel States are dead and buried with the Confederacy. It is with their successors, bistorical, not legal or constitu-

Conservative Efforts to Introduce Slavery In Maryland.

ional, that we now have to deal.

Ir would really seem that the conservative faction that is now dominant in Maryland is determined to rein'roduce slavery in that State despite the Constitution and laws of the United States. Four negroes convicted of larceny were sold at Annapolis on Saturday, by order of Judge Magruder. Some twenty or thirty farmers were present at the sale. The first one sold was John Johnson, who bid for himself; and the auctioneer taking his bid, he was finally knocked down to himself, and became his own purchaser, for \$37. Another man brought \$35, and two girls brought respectively \$22 and \$30 each.

There was an officer of the Freedmen's Bureau at the sale, and it was thought the bidding would have been more spirited but for the fact that an impression seemed to prevail that the officer in question was about to interess with the right of the purchasers and release the negroes from the custody of

the purchaser. This proceeding is a direct and flagrant violation of the Civil Rights law, which provides that no difference in punishments shall be made on account of color. But where did the supporters of slavery ever show any respect for law? This Judge Magruder is bound by his oath to support the Constitution and laws of the United States, any law of his State to the contrary notwithstanding. But what are oaths worth among Maryland con-

perjury" counsel to them. We are glad to learn that this is to be made a test case. It will be interesting to know whether a pro-slavery Maryland judge can set the laws of the United States at defiance.

servatives, after Reverdy Johnsons' "pious

But what a lesson is here for the people. The moment the conservative party obtains power, that moment it attempts to revive the old order of things, and bring back slavery .

Give it power throughout the country, and we should behold that infernal system restored in fact, if not in name, in every Southern State. The virus of slavery-worship is in the very bones of the conservatives. They will not learn anything from the tremendous events of the last five years. They would, even now, if they had the power, reverse the wheels of human progress, and carry us back to the dreary despotism of the rule of the slave power, when slave-pens stood within the shadow of the dome of the capitol, and slave-gangs blocked up the streets of Washington, and the slave hunter pursued his human chartles even upon the soil of the free

A Faise Alarm. IT is reported that the President lately, in conversation with a friend, expressed his unabated confidence in the fissi triumph of bis restoration policy! He also took occasion to condemn the project that was being agltated in Congress for the overthrow of the present State Governments at the South, and declared that it would release those State Governments from the payment of their State debts, an I impose them upon the United

We do not see how the overthrow of the present illegal State Governments at the South can impose the payment of their State debts upon the United S ates any more than President Johnson's overthrow of their predecessors involved the same result. President Johnson found a lot of illegal State Governments in existence at the South and overthrew them. Did that action of his impose the payment of the Southern State debts upon the United States? If not, how will the overthrow of the present illegal State Governments at the South do so?

An Important Creasury Decision. THE Treasury Department has decided that po trustee process, garnishment, or injunction can be recognized by the officers of the Government in respect of moneys due creditors of the United States. Reasons of high public policy, it says, forbid that the agents of the Government should be impeded in the payment for services or supplies by the acts of any one who may think or assert that he has a claim upon the public creditor. To admit such a pretension would be equivalent to placing it in the power of a few individuals, at critical junctures, to thwart the most important undertakings, or, perhaps, to stop the wheels of Government. Upon this subject reference is made to the opinions of the Attorney-General of August 5, 1364, vol. ii., p. 661, and November 9, 1811, vol. iii., p. 713, and the decision of the Supreme Court in

SPECIAL NOTICES.

Buchanan vs. Alexander (4th Howard R.,

20), which fully sustains the views expressed

by the Department.

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