

The Democratic Watchman.

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NO 46

The Muse.

WE SHALL MEET AGAIN.

BY JOHN P. MITCHELL.

We parted just six months ago
In sadness and in tears,
And though, by time, six months are traced,
It seems as many years.

And what are years but figures, traced
By Time's relentless pen,
To mark his own unending flight?
What knoweth he of men?

Hours have their records written, too,
By powers within the soul,
Which but begin their fadeful life
When time has ceased to roll.

What cares the heart of man for all
The paltry marks of time,
When, o'er eternity's wide world,
He traces his path sublime!

How vain to measure out by days,
Or seek to bind by years,
Emotions which immortal are
As Time's eternal cause.

A soul may live a score of years
While Time records a day,
And in a year, as traced by him,
Long lives may slip away.

A single night of anguish deep
A day of darkest woe,
And hopes that then so brightly burned,
Now dwell in shades of snow.

So life is measured by the soul,
Not by the distant sun,
And laughs out to three-score years
While Time records but one.

Months by the sun, years by the heart,
Have, since we parted, fled,
And hope that then so brightly burned,
Now dwell in shades of dead.

In parting clasp I held your hand
This day six months ago,
And little dreamed that ere we met
Such changes we should know.

Since then, how many sorrows
The hand of Time has made;
How many hopes have faded,
To blossom, chest and fade.

How many hearts that beat so high,
Nor held a thought of gloom,
By Death's cold hand forever stilled,
Now slumber in the tomb.

How many souls have wandered through
The dusty light of day,
Where the days of life are ended,
And shadows darkly fall.

To the land of the "Overseer"
Where happy spirits stray,
And Time is lost forever
In an eternal day.

Many changes I have witnessed,
And some have touched me too,
Since I left so sad at parting,
Six months ago, with you.

But the heart has many feelings
Unknown to mortal eyes,
Which survive the earthly passions
And time and change defy.

Which are borrowed from the regions
Of happiness and light,
And reveal their hidden lustre
When darkest is the night.

And, though Time the heart may wither,
And Death its beating still,
Through the brain the changes
Which come to bright and kill.

True affection mocks their efforts,
Their years are but a day,
To the love which liveth ever
When time and change decay.

Perhaps we ne'er may meet until
Eternity has swept
The wide waters o'er the record
The hand of Time has kept.

But, if on earth we never meet,
My love will guide me through
The darkest shade the world can cast,
To find me—near to you.

For love, although 'twere born in Heaven's
May feed the west of earth,
But only find, when time decays,
The Eden of the birth.

A bird there is that man may hear,
The gentle carrier-deer,
Which seeks its home on tireless wing,
The moment it is free.

With cruel hand they oft have maimed
The gentle carrier-deer,
And man's cold hand has often sought
To clip the wings of love.

But, maimed and bound, love waits until
Its earthly jailers die,
To spread its tireless pinions
In its endless home on high.

And, always when I think of you,
It is my fervent prayer
That we, tho' miles be parted here,
May be united true.

Howard P. N. 1863.

Which is the largest jewel in the world?
The Emerald Isle.

When is a window like a star?
When it is sky-light.

The lady who was transported with bliss,
Has just got a ticket of leave.

The son stood still a few hours for
Johnnie. The very years stand still for
moments of thirty.

An old skipper says that it is a curious
fact that reckless captains are most
likely to be wrecked.

LEGAL.—What is a settlement of
aureynage?
When an omnibus smashes a carriage.

Why don't you keep your head out of
the window?
The next thing you know your
head will be smashed into a jelly, and your
brains will be all over my new silk dress—
that is, if you've got any—and I don't
much believe you have!

We had all mistaken the woman's soli-
tude, which at first seemed a tender regard
for the safety of her passenger; but when
the true motive "leaked out," coupled with
so equivocal a compliment to his intelli-
gence, a laugh was heard in the car, that
fairly drowned the roaring of the wheels.

Eleven thousand dollars was the amount
of one bet, just paid in Philadelphia,
on the election.

THE CONSCRIPTION.

It may be that some of our readers have not been able to understand the reports which have been published in reference to the conscription, and will therefore be glad to hear from Secretary Stanton's own lips on account of its working.

That valuable correspondent, McDermott, now of the New York Leader, thus relates an interview he had with the Secretary of War.

"I had a talk yesterday morning, with Sec. Stanton and Gen. Halleck, about the conscription."

"What," I inquired of the Secretary, "is the actual result of its operation, so far? what have you not read the official report?" he asked, "they are here—twelve volumes, let me read them to you."

"I hastened to decline, and asked him to give me a condensed statement of the facts."

"Well," said he, "the call, you know, was for three hundred thousand men. Let us take New York State as an example. Her first quota was 7,000,320.01 men. Very good. Her entire male population was enrolled, amounting to 5,000,220.91, with fifty per cent extra for exemptions, making 250,000.110.12. The rest was left for next time."

"Very good."

"Of this number one half paid the commutation fees, leaving \$750,110.012 remains."

"Very good."

"Now deduct a third of this, and, 1,750,340, are left. Then take away another third, exempted for physical causes, such as absence from home, general debility, social position, domestic difficulties, and such, and you have a remainder of 412,233."

"Very good."

"By the action of local authorities we had to procure two-thirds more, which leaves but 132,213. A final third must now be deducted for false enrollments, desertions, etc., and the result is replenished by forty three men and one third from the State of New York. Do you follow my figures?"

"How will you get the third of a man, he asked."

Stanton scratched his head. "I hadn't thought of that."

"Why," said Halleck, "we'll take a good boy."

"Or three tailors," suggested I.

"In Massachusetts," continued Stanton, "the result was less favorable. The quota was put at 3,000,220,000.2 but after we had made a deduction of three thirds, we couldn't find that there were still another third to deduct."

Governor Andrew and I were still trying to make it come out all right but we don't seem to get to the nub of the question. I think a good deal of the conscription act, as a means of raising armies yet I must allow that it has some practical difficulties."

"Governor Parker," said I, "gets over them nicely."

"Parker, of New Jersey?"

"Yes," said I.

"Ah," said I.

"Good day," said I.

"And left."

"Ever this,"

THE CONSCRIPTION ACT.

THE SUPREME COURT OF PENNSYLVANIA DECIDES THE CONSCRIPTION ACT TO BE UNCONSTITUTIONAL.

On Monday, the Supreme Court, sitting at Pittsburgh, rendered a decision in the matter of the application of three drafted men belonging to Philadelphia, who filed Bills in Equity to test the constitutionality of the Conscription Act. The applications were for injunctions to restrain the Government officers from sending the complainants into the military service. The Court decided in favor of Congress UNCONSTITUTIONAL, and grants preliminary injunctions in each case.

Kneeder vs Lane and others. Smith vs Lane and others. Nichols vs Lehman and others.

OPINION OF CHIEF JUSTICE LOWRIE.

These are three bills in equity wherein the plaintiffs claim relief against the defendant who, acting under the act of Congress of the 3d of March last, well known as the Conscription Act, claim to conscript the plaintiffs to enter the army of the United States as drafted soldiers. The claim of the plaintiffs is unconstitutional. The question is raised by a motion for a preliminary injunction, and might have been heard by a single judge. But at the request of our brother Woodward, who allowed the motion, and on account of the great importance of the question, we all agreed to sit together at the argument. But we are very sorry that we are left to consider the subject without the aid of an argument on behalf of the Government, by the proper legal officers of the Government having deemed it their duty not to appear.

For want of this assistance I cannot feel such an entire conviction of the truth of my conclusions as I would otherwise have, for I cannot be sure that I have not overlooked some grounds of argument that are of decisive importance. But the decision now to be made is only preliminary to the final hearing, and it is to be hoped that the views of the law officers of the Government will not then be withheld.

We have, however, a much greater difficulty in the decision of this question, and one that is quite inevitable. It is founded on the fact that the question has become a question of politics, and the great parties of the country have divided upon it. People have not awaited the decision of the courts on the subject, and could not be expected to do so; but have studied and decided it for themselves, or have rallied, in opposing ranks, in support of leaders who profess to have studied it and have done so. Our own history shows that our courts have no moral authority to bring such divisions into unity. That sort of authority requires a much larger degree of mutual confidence between the courts and the people than is usual in our experience, especially in times of popular excitement.

All men believe themselves impartial in the decision even of party questions, and, therefore, it is impossible for them to abandon their decisions on the mere authority of any one, unless when they feel that such divisions into unity. That sort of authority requires a much larger degree of mutual confidence between the courts and the people than is usual in our experience, especially in times of popular excitement.

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It is, therefore, a question of the mode of exercising the power of raising armies. Is it admissible to call for drafted recruits a "necessary and proper" mode of exercising this power?

The fact of rebellion would not seem to make it so, because the industry or industry of the permanent and active force of the Government for such a case is expressly provided for by the power to call forth the usually dormant force, the militia, and that, therefore, is the only remedy allowed, at least until it has been fairly tried and failed, according to the maxims, *expressio unius exclusio alterius*, and *expressio facit cessare tacitum*. No other mode can be necessary and proper so long as a provided mode remains untried; and the force of these maxims is increased by the express provision of the Constitution, that powers not granted are reserved and none shall be implied from the enumeration of those which are reserved. Amendments 9, 10. A granted remedy for a given cause would therefore seem to exclude all ungranted ones. Or, to say the least, the militia not having been called forth, it does not and cannot appear that another mode is necessary for suppressing the rebellion.

And it seems very obvious that a departure from the constitutional mode cannot be considered necessary because of any defect in the organization of the militia, for Congress has always had authority to correct this, and it cannot possibly be found in its own neglect of duty. Most of the Presidents have repeatedly called the attention of Congress to this subject, and yet it has never been adequately attended to. It does not know why it might not have been performed since this rebellion commenced, and yet I do not know that it could.

And it seems to me that this act is unconstitutional, because it plainly violates the State systems in this that it incorporates into this new national force every State citizen, except the Governor, and this execution might have been omitted, and every officer of our social institutions, clergymen, teachers, superintendents of hospitals, &c., and degrades all our State generals, colonels, majors, &c., into common soldiers, and subjects all the social, civil and military of the States to the Federal power to raise armies, potentially wipes them out altogether, and leaves the State as defenseless as an ancient city with its walls broken down. Nothing is left that has any constitutional right to stand before the will of the Federal Government.

If this be so, the party in power at any time holds all State rights in its hands. It is subject to no restraints except that of the common morality of the time and of the party, and every one knows how weak and changeable this is in times of popular excitement, when the party in power, convinced of the rightness and greatness of its own ends, thinks lightly of the modes and forms that in any way obstruct or retard their attainment. There are no constitutional restraints of this power, if it exists, and therefore, if the unsteady morality of party excitement will bear it, the party in power may require all the troops to be drafted from the opposite party or from States and sections where it prevails.

Our fathers saw these dangers, and intended the Constitution to stand as a restraint upon party power. They knew that a party in power naturally encroaches upon every institution that obstructs its will, and is inclined when its power totters, to adopt extreme, unusual and unconstitutional measures to maintain it; and they intended to guard against this. They knew how Episcopalians, Independents and Presbyterians, cavalier and roundhead, court and country, whig and tory parties, had each in turn, when in power, tyrannized over their opponents and sacrificed or endangered public liberty. They felt how great was the evil in all the partisan struggles that preceded the Revolution, and they desired power to be used against it, and they intended to guard against this. They knew how Episcopalians, Independents and Presbyterians, cavalier and roundhead, court and country, whig and tory parties, had each in turn, when in power, tyrannized over their opponents and sacrificed or endangered public liberty. They felt how great was the evil in all the partisan struggles that preceded the Revolution, and they desired power to be used against it, and they intended to guard against this.

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Our fathers saw these dangers, and intended the Constitution to stand as a restraint upon party power. They knew that a party in power naturally encroaches upon every institution that obstructs its will, and is inclined when its power totters, to adopt extreme, unusual and unconstitutional measures to maintain it; and they intended to guard against this. They knew how Episcopalians, Independents and Presbyterians, cavalier and roundhead, court and country, whig and tory parties, had each in turn, when in power, tyrannized over their opponents and sacrificed or endangered public liberty. They felt how great was the evil in all the partisan struggles that preceded the Revolution, and they desired power to be used against it, and they intended to guard against this.

teachers, and leave the State entirely disorganized; it may admit no binding rule of equality or proportion for the protection of individuals, States and sections. In all other matters of allowed contribution to the Union, duties, imposts, excises and direct taxes, the rule of uniformity, equality or proportion is fixed in the Constitution. It could not be so calling out the militia because the emergency of rebellion or invasion does not always allow of this.

But for the recruiting of the army no such reason exist, and yet contrary to the rule of other cases, it may be recruited by force, we find no regulation or limitation of the exercise of power, so as to prevent it from being arbitrary and partial, and hence we infer that such a mode of raising armies was not thought of and was not granted. If any such mode had been the intention of the fathers of the Constitution, they would certainly have subjected it to the same rule of equality or proportion, and to some restriction in favor of State rights, as they have done in other cases of compulsory contributions to Federal necessities.

We are forbidden by the Constitution from inferring the grant of this power from its not being enumerated as reserved; and the rule that what is not granted is reserved operates in the same way, and is equivalent to the largest bill of rights.

No doubt it would be unreasonable to suppose that Congress would so disregard natural rights as to take such an advantage of this want of regulation of their power, as that above indicated, but the fathers of the Constitution did presume that some such things are possible, and, they would have regulated the mode, if such a mode had been intended. It needed no regulation, if all recruits were to be obtained in the ordinary way, by voluntary enlistments.

Our jealousy of the usurpation of dominant parties is quite natural, and has been inherited through many generations of experience of cavalier and roundhead, court and country, whig and tory parties, each using unconstitutional means of enforcing the measures which they deemed essential or important for the public welfare, or of securing their own power; and the fathers of the Constitution had experienced such usurpations from the very beginning of the reign of George III, and were not at all inclined to grant powers, which, for want of regulation, might possibly become merely arbitrary. They had no experience of forced levies for the regular army, except by the States themselves, and it seems to me that they did not intend to grant such a power to the Federal Government.

Besides this, the Constitution does authorize forced levies of the militia force of the States in its organized form, in cases of rebellion and invasion, and, on the principal that a remedy expressly provided for a given case excludes all implied ones, it is fair to infer that it does not authorize forced levies in any other case or mode. The mode of increasing the military force for the suppression of rebellion being given in the Constitution, every other mode would seem to be excluded.

But even if it be admitted that the regular army may be recruited by forced levies, it does not seem to me that the constitutionality of its act is decided. The question would then take the narrower form. Is this mode of coercion