A. Hoy Esq

The Democratic Watchman.

VOL. 8. BELLEFONTE, FRIDAY MORNING, DECEMBER 11, 1863. NO 49.

The Muse.

For the Watchman.

MY MOTHER.

Affectionately dedicated to my earliest and most faithful friend.

BY JOHN P. MITCHELL.

Oh, with that name thoughts ever throng
From mem'ry's voiceless sea,
Of days, when 'mid the flowers I lived,
And danced in childish glee;
And little knew the tears you shed
Upon my thoughtless, childish head,
Were only wept for me;
And never dreamed I e'er should be,
By tem'rests, tossed on life's rough sea.

Like music, swelling low and sweet
In harmony sublime,
Comes sweeping back, at mem'ry's touch,
The far-off heavenly chime;
Your gentle voice I hear once more,
In soothing cradle-songs of yore,
Sound o'er the flood of time;
And oh, 'tis sweeter to my heart
Than all the labored notes of art.

When voices from eternity,
Their far off whispers bear,
When visions of the future's realm
Are pictured in the air,
When phantoms grimly 'round me crowd
And the sad soul to dust is bowed
In anguish and despair;
Those dear old by gone hours have power
To brightly paint life's darkest hour.

As rivers widen as they flow
Until they reach the sea;
While gazing back the flood of time,
So seems its course to me;
But still the flowery banks I view,
Where childhood's path meanders through,
And still your form I see;
Your gentle face, in kindness, beams
Like angel faces in my dreams.

In lonely hours, mysterious hands
My heart-strings oft have swept,
And waked to life, by some strange power,
Dead hopes which long have slept;
And as the past I ponder o'er,
I see why you, in days of yore,
Gazed on your child and wept;
Cold hearts have met me, and I know
What *you* had learned long years ago.

You looked with kind affection's eye,
And all my faults were few;
But man's hard heart will not decide
So partially as you;
The wounds you healed so kindly then,
Are deepened by the touch of men,
And faults that come to view,
Which you forgave for love of me,
The world's cold eye is sure to see.

Upon the stormy sea of life
The tides may ebb and flow,
And angel hands their harps may tune
To cheer my path below;
But I ne'er hope, in life, again,
Amid the stern, cold hearts of men,
Such friend as you to know;
For me you've labored, wept and prayed
And gently led me when I strayed.

And if to heaven I attain
And you have gone before,
My mother dear, I know we'll meet
Upon the shining shore;
And though on earth I never find
Another friend so true and kind
Till life's poor dream is o'er,
The lessons you have taught will come
To guide my earth-worn spirit home.

HOWARD, PA., Dec. 5th, 1863.

For the Watchman.

WHAT IS IT WORTH?

BY JOE W. FUREY.

What is it worth—this human life,
For which men wildly pray,
And catch at straws, in eager strife,
To save their mortal clay?

What is it worth—to live amid
The world's remorseless cares,
With virtue's rarest treasures hid
Beneath the rankest tares?

What is it worth? when Goodness tries
In vain to raise her head,
And Purity, affrighted, flies,
To seek the sainted dead!

What is it worth, (I ask ye men
Who live to buy and sell,)
To gain the whole of earth, and then
Sink down to endless hell?

What is it worth—when human hearts
Are lined with sordid gold,
And sympathy no love imparts
To natures stern and cold?

What is it worth—when Truth and Right
Succumb to wrong and fraud,
And Justice, shorn of all her might,
Flies, shrieking, up to God?

What is it worth? in vain, my soul
The answer, trembling, waits;
Lock'd is the Future's deathless scroll,
And barred its massive gates.

O! whitened head of hoary age,
O! youth with flowing hair,
Can ye unfold the mystic page,
And read the secret there?

And tell me what this life is worth,
This animated clay—
For what, a *wretch* like *me* had birth,
To plod my *weary way?*

A broken wreck upon the shore,
A waif upon the tide,
I mock the surges' sullen roar,
And *wish that I had died!*

For oh, my soul is deathly sick
Of human hopes and fears,
Of joys that vanish all so quick
And leave a trace of tears.

'Mid all the chambers of the dead,
In life, or up Above,
No human soul hath ever *plead*,
For *more* of *human* love!

And now, I long to lay my head
Upon some faithful breast,
And there, ere yet the spark had fled,
My soul might find its rest!

BELLEFONTE, PA., Dec. 6th, 1863.

Miscellaneous.

☞ The last news from Warsaw announces an increase of the arbitrary rule of Russia. Thousands of men and women have been seized, stripped naked to their skin, and whipped. Does this account for the Muscovite sailors now in our harbor?

☞ A great fallacy that this is a world of change.

☞ At what time of the day was Adam created!—A little before Eve.

☞ The largest room in the world is the room for improvement.

THE CONSCRIPTION ACT.

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

HENRY S. KNEEDLER, vs. David M. Lane vs. same, W. F. Nickels vs. same } Three bills equity and each on a motion in each case for special injunction.

OPINION OF JUSTICE THOMPSON.

The act of Congress under which the complainant in this case is required to enter the army of the United States as a soldier, for a period of three years or during the war, provides for the enrollment, by officers of the United States, of all persons liable to do military duty, between the ages of 20 and 45 years and classifies them.—The names of all persons thus enrolled, were required to be put into a wheel, and the requisite number for the districts with a surplus of 50 per cent, for contingencies were to be drawn thence, under the supervision of certain federal officers. Those thus drawn from the wheel, if not exempted from disability or otherwise will be compelled to serve for the period mentioned, or find acceptable substitutes, or commute the service by the payment of three hundred dollars.

Beyond all controversy this is a draft, or involuntary conscription from the militia of the State, without any requisition upon State Executives, or upon officers in command of the militia in the State, and without any reference to state authorities. Is this enactment in accordance with the federal constitution? The answer to this question determines the case, for it is not denied that the complainant is within the provisions of the act, and was drawn as and for a soldier under its provisions. He must, therefore, serve, if the act be constitutional or seek exemption under some of its provisions.

Our jurisdiction of the case, I think is plain. We have authority to restrain acts contrary to law, and prejudicial to the rights of individuals, act of 16th June 1863. If the act of Congress of 3d March, '63, under and by virtue of which the complainant is holden as a soldier, and sought to be coerced into the service, be not constitutional, the custody of his person under pretence of it, is contrary to law, and prejudicial to his interests. The injury too, if the proceeding be illegal, is undoubtedly within what is denominated irreparable injury or mischief, and hence the propriety of the specific remedy. An action for damages would perhaps not be sustainable under a recent act of Congress, but if it should be, it would be against parties who intended no injury, and from whom on account of obeying what they supposed to be law, in conducting the proceedings against him, but little could be recovered, although the soldier may have been carried to distant places, from his home, and may have undergone great hardship and vicissitudes. I dismiss this branch of the case, with this short view of it, and with the additional remark, that if our judgment is against the constitutionality of the law, the case can be removed to the federal judiciary at Washington, if the authorities there see proper, and be reviewed by the Court in the last resort in such cases, a thing which the President of the United States has, on a recent occasion, expressed a wish for, and determination to facilitate.

I now proceed to the main question. The constitution of the United States defines and enumerates the power of the General Government, and limits them by the solemn declaration that "the powers not delegated to the United States by the constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people."

The government established by the Constitution, is, therefore, a limited Government beyond the limitations of which, including necessary incidents of expressly granted powers, all exercise of authority by Congress is mere usurpation.

We should remember this in constructing the Constitution and we should remember also, that the entire machinery of Government, provided by it, was poised between checks and balances designed not only to prevent it from transcending its own orbital limits, but to guard against aggressions from other sources. The objects to be attained, as declared in the preamble must also be kept in view, when we are called to expound its provisions; and we are bound to construct it so as to preserve and advance them all. The purpose as declared in the preamble was "to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity."

Each of these objects are supposed to be secured by the Constitution, and no one of them must be overlooked in a too eager desire to lend a supposed efficiency to some other. To do so would endanger the whole. To 'provide for the common defence' is one purpose avowed for establishing the Constitutions and the duty devolves upon Congress to execute it; but it must not be executed in such a manner as to encroach on the paramount purpose of securing "the blessings of liberty to ourselves and our posterity," also declared. This is one instance to show that no legislation, nor no construction can be valid or sound which is not in harmoney with every provision of the Constitution.

In the light of these general and fundamental principles, we must investigate the grave questions presented by the bill of the complainant now before us. And here I may express my regrets, that it did not meet the views of the government official, having in charge the law department for this United States district, to appear at the argument of this case, of which they had notice, and give us the benefit of their views and researches on the momentous questions involved. It can hardly, I presume, be fairly attributable to a disregard of what might be the ultimate judicial action of the State on the question, or in contempt of State authority altogether. Whatever may have been the reason for the course adopted, the magnitude of the question involved is not at all diminished thereby, nor is our duty most carefully to examine the whole case in all its aspects, the less imperative.

Is the act of Congress approved march 3d, 1863, entitled "An Act of enrolling and calling out the national forces, and for other purposes," now familiarly known as the Conscription Act unconstitutional?

In order to provide for the common defence and thereby promote the general welfare, Congress has by the constitution power to "raise and support armies" and "to provide and maintain a navy." It was under no extraordinary pressure of circumstances or emergent necessity that this power was granted. It was deemed to be, and thereupon introduced as, a part of the ordinary machinery of government, the convention acting on an axiom as old as government itself, "that the surest means of avoiding war is to prepare for it in time of peace." Without such a power, 'it would' says Story in his commentaries on the Constitution, 1185. "present the extraordinary spectacle to the world of a nation incapacitated by a constitution of its own choice from preparing for defence before actual invasion."

It was an ordinary power not superinduced by impending war. "In the mild season of peace," says the Federalist No. 2, "with minds unoccupied by other subjects they (the convention) passed many months in cool uninterrupted and daily consultation, and finally without having been awed by power or influenced by any passion, except love for their country, they presented and recommended to the people the plan produced by their joint and unanimous councils." Is there room for a doubt that under such circumstances, the mode in which to 'raise armies" was to to be executed was the accustomed one, namely by voluntary enlistment!

At the time this was the usual mode of raising and recruiting armies in Great Britain, and the people of this country were better acquainted with the laws, customs and even habits of the people of England than of those of any other people in the world. Notwithstanding we had been at war with them, and an angry spirit had been generated between the two countries yet it is a notorious fact that their customs and laws were generally adopted in this country, and to this day continue to a great extent.—Voluntary enlistments as by contract, was the general method of raising armies there and with us prior to and at the time the Constitution was framed.

As this was the customary mode, every presumption supports the idea that this was the only mode in the minds of the framers of the Constitution. Indeed, it is a common law rule, that when anything is directed to be done without special instructions as to how the act is to be performed, the customary mode of doing it is supposed to be included in the direction. We cannot suppose that at the moment the country had achieved its liberty, at so much cost of blood and treasure, that such a despotism over the lives and liberties of men would be incorporated into the Constitution as would authorize Congress to fill the armies to be raised by conscription, as though by the agency of the press gang. This was no more in the contemplation of the convention than that the civil department of the Government should also be filled by coercive measures. Can any one now be credulous enough to believe that if a power had been supposed to exist, to raise an army not by voluntary means but by coercive, especially as there were no limits fixed as to its magnitude, that the Constitution would have been ratified by the States? This would, it seems to me be preposterous. Without such a thought once having been suggested by the oponents of the Constitution, a standing army to be raised in the usual way, was a source of many fears in the public mind.

It was thought to be dangerous to liberty in its very nature, but what would have been thought, if it had been discovered or avowed that in its creation it might be directly and openly destructive of the individual liberties of those who were to compose it, and that it might be extended to embrace all the able-bodied citizens in the States! It required many numbers of the ablest paper ever written on the Constitution, I mean the Federalist, to remove those fears See Fed. from No. 22 to 28 inclusive on this subject.

The constitution was adopted in ignorance certainly, of any such power if it does exist, and it has required the lapse of three quarters of a century to develope its latent evils. The usual evidences are all against the idea, and I think something more demonstrative will show that these evidences stand not alone against it.

The power to raise an army by conscription or coercion, (the words are nearly synonymous). A conscript is one taken by lot from a conscription (or enrollment) list, "and compelled to serve as a soldier or sailor," (Web. Dic. verb. "conscript," and rests alone on the idea that the power is *unlimited*, as to the means to be used, as well as to the numbers of which it may be composed. If there was no other power or principle in the instrument to be affected in its operation by such a view, there would be force in the idea. But the constitution must be administered so that the whole may stand in full force, unimpaired by any particular portion.

The limitation of a power may appear otherwise than by express terms. Its scope may be curtailed by the necessity to preserve some other function necessary to coexist for preservation of the whole. One object in framing the Constitution, as already remarked, was to "perpetuate the blessings of liberty." It can hardly be contended for by any one, that the execution of a power which would effectually destroy this object would be constitutional.—Again, a power so executed as to destroy the reserved rights of the States, could hardly be claimed to be constitutional.—There are, therefore, limitations as effectual as if expressed, "*ut res magis valeat quam pereat*" is a maxim out of which this grows.

A limitation of this power was undoubtedly supposed to exist in the discretion of Congress; but that cannot be relied on in this argument. To give it any force would be to allow the acts of Congress to be evidence to establish the proper discretion of Congress. This would be to argue in a circle, and would prove nothing—we are testing the acts of Congress, not by Congress, but by the Constitution. So, too, it was supposed to exist in a time when no more voluntary enlistments could reasonably be procured, or when they might not be procured rapidly enough. That this was so is demonstrable by the fact that the Constitution provides for calling out the militia when the army may not be sufficient. I use this contingent expression because I look on the army as an ordinary power, and ordinarily to be used, unless insufficient for the end in view, or the exigencies of the times. However this may be, it is absolutely certain that the military forces of the government for all purposes, were to be the army and the militia.

In the article of the Constitution containing the power to "raise and support armies," and consecutive to that and other war powers and as part of them, is the power to be found in Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasion?" "To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be *employed in the service* of the United States, reserving to the States respectively, the appointment of officers, and the authority of training the militia according to the discipline prescribed by Congress.

The army to be raised and the militia liable to be employed in the service of the United States, are the constituted military force of the Government. They co-exist, and must co-exist if the Constitution be obligatory. We sometimes employ volunteers but they are merely a form, as they are a part of the militia, and do not militate against the idea of two species of forces.—It is conceded that both may not be required in any given case, but both must exist, or rather the militia cannot be destroyed or extinguished by an Act of Congress. The Constitution forbids this by the positive injunction to provide for organizing, arming and disciplining them. They are the security of the States against the Federal Government, and their only security; for the States themselves are not allowed to support armies.

"It may safely be received as an axiom in our political system," says the *Federalist*, No. 8, "that the State governments will in all possible contingencies, afford complete security against invasions of the public liberty by the national authority." * * * "They can at once adopt a regular plan of opposition in which they can combine all the resources of the community!" How can this security be afforded against the danger of invasion of the public liberty by the National authority, unless there be some military force with which to resist it? What resources are there in a community, if all the "able-bodied men" may be absorbed in the national forces? It will at once be agreed, I think, in view of the constitutional provisions cited, that the militia, the only power of the States, must be maintained intact, and that no system is constitutional which extingnishes them. Let us inquire, therefore, whether or not, the Act of Congress of the 3d of March, 1863, known as the Conscription Act, does not in fact attempt the complete demolition of the militia of the States.

The preamble to the act sets forth the existence of insurrection and rebellion; that a military force is indispensable to suppress it; that to raise and support which, "all persons ought willingly to contribute." It is therefore enacted, Sec. I, "that all able-bodied male citizens of the United States and persons of foreign birth who shall have declared on oath their intention to become citizens in pursuance of the laws thereof between the ages of twenty and forty-five years, except as excepted, are hereby declared to constitute the *National forces* and shall be liable to perform military duty in the service of the United States, when called out by the President for that purpose." Then follow numerous provisions for classifying them, for the lottery or draft of the required number in each military district the closing up of the wheel until again required, and the order and term of service, not as militia men belonging to and officered by the States, but as a part of the army of the United States, raised and supported under the clause of the Constitution which provides for raising and supporting armies and to be officered by federal authority exclusively.

Every able-bodied man in the United States is by these provisions enrolled, and declared to constitute the national forces. This covers the entire *materiel* of the militia in the Union. All able-bodied white men between the ages of twenty and forty-five years, are liable as militia men in this Commonwealth, and it is believed that this is about or near the standard in most if not all the other States. This act is broader, both as to age and color. The specified age, however amounts to nothing, for Congress by a very slight extension of power in fixing the standard could just as well have made it to include all between the ages of eighten and sixty. Let the power be once established the right must follow, and in this way every man in public or private life in a State, between those ages, might be included. No one is exempt under the present law but the Governor. All other officers, judges, legislators, representatives in Congress, sheriff, magistrates, county and township functionaries of every description, if under forty-five, are liable now to be forced into the army or to commute by the payment of three hundred dollars, or to find substitutes. As it is, this would draw heavily upon the public and necessary local officers—but if extended to the ages of eighteen and sixty, as it could as readily be made to do, it might include all, not excepting even the Governor. Can it be that the machinery of our government is so incongruous as to admit of this? Can it for a moment be believed that the framers of the Federal Constitution intended to create such a monstrous power? One that would not only absorb the military authority of the State, but the civil also. This is exactly the principle of this enactment and to a great extent will be the practical workings of it.

I hold that the act plainly and directly destroys the militia system of the States, as recognized in the Constitution, and the acts of Congress of 1792 and 1795. By its provisions the militia are to be enrolled, as part of the NATIONAL FORCES, another term, as will be seen, for National armies, and it requires each individual so enrolled, to answer and report himself, when drawn, to the military officers of the Federal Government, under the pains and penalties prescribed for desertion. If this is not a taking possession of the entire *materiel* of the militia, and consequently the militia itself bodily, I cannot comprehend the meaning or effect of language.

The direct object of the act is to constitute the National forces of the same material as that which constitutes the militia of the State, and for that purpose a federal enrolment is made and portion so enrolled, and drawn from the wheel and separately and individually transferred to the army of the United States to be commanded not by state but by United States officers. They are henceforth not militia men but regulars.—They are to be carried into the army under the power granted to Congress "to raise and support armies;" not under that other power which authorizes Congress "to provide for calling out the militia to execute the laws, suppress insurrection and repel invasion." If called out in this capacity, it would be done by requisition of the President upon State authorities, at least upon State military officers, and then the militia would come forth in organized bodies, not as individuals, and be officered by State authority. This is widely different from directing the Federal authority to each individual—to conscript him in his individual character, and to compel him to serve not with State contingents and under State officers, but under Federal or army officers.

In short, the provisions of the Act incorporates into the Federal armies, the entire material constituting the militia, by directing their authority to them individually, without a requisition on the States, and without any power in any State to appoint a single officer to command them, although the entire force was, by the Constitution, to be, when called into the service of the United States, under the military officers of the State. Such an Act, disregarding such plain provisions of the Constitution, is certainly unconstitutional, if such a thing be possible at all of any act of Congress, and this view if correct, establishes conclusively the limitation of the power to raise and support armies.

Those enrolled and not drawn out of the wheel at the first draft, remain subject to be called out afterward. They are the *unemployed national forces*, and are declared to be subject to be called into service under the plan of the act for two years after the 1st of July succeeding the enrollment, to serve for three years or during the war. It is true when called into service, the act says they shall be "placed on the same footing in all respects as volunteers including advance pay and bounty, as is now provided by law." I presume it is not meant by this that the conscripts are to elect their own officers. But even if this were so, it would be no less a deprivation of the right of the States to appoint the officers of their militia, and unconstitutional for that reason.

As the enrollment or conscription into the national forces for two years, although unemployed, is nevertheless an incorporation of them with the national forces, it is a withdrawal of them for that period from the control of the States. The act would be worth nothing if the States might resolve that this should not be. The act of Congress is supreme or it is nothing. If it be supreme then the enrolled men can be and are directly under the federal authority all the time, and thus every citizen or enrolled person, in or out of service, may be liable to be controlled by military law all the time, if Congress chooses.

One portion of the militia conscripted and actually in the field, the balance conscripted and not yet in the field, but subject to the military authority of the United States where are the military and where is the security of the States against being entirely absorbed, and against invasions of the public liberty by the national authority, which the writers of the Federalist thought existed in the militia? It is neither in the field, nor at home, it is abolished.

Apprehensions doubtless, or just such an enactment as this now under consideration superinduced the introduction of the Bill of Rights by amendment and consent of two thirds of the States, in which is the declaration that "a well regulated militia being necessary to the security of a free State the rights of the people to keep and bear arms shall not be infringed."

I contend that the act of Congress under discussion, violates this declared right, by absorbing the militia into the army, as contra-dis-tinguished from the militia by taking all the material which constitutes the militia and calling them out individually without requisition on the States, and placing them under officers not chosen by the States.

It disregards the organization of the militia altogether, not only in providing others than militia officers, but in its total disregard of State regulations and exemptions.—*Heads* of departments of the States, Judges of the several courts, ministers of the gospel professors in colleges, school directors are exempt by our militia law. But the mode adopted for calling out the forces of the country, disregarding the militia system, disregards all these. These were within the militia itself is overthrown by the Act in question, they fall with it. It is possible that this power may be exercised, and the States live through it, but although they may not fall, their foundations will be fatally sapped, and if the precedent remain, it will in time become the authority for their extinction.

The Constitution authorizes Congress to provide for calling out the militia to suppress insurrections and repel invasions."—During the whisky insurrection in this State President Washington called upon the militia for this purpose, by a requisition on the Governor, and in person commanded them. So the militia were called out from many of the States during the war with Great *Britain*, and in every instance a requisition was made by the President upon the Governors of the States. It is true that in 1814 the question was much agitated in Congress whether or not, under the power to raise armies, the militia might not be conscripted by the Federal authority. The bill which proposed this had the sanction of high names—but it differed much from this Act and was never finally acted on, because of the termination of the war by the peace of Ghent. The discussion on this bill was able but partizan, and furnishes little aid to a judicial examination, and hence I have not recurred to it much in taking the view herein expressed. That a Government like that of Great Britain may resort to conscription to fill the ranks of her armies, and has done so on many occasions, is no argument or precedent for that practice under the Federal Constitution. Even in England this is far from the ordinary mode of recruiting the army, and it will hardly be contended that the exception to the rule will establish a custom, by which to define the meaning of the words "to raise and support armies," used in our federal constitution, so that *ex vi termini*, conscription or draft, both involuntary modes, were thereby meant.

But the precedent would go for nothing in this inquiry, even if the practice had been common in England. The difference between the construction of the British and Federal Constitutions is radical. In the former, all governmental powers not expressly prohibited to the government, may be lawfully exercised. In the latter whatever power is not expressly granted is withheld. There is no grant of such a power to the latter, as I have endeavored to show, and no restraint upon it in the former, as the exercise of it proves.

This remark is equally applicable to the difference between the State and Federal Constitutions. Between them that same difference in construction exists. The governmental powers of the States extend to all rightful subjects not prohibited—and the national only to such as are granted.—It therefore does not advance the argument a step in favor of those who contend for the constitutionality of the Conscription Act, to point to instances in which drafts have been made by State authorities. Militia duty is compulsory in all the States. They are not prohibited from compelling it any more than from compelling the payment of the taxes. It is in this way, and in this way only, in my opinion, that the national forces can be compulsorily raised; that is to say by a requisition on the State authorities for militia men in a just proportion to population.

Why have not the militia been called out in the present emergency? They are composed of the men the draft propores to furnish. They are to be governed while in the service, as Congress shall prescribe. They may be reclaimed for one, two or three years, or while the insurrection lasts, and will become just as good soldiers in the one character as the other. They are the constitutional power for that purpose, if the army be not sufficient to effect the object without them. Why not employ them? "There is but one of two alternatives," says Judge Story, "which can be resorted to in cases of insurrection, invasion, or violent opposition to the laws: either to employ regular troops or to employ the militia to suppress them." [Story on Con. sec 1201.] If it be said that the militia will be sufficient, which I deny, with equal training, I insist that the imperfection of the system is no justification for the overthrow in part or in whole, of the Constitution.

There is no thing on earth that I so much desire as to witness the suppression of this unjustifiable and monstrous rebellion. It must be put down to save the Constitution, and the constitutional means for the purpose I believe to be ample, but we gain but little if in our efforts to preserve it when assailed in one quarter, we voluntarily impair other portions of it. Its entirety is vital; it must all stand, or it will all fall; it can never be apportioned.

Believing that I have shown that the power "to raise and support armies" is limited to voluntary enlistments, and necessarily so limited that the militia of the States may remain in full force, I am impelled by no choice of alternatives, to the conclusion that as the Act of Congress transcends these limits, and by force of law attempts to abolish the militia, instead of calling on them to suppress the insurrection now so wide spread, I am of the opinion that the act of Congress is violative of the Constitution of the United States, and void.

I most sincerely confess that it would have been a much more agreeable duty to me to have been able at this time and at all times, to have given my full accord to the the measures resorted to to restore the peace and ordor of our once happy country, but looking to the Constitution, as the reasons for its provisons, and then to the solemn obligation which I have voluntarily come under to support the constitution, I cannot even at the risk of misrepresentation of motives, hesitate where the question is a judicial one, to express my unmixed convictions as I have done, of the enactment in question.

Standing recently on the gentle slopes at Runnymede, memory sent a thrill to my heart in admiration of those old Barons who stood up there and demanded from a tyrannical sovereign that the lines between power and right should be then and there distinctly marked, and all my feeling at the same moment paid an involuntary tribute of regard to the fidelity with which their decendants have maintained what they then demanded and obtained although, often overshadowed by insurrection and war. Our forefathers marked these lines in the Federal Constitution. I must adhere to them. I cannot help it, and while I live I trust to Heaven that I may have the strength to say that I will ever do so.

There is no legal authority, in my opinion in the officers of the Government to hold the complainant against his consent, I am therefore in favor of enjoining them as prayed for until further hearing and I agree to the same order in the other cases.

POLAND AND THE SOUTH.—Who ever tho't it possible that the descendants of a race which Kosciusko fought to make free would vie in attentions to the enslavers of his countrymen? Who ever dreamed that a people, whom the exiled Greeks could arouse to an enthusiastic sympathy, could wine and dine and *fete* the representatives of a land whose whole power is exerted to grind aspiring Poland to the dust? Poland asks only to be free and for the temerity is hewn asunder by colossal Russia; our "leading men" toast her sovereign, our women dance with her officers and soldiers—for what? Because to express sympathy with Poland would be self-condemnation.—To wish freedom to the deserving Poles would be treading on dangerous ground.—That is why we wine russian officers and detain her frigates in our ports, in order that each may have an ovation. Not *we*, *not* the people but the Communt party. They who seek to crush liberty at home, smile on the success which attends such efforts abroad. In praising them we magnify ourselves; or, if not, it is a fellow feeling which make us this wondrous kind. An imperial despotism and a republic wedded to the same purpose; the crushing out of liberty within their dominions! Think of it, you who ever think.—DUBUQUE HERALD.