Reconstruction of the Southern States —Decision in the Slaughter-House Cases.

In the United States Supreme Court Chief Justice Chase has delivered the opinion of the court in the case of *ex parte*, William H. McArdle, as follows:

This case came here, by appeal, from the Circuit Court of the Southern District of Mississippi. A petition for a writ of *habeas corpus* was preferred in that Court by the appellant, alleging unlawful restraint by military force.

The writ was issued, and a return was made by the military commander, admitting the restraint, but denying that it was unlawful.

It appeared that the petitioner was not in the military service of the United States, but was held in custody by military authority, for trial held in custody by military authority, for trial before a military commission, on charges preferred on the publication of articles alleged to be libellous in the newspaper of which he was the editor. Upon the hearing the petitioner was remanded to the military custody, but upon his prayer an appeal was allowed him to this Court, and upon his filing the usual appeal bonds for costs he was admitted to bail upon recognizance with sureties conditioned for his future appearance in the Circuit Court, to abide and perform the final judgment of this court.

A motion to dismiss this appeal was made here at the last term, and after argument, was denied. A full statement of the case will be found in the report of this decision; and it is, therefore, unnecessary to repeat it here.

Subsequently the case was argued with great ability and thoroughness upon the merits, and was taken under advisement by the court. It was then thus held, and before conference as to the decision proper to be made, an act was passed by Congress, returned with objections by the President, and repassed by the necessary majorities, by which, it is insisted, taken from this court jurisdiction of the appeal.

The second section of this act is as follows:

And be it further enacted, That so much of the act approved February 5, 1867, entitled an act to amend the act to establish the judicial courts of the United States, approved September 24, 1789, as authorizes an appeal from the decisions of the Circuit Court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby repealed.

The attention of the court was directed to this statute at the last term, by the counsel who expressed a desire to be heard in argument upon its effect, and the Chief Justice then announced that his place here, by his duties in the Court of Impeachment, the cause was continued under advisement.

At this term we have heard argument upon the effect of the repealing act, and will now dispose of the case.

The first question necessarily is that of jurisdiction, for if the act of March 27, 1868, takes away the jurisdiction defined by the act of February, 1867, it is useless, if not improper, for us to enter any discussion of other questions. It is quite true, as was argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is directly granted by the Constitution, subject to such exceptions, and under such regulations, as Congress shall make.

It is unnecessary to consider whether, if Congress had made no exceptions and no regulations this court might not have exercised general appellate jurisdiction under the Constitution, particularly, for among the earliest acts of Congress is the first session, was the act of September 24, 1789, to establish the judicial courts of the United States. That act provides for the organization of this court, and prescribed regulations for the exercise of its appellate jurisdiction, and the limitations of it by the Constitution and by the statute, have been the subject of frequent adjudication, and of much consideration here. In the case of Durousseau vs. The United States, reported in 6th Cranch, the rule for was carefully considered, and the court held that while "the appellate powers of this court are not given by the Judicial act, but are given by the Constitution, they are limited and regulated by that act, and by such other acts as have been passed on the subject." The court held, further, that the Judicial act was an exercise of the power given by the Constitution to Congress, "of making exceptions to the appellate jurisdiction in all the other cases before mentioned."

"They have described affirmatively," said the court, "its jurisdiction, and this affirmation of description has been understood to imply a negative on the exercise of such powers, as are not comprehended within it."

The principle that the affirmation of jurisdiction implies the negation of all such jurisdiction not affirmed, having been recognized, is long and as almost necessary consequence, that acts of Congress regulating for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it. But the exception to the appellate jurisdiction in the case before us, however, is not to be found in the affirmation of other appellate jurisdiction. It is made in terms. A provision of law affirming the appellate jurisdiction of this court, in cases of *habeas corpus*, in expressly excepted. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the Legislature. We can only examine its power under the Constitution, and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

What then is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to possess this only function remaining to the court is that of announcing the fact and dismissing the cause.

And this is not less clear upon authority than upon principle.

Several cases were cited by the counsel for the petitioner, in support of the position that jurisdiction of this case is not affected by the repealing act, but none of these, in our view, support the offered any support to it. They are all cases of exercise of judicial power by the legislature, or of legislative interference with the courts in the exercise of standing jurisdiction.

On the other hand, the general rule, supported by the best elementary writers, is that when an appeal is given, and the jurisdiction is executed, except as to transactions passed and closed. And it is never exempted, and the effect of repealing acts upon suits under acts repealed, has been determined in the Supreme Court. The subject was fully considered in Norris vs. Crocker, and more recently in Insurance Company vs. Ritchie, in both of which cases it was held that no judgment could be rendered in a suit after the repeal of the act under which it was brought and prosecuted.

It is quite clear, therefore, that this Court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction at the appeal, and judicial duty is not to entertain jurisdiction of the appeal, but simply to announce the fact and dismiss the cause.

Counsel seem to have supposed it effect be given to the repealing act in question would be a virtual exercise of power of the court in cases of which it never had jurisdiction. But an act of 1868 does not exempt from that jurisdiction any other cases, and certainly not the cases of which it never had jurisdiction. It does not affect that jurisdiction which it has previously exercised.

The appeal of the petitioner in this case must be dismissed for want of jurisdiction.

Presentation to Speaker Worthington.

Speaker Worthington, of the State Senate, on Tuesday evening, presented with a very handsome gold watch and chain, accompanied by the following letter:

Hon. Wilmer Worthington.

DEAR SIR: The undersigned respectfully request you to accept from us the accompanying testimonial of our appreciation of your services during the present session. You have been faithful, courteous and impartial, and we sincerely hope you may long enjoy the honors and the handsome testimony now offered you.

Henry White, J. W. Fisher, Jno. Stutzman, F. M. Osterhout, George Connell, G. Dawson Coleman, Jr., Wm. Ramsey, C. D. Mackey, Jr., Jacob A. G. Miller, M. B. Lowry, Russell Errett, C. E. Mehaffey, A. Wilson Thompson, E. Hasson Kerr, C. E. Stinson, J. K. Robinson, S. G. Turner, Jr., Jno. Scott, Jr., Wm. H. Taylor, R. W. Mackey and George W. Hamersley.

Speaker Worthington responded in a few appropriate remarks, which he concluded by saying he regarded as the best model of a cordial friendship, and that he never will see a town where the court is among the most prominent objects of his life.

—One New Haven editor calls another a "moral hyena," "whose foot and toe nails are foreign ships with gall and sunstroke." They appear just had an election in that part of the country.

Pennsylvania Legislature.

[CLOSE OF YESTERDAY'S PROCEEDINGS.]

SENATE.—House bill relating to survey districts in Philadelphia was voted down by a vote of 20 to 7.

House bill changing the terminus of Darby Road and Chester turnpike passed.

The House bill incorporating a company to locate the exclusive right to run omnibuses on Broad street was not called up by the Philadelphia Senators, they being opposed to giving any especial privilege to one Broad street.

The following House bills were passed:—Incorporating the Philadelphia Fountain Society; incorporating the Medical and Surgical Hospital of Philadelphia; incorporating the Great Central Inland Relief Association; Life Insurance Company; divorcing Matthew T. Baird and wife.

The bill increasing the tax on the capital of national banks from three mills to one per cent., the same to be paid by the State banks passed on a third reading.

The general militia bill was called up, and after being partly considered in the Committee of the Whole, was postponed until January 25, 1870. Adjourned.

A commission dismissing appeal was made here at the last term, and after argument, was denied. A full statement of the case will be found in the report of this decision; and it is, therefore, unnecessary to repeat it here.

Subsequently the case was argued with great ability and thoroughness upon the merits, and was taken under advisement by the court. It was then thus held, and before conference as to the decision proper to be made, an act was passed by Congress, returned with objections by the President, and repassed by the necessary majorities, by which, it is insisted, taken from this court jurisdiction of the appeal.

The second section of this act is as follows:

And be it further enacted, That so much of the act approved February 5, 1867, entitled an act to amend the act to establish the judicial courts of the United States, approved September 24, 1789, as authorizes an appeal from the decisions of the Circuit Court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby repealed.

The attention of the court was directed to this statute at the last term, by the counsel who expressed a desire to be heard in argument upon its effect, and the Chief Justice then announced that his place here, by his duties in the Court of Impeachment, the cause was continued under advisement.

At this term we have heard argument upon the effect of the repealing act, and will now dispose of the case.

The first question necessarily is that of jurisdiction, for if the act of March 27, 1868, takes away the jurisdiction defined by the act of February, 1867, it is useless, if not improper, for us to enter any discussion of other questions. It is quite true, as was argued by the counsel for the petitioner, that the appellate jurisdiction of this court is not derived from acts of Congress. It is directly granted by the Constitution, subject to such exceptions, and under such regulations, as Congress shall make.

It is unnecessary to consider whether, if Congress had made no exceptions and no regulations this court might not have exercised general appellate jurisdiction under the Constitution, particularly, for among the earliest acts of Congress in its first session, was the act of September 24, 1789, to establish the judicial courts of the United States. That act provides for the organization of this court, and prescribed regulations for the exercise of its appellate jurisdiction, and the limitations of it by the Constitution and by the statute, have been the subject of frequent adjudication, subjects of consideration here. In the case of Durousseau vs. The United States, reported in 6th Cranch, the rule for was carefully considered, and the court held that while "the appellate powers of this court are not given by the Judicial act, but are given by the Constitution, they are limited and regulated by that act, and by such other acts as have been passed on the subject." The court held, further, that the Judicial act was an exercise of the power given by the Constitution to Congress, "of making exceptions to the appellate jurisdiction in all the other cases before mentioned."

"They have described affirmatively," said the court, "its jurisdiction, and this affirmation of description has been understood to imply a negative on the exercise of such powers, as are not comprehended within it."

The principle that the affirmation of jurisdiction implies the negation of all such jurisdiction not affirmed, having been recognized, is long and as almost necessary consequence, that acts of Congress regulating for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it. But the exception to the appellate jurisdiction in the case before us, however, is not to be found in the affirmation of other appellate jurisdiction. It is made in terms. A provision of law affirming the appellate jurisdiction of this court, in cases of *habeas corpus*, in expressly excepted. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the Legislature. We can only examine its power under the Constitution, and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

What then is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to possess this only function remaining to the court is that of announcing the fact and dismissing the cause.

And this is not less clear upon authority than upon principle.

Several cases were cited by the counsel for the petitioner, in support of the position that jurisdiction of this case is not affected by the repealing act, but none of these, in our view, support the offered any support to it. They are all cases of exercise of judicial power by the legislature, or of legislative interference with the courts in the exercise of standing jurisdiction.

On the other hand, the general rule, supported by the best elementary writers, is that when an appeal is given, and the jurisdiction is executed, except as to transactions passed and closed. And it is never exempted, and the effect of repealing acts upon suits under acts repealed, has been determined in the Supreme Court. The subject was fully considered in Norris vs. Crocker, and more recently in Insurance Company vs. Ritchie, in both of which cases it was held that no judgment could be rendered in a suit after the repeal of the act under which it was brought and prosecuted.

It is quite clear, therefore, that this Court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction at the appeal, and judicial duty is not to entertain jurisdiction of the appeal, but simply to announce the fact and dismiss the cause.

Counsel seem to have supposed it effect be given to the repealing act in question would be a virtual exercise power of the court in cases of which it never had jurisdiction. But an act of 1868 does not exempt from that jurisdiction any other cases, and certainly not the cases of which it never had jurisdiction. It does not affect that jurisdiction which it has previously exercised.

The appeal of the petitioner in this case must be dismissed for want of jurisdiction.

CITY BULLETIN.

WOMEN'S SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS.—A meeting of ladies to form a branch society of the Pennsylvania Society for the Prevention of Cruelty to Animals, was held yesterday, at the residence of Mr. Wahl, 923 Walnut street, Mrs. Mary Estelle acting as temporary president, and Miss S. L. Baldwin as secretary pro tem. The object of the meeting having been explained, a committee was appointed on permanent organization, who reported the following as officers:—President—Mrs. Caroline E. White; Vice Presidents—Mrs. Deborah Smith, Mrs. Dr. Joseph Parrish, Mrs. Charles S. Ogden, Miss Ellen Wahl, Mrs. Mary C. Cox, Mrs. George Pitt, Mrs. Rhea Barton, Mrs. Phœbe Clapp, Mrs. Alex. Brown; Corresponding Secretary—Miss S. L. Baldwin; Recording Secretary—Miss Elizabeth Morris; Treasurer—Mrs. Craig D. Ritchie. The report was unanimously accepted, and Mrs. White took the chair.

On motion of Miss S. L. Baldwin, it was resolved that a Board of Managers, consisting of twenty-four members, from which committee shall be drawn, be created. Mrs. Mary Estelle, Mrs. Aubrey H. Smith, Miss R. G. Stevenson, Miss Annie Griffith, Miss Sallie M. Wain, Miss Elizabeth R. Smith, Mrs. M. G. Hoyt, Miss Davidson, Mrs. Sidney Mason, Miss S. L. Baldwin, Miss Lewis, Mrs. Samuel Parrish were appointed as a portion of the board. It is proposed to make this branch as effective as the parent society, and in order to do so, it is intended to employ an agent, who shall devote his entire time and energy to the control of this society. This will carry a day as possible. The fee for admission to membership was fixed at one dollar, in order to give a place to within the reach of all who feel interested in the matter. The meeting then adjourned.

FOUR DWELLINGS BURNED.—Four two and a half story frame buildings, located on West minster avenue, Kensington, were burned last night, early opposite the Cathedral Cemetery, in the Twenty-fourth Ward, were entirely destroyed by fire about 2 o'clock this morning. Loss between $5000 and $6000; partly insured in the Fire Association. The firemen were compelled to obtain a supply of water from a distant source, as there being no hydrants in the neighborhood.

ARREST OF A PICKPOCKET.—Before Alderman Kerr, Joseph Francis had a hearing, charged with the theft of a pocket-book from Mrs. Florence, residing at No. 2024 Delancy place. Officer Foster, of the Central District, testified that the pocket-book was called to Francis at Sixteenth and Locust streets, by several lads, who alleged that he had picked a lady's pocket. Witness followed the prisoner to the corner of Eighth and Locust, where he was seized by the pocket-book away, but it was dropped and picked up by a citizen. When searched at the station house, a "dolly" was found secreted on his possession. He was held to bail in answer.

LARCENY.—Benjamin Harris, colored, had a hearing before Alderman Beitler, charged on the oath of Duffield Ashmead with the theft of books, in sheets, from No. 724 Chestnut street, valued at $100. The property stolen is $167 20. The prisoner was arrested by Detective Levy as he was about to sell the plunder at a store in Decatur street. He was bound over for trial.

IMPORTATIONS.

Reported for the Philadelphia Commercial Exchange and Philadelphia Board of Trade.

CLEARED.—Bark Ida Wilson, Jacksonville, Fla—Workman & Co.

ARRIVALS AT OCEAN STEAMERS.

FROM	TO	DATE
Liverpool	New York	April 3
Liverpool	New York via Halifax	March 27
Liverpool	New York	March 31
Glasgow	New York	April 3
Liverpool	New York	April 3
Southampton	New York	April 3
Havre	New York	April 3
Liverpool	New York	April 3
Glasgow	New York	April 3
Liverpool	New York	April 3
Liverpool	New York	April 3
Glasgow	New York	April 3
Liverpool	New York	April 3
Liverpool	New York	April 3
Liverpool