# COLUMBIA DEMOCRAT,

## AND BLOOMSBURG GENERAL ADVERTISER.

LEVI L. TATE, Editor. "TO HOLD AND TRIM THE TORCH OF TRUTH AND WAVE IT O'ER THE DARKENED EARTH." $2 00 PER ANNUM.

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### THE OLD-NEW.

BY GEO. L. TAYLOR.

A year has gone, a year has come,
The world grows old and older;
The pulse of Time beats faint and numb,
His heart grows cold and colder.

The ages march in grandeur,
With none but God to listen;
And o'er the wreck of star and sun
New suns and systems glisten.

There is no old there is no new;
What hath been is forever;
God lives unchanged all changes through,
And rests nor wearies never.

God fills the years, and fills the spheres
With life and joy supernal;
The glow that warms, the light that cheers,
Are his own smile eternal.

## SPECIAL MESSAGE.

TRANQUILIZING MEASURES—SECESSION UNLAWFUL—CONGRESS TO DETERMINE ON COERCION.

*To the Senate and House of Representatives:*

At the opening of your present session, I called your attention to the dangers which threatened the existence of the Union. I expressed my opinion freely concerning the original causes of those dangers, and recommended such measures as I believed would have the effect of tranquilizing the country, and saving it from the peril in which it had been needlessly and most unfortunately involved. Those opinions and recommendations I do not propose now to repeat. My own convictions upon the whole subject remain unchanged. The fact that a great calamity was impending over the nation was even at that time acknowledged by every intelligent citizen. It had already made itself felt throughout the length and breadth of the land. The necessary consequences of the alarm thus produced were most deplorable. The imports fell off with a rapidity never known before except in time of war in the history of our foreign commerce. The Treasury was unexpectedly left without the means which it had reasonably counted upon to meet the public engagements; trade was paralyzed; manufactures were stopped; the best public securities suddenly sunk in the market; every species of property depreciated more or less; and thousands of poor men, who depended upon their daily labor for their daily bread, were turned out of employment.

I deeply regret that I am not able to give you any information upon the state of the Union which is more satisfactory than what I was then obliged to communicate. On the contrary, matters are still worse at present than they then were. When Congress met, a strong hope pervaded the whole public mind that some amicable adjustment of the subject would speedily be made by the representatives of the States and of the people, which might restore peace between the conflicting sections of the country. That hope has been diminished by every hour of delay; and as the prospect of a bloodless settlement fades away, the public distress becomes more and more aggravated. As evidence of this, it is only necessary to say that the Treasury notes, authorized by the act of December last, were advertised according to the law, and that no responsible bidder offered to take any considerable sum at par at a lower rate of interest than twelve per cent. From these facts it appears that, in a Government organized like ours, domestic strife, or even a well-grounded fear of civil hostilities, is more destructive to our public and private interests than the most formidable foreign war.

In my annual message, I expressed the conviction, which I have long deliberately held, and which recent reflection has only tended to deepen and confirm, that no State has a right, by its own act, to secede from the Union, or throw off its Federal obligations at pleasure. I also declared my opinion to be, that even if that right existed, and should be exercised by any State of the Confederacy, the executive department of this Government had no authority, under the Constitution, to recognize its validity by acknowledging the independence of such State. This left me no alternative, as the chief executive officer under the Constitution of the United States, but to collect the public revenues, and to protect the public property, so far as this might be practicable under existing laws. This is still my purpose. My province is to execute, and not to make, the laws. It belongs to Congress, exclusively, to repeal, to modify, or to enlarge their provisions, to meet exigencies as they may occur. I possess no dispensing power.

I certainly had no right to make aggressive war upon any State; and I am perfectly satisfied that the Constitution has wisely withheld that power even from Congress. But the right and the duty to use military force defensively against those who resist the Federal officers in the execution of their legal functions, and against those who assail the property of the Federal Government, is clear and undeniable.

But the dangerous and hostile attitude of the States towards each other has already far transcended and cast in the shade the ordinary executive duties already provided for by law, and has assumed such vast and alarming proportions as to place the subject entirely above and beyond executive control. The fact cannot be disguised that we are in the midst of a great revolution. In all its various bearings, therefore, I commend the question to Congress, as the only human tribunal, under Providence, possessing the power to meet the existing emergency. To them exclusively belongs the power to declare war, or to authorize the employment of military force in all cases contemplated by the Constitution; and they alone possess the power to remove grievances which might lead to war, and to secure peace and union to this distracted country. On them, and on them alone, rests the responsibility.

The Union is a sacred trust, left by our revolutionary fathers to their descendants; and never did any other people inherit so rich a legacy. It has rendered us prosperous in peace and triumphant in war. The national flag has floated in glory over every sea. Under its shadow American citizens have found protection and respect in all lands beneath the sun. If we descend to considerations of purely material interest, when, in the history of all time, has a confederacy been bound together by such strong ties of mutual interest? Each portion of it is dependent on all, and all upon each portion, for prosperity and domestic security. Free trade throughout the whole supplies the wants of one portion from the productions of another, and scatters wealth everywhere. The great planting and farming States require the aid of the commercial and navigating States, to send their productions to domestic and foreign markets, and to furnish the naval power to render their transportation secure against all hostile attacks.

Should the Union perish in the midst of the present excitement, we have already had a sad foretaste of the universal suffering which would result from its destruction. The calamity would be severe in every portion of the Union, and would be quite as great, to say the least, in the southern as in the northern States. The greatest aggravation of the evil, and that which would place us in the most unfavorable light both before the world and posterity, is, as I am firmly convinced, that the secession movement has been chiefly based upon a misapprehension at the South of the sentiments of the majority in several of the northern States. Let the question be transferred from political assemblies to the ballot-box, and the people themselves would speedily redress the serious grievances which the South have suffered. But, in Heaven's name, let the trial be made before we plunge into armed conflict upon the mere assumption that there is no other alternative. Time is a great conservative power. Let us pause at this momentous point, and afford the people, both North and South, an opportunity for reflection. Would that South Carolina had been convinced of this truth before her precipitate action! I therefore appeal through you to the people of the country to declare in their might that the Union must and shall be preserved by all constitutional means. I most earnestly recommend that you devote yourselves, exclusively, to the question how this can be accomplished in peace. All other questions, when compared to this, sink into insignificance. The present is no time for palliations. Action, prompt action, is required. A delay in Congress to prescribe or to recommend a distinct and practical proposition for conciliation, may drive us to a point from which it will be almost impossible to recede.

A common ground on which conciliation and harmony can be produced, is surely not unattainable. The proposition to compromise by letting the North have exclusive control of the territory above a certain line, and to give southern institutions protection below that line, ought to receive universal approbation. In itself, indeed, it may not be entirely satisfactory; but when the alternative is between a reasonable concession on both sides and a destruction of the Union, it is an imputation upon the patriotism of Congress to assert that its members will hesitate for a moment.

Even now the danger is upon us. In several of the States which have not yet seceded, the forts, arsenals, and magazines of the United States, have been seized. This is by far the most serious step which has been taken since the commencement of the troubles. This public property has long been left without garrisons and troops for its protection; because no person doubted its security under the flag of the country in any State of the Union. Besides, our small Army has scarcely been sufficient to guard our remote frontiers against Indian incursions. The seizure of this property, from all appearances, has been purely aggressive, and not in resistance to any attempt to coerce a State or States to remain in the Union.

At the beginning of these unhappy troubles, I determined that no act of mine should increase the excitement in either section of the country. If the political conflict were to end in a civil war, it was my determined purpose not to commence it, nor even to furnish any excuse for it by any act of this government. My opinion remains unchanged, that justice, as well as a sound policy, requires us still to seek a peaceful solution of the questions at issue between the North and South. Entertaining this conviction, I refrained even from sending reinforcements to Major Anderson, who commanded the forts in Charleston harbor, until an absolute necessity for doing so should make itself apparent, lest it might unjustly be regarded as a menace of military coercion and thus furnish, if not a provocation, at least a pretext for an outbreak on the part of South Carolina. No necessity for these reinforcements seemed to exist.

I was assured by distinguished and upright gentlemen from South Carolina, that no attack on Major Anderson was intended but that on the contrary it was the desire of the State authorities, as much as it was my own, to avoid the fatal consequences which must inevitably follow a military collision.

And here I deem it proper to submit, for your information, copies of a communication dated the 28th of December, 1860, addressed to me by R. W. Barnwell, J. H. Adams and James L. Orr, Commissioners from South Carolina, with accompanying documents and copies of my answer thereto, dated the 31st of December.

The further explanation of Major Anderson's removal from Fort Moultrie to Fort Sumpter, it is proper to state that, after my answer to the South Carolina Commissioners, the War Department received a letter from that gallant officer, dated on the 27th of December, 1860, (the day after the movement,) from which the following is an extract:—

"I will add, as my opinion, that many things convinced me that the authorities of the State designed to proceed to a hostile act."

Evidently referring to the orders, dated December 11, of the late Secretary of War.

"Under this impression, I could not hesitate that it was my solemn duty to move my command from a fort which we could not probably have held longer than forty eight or sixty hours, to this one, where my power of resistance is increased to a very great degree."

I will be recollected that the concluding part of these orders was in the following terms:

"The smallness of your force will not permit you, perhaps, to occupy more than one of the three forts; but an attack on or attempt to take possession of either one of them will be regarded as an act of hostility, and you may then put your command into either of them which you may deem most proper to increase its power of resistance. You are also authorized to take similar defensive steps whenever you have tangible evidence of a design to proceed to a hostile act."

It is said that serious apprehensions are to some extent entertained that the peace of this District may be disturbed before March next. In any event it will be my duty to prevent it, and this duty shall be performed.

In conclusion, it may be permitted to me to remark, that I have oftened warned my countrymen of the dangers which now surround us. This may be the last time I shall refer to the subject officially. I feel that my duty has been faithfully, though imperfectly performed, and whatever the result may be, I shall carry to my grave the consciousness that I at least meant well for my country.

(Signed) JAMES BUCHANAN.

Washington City, Jan. 8, 1861.

## Personal Liberty Laws.

IMPORTANT CORRESPONDENCE—LETTER FROM JUDGE LEWIS.

PHILADELPHIA, Dec. 29, 1860.

To the Hon. Ellis Lewis, late Chief Justice of the Supreme Court of Pennsylvania:

DEAR SIR:—We have observed in the *Public Ledger*, of this city, of this date, an article purporting to be an extract of a letter from the Hon. John Sherman, a member of the House of Representatives of the United States for the State of Ohio, addressed to Charles B. Trego, Chairman, of a Committee of the People's Party of Philadelphia, by whom Mr. Sherman had been invited to partake of a public dinner gotten up for social and political purposes. In the extract alluded to we notice with with surprise the following language:

"I am therefore, opposed to any change of the Constitution, and to any compromise that will surrender any of the principles sanctioned by the people in the recent contest. *If the Personal Liberty Bills of any State infringe upon the Constitution, they should at once be repealed.* Most of them have slumbered upon the statute books for years. *They are now* seized upon by those who are plotting disunion as a pretext. *We should give them no pretext.* It is always right and proper for each State to apply to State laws the test of the Constitution. It is a remarkable fact, that neither of the border free States—New Jersey, Pennsylvania, Ohio, Indiana, Illinois nor Iowa—have any such upon their statute books. The laws of these States against kidnapping are similar to those of Virginia & Kentucky. *The laws of other States, so called, have never operated to return a single fugitive slave, and may be regarded simply as a protest of those States against the harsh features of the Fugitive Slave law.*"

Believing, as we do, that Mr. Sherman, in the above extract, has either ignorantly or wilfully mistated the facts as regards the laws of Pennsylvania, commonly called Personal Liberty laws, we respectfully ask from you, in reply to this, your views upon the subject. Your high character as a jurist and statesman warrants us in asking this much of you at a time when correct information on this subject is of so much importance to the proper understanding of the question as to what is the meaning and purport of the provisions of the law of 1847, and those of the Revised Penal Code of Pennsylvania, touching the reclamation of fugitives from labor, &c.

Trusting that you will at your earliest convenience favor us with a reply for publication, we remain, very respectfully, your obedient servants.

THOMAS C. MACDOWELL,
A. DEKALB TARR.

WEST PENN SQUARE,
PHILADELPHIA, Jan. 3, 1861.

*Gentlemen*:—Yours of the 29th ult., is before me. You quote from the eloquent letter of the Hon. John Sherman, some remarks relative to what are called "Personal Liberty Bills" of several of the States, including Pennsylvania, in which he intimates that there are none upon the statute books which infringe upon the Constitution of the United States. You think that he is mistaken as regards the acts of Pennsylvania, and you ask my views on the subject.

At such a gloomy period in our history, when our great and prosperous nation, with the best form of government that ever was devised, is rapidly approaching dissolution, every word and act should be governed by such influences as usually control the solemn scenes of the death bed. Party schemes, pride of opinion, ambitious aspirations, and all uncharitable feeling should give place to the high and holy considerations of true patriotism. The truth should be spoken fully and fearlessly without regard to personal consequences; and at the same time, with kindness and respect for the opinions of those who see the matter in a different light.

The Constitution of the United States declares that fugitives from labor, coming from one State into another, "shall be *delivered up* on claim of the party to whom such labor shall be due." This clause imposes an *active* duty upon the State. A *passive* acquiescence in the efforts of the owner to recover his property is not a fulfilment of the obligation. If the State throws no obstructions in the way of the owner it is certainly better than open and active nullification; but it is not a fulfillment of her obligation to "deliver up" the fugitive within her jurisdiction. It is true that this is one of the duties in reference to which coercion cannot be used against a State. The federal government may use its civil and military power to execute its own Fugitive Slave Law and to nullify all unconstitutional obstructions created by the States, but it cannot compel the States to fulfil their obligations to pass laws in accordance with this provision of the Constitution. The moral obligation is none the less on this account. With honest men a *word* is as good as a *bond*. Pennsylvania gave her *word* when she agreed to the Federal Constitution: she has superadded her *oath*; for all officers of the State, from the highest to the lowest, ever since the Constitution was adopted, have been solemnly sworn to support it. The act of 25th March, 1826, was passed in fulfilment of this obligation. Its general provisions were satisfactory to the parties interested, but the first section of the act was construed to deny the right of recaption, which was a Common Law incident of ownership, expressly protected by the act of Congress of 12th of February, 1793. For the exercise of this right, a man named Prigg, agent for a slave owner, was convicted of the crime of kidnapping, under the *first* section of the act 1826.—The Supreme Court of the United States reversed the judgment, and decided that the said section of the State act was unconstitutional. This was the only question that arose in the cause. But unfortunately for the peace of the country, Judge Story, who delivered the opinion of a majority of the Court, volunteered an opinion that *all* State legislation, including acts in favor of surrendering fugitives from labor to their owners, was unconstitutional, null and void. One of the reasons assigned on the record for this extraordinary doctrine, was, that a State might "dole out its own remedial justice or withhold it at pleasure," and "might greatly embarrass or delay the exercise of the owners' rights," and "that the nature and object of the provision imperiously require that, to make it effectual," it should be construed to "be exclusive of State authority." This captivating view of Southern rights by a learned judge from Boston, won over three Southern judges, against the arguments and remonstrances of Chief Justice Taney, Judge Daniel Thompson and others. It is a remarkable fact that in the life of Judge Story, written by his son, it is recorded that the Judge, when he returned to Boston, spoke of this opinion as "a great point gained for liberty," "so great a point indeed," adds the biographer, that the Judge "repeatedly and earnestly spoke of it to his family and intimate friends as being a triumph of freedom." The son undertakes to explain what was meant by "a triumph of freedom," by adding, "a triumph of freedom, because it promised *practically* to nullify the act of Congress, it being generally supposed to be impracticable to reclaim fugitive slaves, in free States, *except with the aid of State legislation and State authority!*" (Life of Judge Story, 2d vol., p. 393.) A regard for the reputation of this eminent jurist, suggests the hope that the son misunderstood the language of the father. Be that as it may, the judges who concurred in that mischievous heresy, "sowed the wind," and the nation is "reaping the whirlwind." The free States, justly indignant at this denial of their authority on grounds which impugned their integrity, and glad to be relieved from a very painful duty, repealed all their acts for the surrender of fugitive slaves, and withdrew all aid, of every description, in execution of the Fugitive Slave Law. In the excitement of the times, they also passed laws which seriously embarrassed the slave owner in the exercise of his rights. The Pennsylvania act of 3d March, 1847, is the act chiefly complained of. Its penal provisions were substantially re-enacted on the 31st March, 1860, having been reported for re-enactment by the Commissioners to Revise the Penal Code. It is proper to bear in mind that this legislation was chiefly founded on the *dictum* of the judges in Prigg's case, on a question which did not arise in the cause, and which they had no right to discuss or decide; and the opinion on that question was therefore, not a *judicial decision*, and ought not to have been respected as such. I am not aware that it ever was regarded in our courts of justice; I certainly disregarded it, and took cognizance repeatedly under the act of 1826, notwithstanding the *dictum* in Prigg's case until the act was repealed. This view of the case has since been sustained by the *unanimous* decision of the Supreme Court of the United States, in the case of Moore vs. the people of Illinois, 14 Howard's Reports 14. The constitutional obligation of the State to "deliver up" fugitive slaves, therefore, remains as binding as it was before Prigg's case was decided. The cause which produced most of the unjust legislation on this subject having thus been removed, there is now no reason why justice and comity should not be restored by wiping from our statute books every unjust or unfriendly enactment.

The 5th and 7th sections of the act of 3d March, 1847, and the 95th sections of the new penal code, passed 31st March, 1860, are now in force. I proceed, according to your request, to give my views of those sections.

The act of Congress of 12th February, 1793, gave jurisdiction to *State* magistrates. The act of 18th September, 1850 did not repeal the act of 1793. There were no words indicating an intention to repeal. On the contrary, the last act was entitled, a *supplement* to *amend* the first.

There was no repugnancy in the provisions of the two acts, in regard to the jurisdiction of State magistrates. The rule is that when two acts in *pari materia*, *may* stand together, they are to have a concurrent operation, and one is not a repeal of the other; for "*implied* repeals are not favored by the law." But the 95th section of the Pennsylvania act of 31st March 1860, expressly prohibits all State magistrates from taking jurisdiction of fugitive slave cases "under any act of Congress." If the State had not repealed the act of 1826, or if she had made other effectual provisions for the delivery of fugitive slaves, this part of the 95th section of the act of 1860, would not be unconstitutional; but as she has made no provision of her own, and also refuses all aid in executing every federal enactment on the subject, she stands justly liable to the charge of disregarding the Constitution. Sins of *omission* may be as criminal as sins of *commission*. The circumstance that the constitutional obligation in question is of a character which must necessarily be entrusted to our own sense of justice and honor, only renders the duty to fulfill it the more imperative in the forum of conscience.

Another part of the same section prohibits the seizing of fugitive slaves "violently and tumultuously," although "under pretence of authority," and although the intention be to "carry the fugitive before a District or Circuit Judge." There is too much reason to fear that this provision may be construed to authorize the arrest of those who aid in the execution of the act of Congress. To understand its effect properly, we must remember that a fugitive slave will, in general, resist any attempt to arrest him, and that in the free State of Pennsylvania the sympathies of the bystanders will be excited in his favor. In such cases it would be impossible to arrest him without "violence and tumult."—The tendency of this enactment is to embarrass the rights of the slaveholder, and it creates an invidious distinction against his property. It establishes a statute regulation of great severity against his rights which we do not apply to our own citizens and their property.

The 96th section of the act of 1860 prohibits the sale of a fugitive slave within the State, and makes it a criminal offence in the purchaser to exercise his right of reclamation. If it be true that the right of property is not impaired by the absconding of the slave, it is equally true that the right to sell the property remains also unimpaired, because the right to sell is one of the chief incidents of ownership. If a State law may destroy one of the incidents of ownership it may destroy all. So long as the owner does not attempt to retain the slave within the State or to exercise ownership over him within our jurisdiction, except with a view to reclamation, we have no authority to interfere with his right of ownership; we are bound to deliver him up "to the person to whom the service may be due," whether he be the original owner or a subsequent purchaser. The original owner may be a female or a minor, or too poor or infirm to pursue the fugitive, or having arrested him it may become apparent that the safety and happiness of both parties would be promoted by a change of ownership. I do not perceive that the State has either interest or right to interfere with the owner in this respect.

The 5th section of the act of 3d of March, 1847, affirms the right of the State Judges "at all times to issue the writ of hebeas corpus and inquire into the causes and legality of the arrest and imprisonment of any human being within this Commonwealth." This enactment might be construed to authorize a State Judge to issue a writ of hebeas corpus for the purpose of re-examining and re-judging the decision of a federal magistrate, or interfering with his process under the act of Congress; if so, it is unconstitutional.

The assertion of a right in the State Judges to interfere *against* the execution of the law, in the same act that prohibits their action in its favor, manifest a very unfriendly spirit. The States, when they created the Federal Government, and surrendered certain powers of sovereignty to it, expressly declared that the Federal authority, within those limits, should be supreme. It follows that they have no right whatever to obstruct its legislative action by "Personal Liberty Bills," by writs of *hebeas corpus*, or by any other means.—When Pennsylvania undertook to nullify the judgement of the Federal court, by means of her military power, her own *State* Judiciary concurred with the *Federal* court in pronouncing her act void. Olmstead's case, Brightly's *Nisi Prius* Reports 9.—When the same thing was attempted, by means of the writ of *homine replegiando*, her own State court again decided against the attempt; (Wright's case, 5 S & R, 62;) and when asked to accomplish the like result, by prostituting the great writ of *hebeas corpus* to the purpose, her highest judicial tribunal decided against such abuse of the writ. Passmore Williamson's case, 2 Casey 9.

By the act of 1780 the owners of slaves were allowed to visit us, attended by a waiter or nurse acquainted with their wants and attached to their interests. They were allowed to sojourn among us six months, without destroying their rights of ownership; we never suffered any inconvenience from this civility to our Southern friends. John Randolph and his faithful *Juba*, while sojourning in Philadelphia, never did us any injury. But the 7th section of the act of 3d March, 1847, prohibits the owner from sojourning within the State "for any period of time whatever," under the penalty of forfeiting his rights of ownership. I am not prepared to say that this enactment is unconstitutional, but it exhibits an unfriendly disposition, altogether at variance with that neighborly courtesy which the citizens of sister States should extend to each other. Neighbors can do many things to annoy each other and at the same time keep within the pale of municipal law: but there is a law of love and kindness which should not be forgotten in our treatment of neighbors, especially [illegible] "do to others as we would that they should do to us."

All the offensive legislation to which I have referred ought to be repealed, and enactments ought to be substituted in fulfillment of our Constitutional duties. Pride of opinion should not stand in the way.—We may abundantly gratify that, by the reflection that the action of the State in this respect, was produced by an unfortunate and erroneous opinion given by a majority of the Judges of the Supreme Court of the United States. As that high tribunal has magnanimously corrected its error with entire unanimity, why should an upright Legislature of the great State of Pennsylvania hesitate to be equally magnanimous? Our Southern friends will certainly be liberal enough to assume their share of the blame for the past, when they reflect that three of their own Judges concurred in the erroneous doctrine which brought most of these evils upon the country. By correcting the evil, neither of the political parties can possibly gain any advantage over the other, for the error was common to both. When it was committed one party held the legislative, the other the executive power, and both concurred in the wrongful enactments. The liberal views of the Executive, and of the Speakers of the respective Houses, as expressed at the opening of the present session, justify the belief that the evils complained of will be redressed.

Yours Respectfully,
ELLIS LEWIS.

To Thomas C. MacDowell, Esq., and A. DeKalb Tarr, Esq.

AN AWFUL DEATH.—A frightful death by burning occurred last week at Columbus, Ohio. Some courtezans had been drinking to excess, when the clothes of one of them caught fire and were completely burned off her back, nothing remaining upon her but a leathern belt. Her death, says an eye witness, was awful. Those who witnessed it and heard her mingled songs, curses and prayers will never forget it.