

COLUMBIA DEMOCRAT,



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LEVI L. TATE, EDITOR.

"TO HOLD AND TRIM THE TORCH OF TRUTH AND WAVE IT O'ER THE DARKENED EARTH."

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COLUMBIA DEMOCRAT.

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SATURDAY MORNING, OCTOBER 10, 1863.

THE PRESERVATION OF THE CONSTITUTION, THE RESTORATION OF THE UNION, AND THE SUPREMACY OF THE LAWS.

—CLING TO THE CONSTITUTION, AS THE SHIPWRECKED MARINER CLINGS TO THE LAST PLANK, WHEN NIGHT AND THE TEMPEST CLOSE AROUND HIM.—*Daniel Webster.*
—"I INTEND, FOR ONE, TO REGARD AND MAINTAIN AND CARRY OUT, TO THE FULLEST EXTENT, THE CONSTITUTION OF THE UNITED STATES, WHICH I HAVE SWORN TO SUPPORT IN ALL ITS PARTS AND ALL ITS PROVISIONS."—*Daniel Webster.*
—"NO BODY OF TROOPS IN THE ARMY OF THE UNITED STATES, OR OF THE COMMONWEALTH, SHALL BE PRESENT, EITHER ARMED OR UNARMED, AT ANY PLACE OF ELECTION WITHIN THIS COMMONWEALTH, DURING THE TIME OF SUCH ELECTION."
—*35th Sec. of Act of Assembly of Pennsylvania, 2nd July 1839.*

Address from the Democratic State Central Committee.

TO THE CITIZENS OF PENNSYLVANIA:

We would respectfully and earnestly address a few words to those of you who have returned to your homes from the military service of our country. On political subjects, we address you all as citizens; it is as citizens you will attend the polls. Your State, by her laws, solemnly enjoins upon you not to approach the polls as soldiers.

On some of the questions of the day, you have had special means of observation. You have been at the South. You have seen its negro population. Many of you have come back convinced how vain and impracticable are the schemes for its instant emancipation and advancement, in prosecuting which the Abolition party disturbed the harmony of the Union, and at last involved the white race of our country in the work of mutual destruction by civil war.

You have learned, too, from your prisoners, and from the people you have been among, that it is this same scheme for elevating the negro which now protracts the war. After your first victories, the mass of the Southern people could have been brought back into the Union, under the Constitution; the secession leaders would have been left without an army; but the Abolition party dictated a policy that set aside the Constitution, and presented in its place emancipation, negro equality and general confiscation. American white men do not submit easily to terms like these, and they have afforded to the secession leaders the very means they needed to stimulate their followers to desperate and protracted resistance. Thus the war has been kept up with all its terrible expenditure of life and blood and treasure. The Abolitionists have been the best recruiting officers for Lee and Davis, for without the help of the Abolition proclamations they never could have drawn from the small white population of the States they occupy the vast armies which, in nearly every battle, have exceeded in numbers, but not in valor, the soldiers of the Union. Practically, the Abolition party at the North has proved the most useful ally to the secession leaders, for the Abolition policy has silenced and kept under the Union men of the South, of whom Mr. Lincoln said, in his first message, "It may be well questioned whether there is to day a majority of the legally qualified voters of any State, except perhaps South Carolina, in favor of disunion; there is much reason to believe that the Union men are the majority in many, if not in every other one of the so-called seceded States." Here was the weakness of the rebellion, till Abolition came to its aid and united the Southern people.

The Democracy have advocated a constitutional policy, maintaining at the North and always offering to the South, the original Constitution agreed to by our forefathers. Thus we saw a means of giving the Union men of the South the upper hand of the secessionists. This is prevented by the policy of the Abolitionists at the North; and when they lose political power here, then their twin brothers, the secessionists of the South, will fall from power there. Both look to military despotism as the means to keep their hold on power. As soldiers, you have had full experience of military rule. You know its uses, its hardships and its evils.—Necessary in armies, it is not, as you well know, a form of Government fit for a free people. The strict submission, the unquestioning obedience to every superior required by military discipline—these you agreed to give in military duties during the term of your enlistment. But do you

want to live under the same rule at home? Do you see with satisfaction "provost marshals" lording it over the Constitution and the laws, in all our peaceful towns and villages? Are they better and wiser than our judges and magistrates? You know some of them well. Some are gallant officers, but many are ignorant partisan politicians, needing as much as any men to be held in check by the law from perpetrating wrongs and falling into errors. By the Conscription act all men from the age of twenty to forty-five are made liable to military duty, and from all who may be claimed as within this class, as well as from all soldiers, the protection of civil justice is now taken away by proclamation; and no citizen is to be allowed to vindicate his right to liberty if deprived of it by any military authority. Whilst you were fighting for the Constitution, you and all of us, it seems, have lost the constitutional rights and safeguards of liberty which are our birthright as American freemen.

Stump orators, some of them political generals, forbid you to reflect on these things. They tell you now to think only of war. There is a time and place for all things. In the field you have thought and acted as soldiers. Your noble deeds prove how well you did your military duty. You will do it again when you return to the field. But if you are to be here on election day, now is the time for you to think, as free-born citizens, of the political condition of your country. We ask you to vote with us to maintain, for yourselves and your children, the free constitutional Government that your fathers left to you. Think of these things now before it is too late. The next proclamation may assail the ballot-box. Let us use it wisely while it is yet left to us.

But you are urged—perhaps you will be ordered—not to vote for the candidates of the Democracy. Why not? We cannot reply with fact or argument to the vile slang made up of vulgar abuse and political nicknames, such as "Copperheads," "traitors," "secessionists," and the like. You learned to despise these long ago, when they were poured out upon the gallant sons of Pennsylvania—upon McClellan, McCall, Patterson and many others, who have been your leaders and your comrades in the field. A life spent in honorable service of our country is no protection from partisan abuse, but rather seems to provoke it. You will judge men by their lives and characters in the past, if you wish to be sure of them in the future. When did our candidate for Governor, George W. Woodward, forget his duty in order to serve himself or his party, in any trust that Pennsylvania gave into his keeping? "He deprived the soldiers of a vote," say some of the Republican politicians. We are glad to meet a charge that has any meaning in it. We will give a few words to this.

When you come to the polls in your proper election districts, you will find that no one has deprived you of your vote.—There was a question whether the Constitution of Pennsylvania provided any means for a citizen to vote when he was absent from his home on the day of an election. Four cases of camp-voting came, about the same time, before the courts, or rather three cases. For in the case known as Shimmel-pennich's case it was proved and admitted that no votes had been really given by any one; the pretended returns were shown to be forgeries made up in Philadelphia, and as such the Courts rejected them.

The case of most importance was the case of Ewing against Thompson, well remembered in Philadelphia. The election was for Sheriff of that county, a very lucrative office, of great political importance. Mr. Robert Ewing, the Democratic candidate, had a majority, if votes given for him in the camps in Virginia could be counted. To politicians the other cases were important only because the decision in them would decide whether a Democrat or a Republican should be the Sheriff of Philadelphia. The Republicans opposed the soldiers' vote because it was for Ewing the Democratic candidate. Mr. Mann, the Republican District Attorney, made up a case by indicting a German named Kunzman for voting fraudulently in a camp in Virginia. In this case Judge Allison, of the Court of Common Pleas, a Republican, first decided that, under the Constitution of Pennsylvania, votes could not be given by soldiers who were absent from the State. A latter decision in the Supreme Court was in the case of Chase against Miller. That Court also decided that under the Constitution of Pennsylvania the voter must vote in his precinct.—

The language of the Constitution is clear. Judges have no power to alter it, though the people may do so; and a proposition to alter the Constitution in this point will come next year before the people. At present it reads thus:

"Sec. 3. In elections by the citizens, every white freeman of the age of twenty-one years, having resided in the State one year, and in the election district where he offers to vote ten days immediately preceding such election, and within two years paid a State or county tax, which shall have been assessed at least ten days before election, shall enjoy the rights of an elector." &c.

Now, the baseness of the attempt of the Republicans to excite prejudice among soldiers against the Democratic judges lies in this: The constitutional objection against the camp vote was first raised by Republicans, in order to secure the office of Sheriff of Philadelphia to the Republican candidate. The rejection of the camp vote did secure the office to the Republican candidate, Mr. Thompson, and he holds it now.

Judge Allison, Judge Reed, Judge Strong, all decided against the camp vote; but the abuse in all direction against the Democratic candidates; yet they were the judges who in the decision showed that no party feeling could sway them from doing what they knew to be their duty. For this the Democratic party honors them, and nominates them to high offices, of which they have proved worthy. Mr. Robert Ewing, who lost his case, is among their warmest supporters. If the Republican politicians can make political capital out of this matter, it will not be among honest men who want honest judges.

In giving the decision of the Court against camp vote, Judge Woodward was not forgetful of the honor due to our gallant soldiers. He said:

"It is due to our citizen soldiers to add, however, in respect to the cases of fraud that have been before us, that no soldier was implicated. The frauds were perpetrated in every instance by political speculators, who provided around the military camps, watching for opportunities to destroy true ballots and substitute false ones, to forge and falsify returns, and to cheat citizen and soldier alike out of the fair and equal election provided for by law. * * * To voluntarily surrender the comforts of home and friends and business, and to encounter the privations of the camp and the perils of war, for the purpose of vindicating the Constitution and the laws of the country, is indeed a signal sacrifice to make for the public good; but the men who do it the most cheerfully and from the highest motives would be the very last to insist on carrying with them the right of civil suffrage, especially when they see, what experience proves, that it cannot be exercised amidst the tumult of war without being attended by fraudulent practices that endanger the very existence of the right. Whilst such men fight for the Constitution, they do not expect judges to sap and mine it by judicial construction." (*Chase vs. Miller, 5 Wright's Reports.*)

Nor was he found wanting at a later period, when the gallant Army of the Potomac, inferior far in number, confronted the hosts of our invaders on the soil of Pennsylvania. Whilst bungling mismanagement delayed her own militia until New York and New Jersey got the start of us, Judge Woodward, with his two sons in the field, gave all the weight of his position and character to the call to arms. He said:

"There ought to be such an instant uprising of young men, in response to this call, as shall be sufficient to secure the public safety, and to teach the world that no hostile foot can, with impunity, tread the soil of Pennsylvania." (*Philadelphia Inquirer, June 30, 1863.*)

The Democratic party has been as much belied to you as its candidates. But many of you are Democrats, all of you have camped and marched and fought side by side with Democrats, in the service of the Union. You know whether they have been true to it and to you. Some of the best soldiers of this war are Democrats and for no other reason they have incurred the hatred of the faction whose test of merit is—devotion to the negro! In the State Legislature, in the Federal Congress your rights and interests were always maintained by representatives of the Democracy of Pennsylvania. Of its principles we can make no statement so authoritative as its platform. We cite to you from it the following resolutions:

"Resolved, That the soldiers composing our armistice are the warmest friends of our nation. Their country called, and nobly did they respond. Living, they shall know a nation's gratitude; wounded a nation's care; and dying, they shall live in our memories, and monuments shall be raised to teach posterity to honor the patriots and heroes who offered their lives at their country's altar. Their widows and orphans shall be adopted by the nation, to be watched over and cared for as objects truly worthy a nation's guardianship."

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propose it, when they are sworn to support the Constitution,—and whose offices are created and duties defined by it?

But put the question on other grounds. Republicans must admit that a State cannot change its status in the Union,—that it cannot secede—in other words, that the Union is perpetual. This admitted, what becomes of their proposition to change the condition of a State? It is in effect a disruption of the Union, and an acknowledgment that a State can be placed out of it. Again, if the people of a State cannot place themselves outside the Union, how can authorities elsewhere do so?

But, my Republican friends, carry your doctrines further, and to their legitimate conclusions. You say that insurrection in a State makes it liable to a forfeiture of its rights. If so, Pennsylvania could have been reduced to a Territory on account of the Whiskey Insurrection; Massachusetts by Shay's rebellion, South Carolina for Nullification, and Rhode Island on account of the "Dorr Rebellion." A President by odious acts could create an insurrection and then deprive a State of rights guaranteed in the constitutional contract, and enjoyed since the foundation of the Government.

The proposed policy also violates a pledge given to the people and army at the commencement of the war. Congress and the President declared in substance, that "it was not to be waged in a spirit of oppression, or for conquest, but to restore the Union, law, and order, and that when these objects were accomplished the war should cease." Under that pledge and for that purpose, this army was raised; but when a contrary doctrine was announced scarcely another regiment volunteered. It is even now broadly asserted by leading men like Sumner, Chase, Stanton and others, that the object of this war is to break down slavery,—crush and exterminate the South, and to completely destroy the Government of our fathers, by forcibly changing the status of one third of our States comprising the Union.

I have discussed this question as though we had fought our last battle—destroyed the last army, and captured the last stronghold. I doubt not we will do all this, but wish not to have the joy of victory sullied by the thought that it was accomplished over the ruins of broken laws, and an outraged Constitution.

I do not expect perfection in the Administration and know that its position is one of extreme delicacy. I have acquired, and shall in future acquiesce in every measure which is the result of lawful power; but in the name of my brethren in arms, and especially those who gave their lives to the cause, I would protest against any act or policy contrary to the Constitution—the laws—or the will of the people.

Our cause is just: Pure as the virgin stripes that wave O'er Freedom's everlasting youth, And spotless as the soldier's grave. Then let our only motto be: Our Country—Cause—and Liberty—Our Nation and our Nation's laws—The rights of freemen, freedom's cause."

SOLRAC.
Army of the Potomac, Oct. 1863.

Military Law as understood by Military Men.

In these days of military and martial law,—when the privileges of the writ of *habeas corpus* are denied citizens of peaceful and law abiding states,—when Provost Marshal's quartered in every Congressional District with greater powers than ever exercised by the State Executives it becomes the duty of every citizen to understand military law, as the civil code is fast becoming obsolete.

I propose touching only on a few points, and that for the purpose of showing that even according to the best military authorities, the Administration has committed illegal acts under pretence of "military necessity."

I quote principally from "De Hart's Military Law," written by a captain in the 2nd Artillery, for a long time the text book at West Point Academy, and now the standard Army work.

He admits the strong objections to military law and quotes as its opponents those able jurists—Sir Edward Coke, Sir Matthew Hale, and Sir William Blackstone. In fact Sir Matthew Hale said, that "military law was no law, but something indulged rather than allowed as law."

law cannot be applied for the regulation of the conduct of persons in private or civil life."

To prove the superiority of civil over military law, the author quotes the 33d Art of War which says, in substance that "all officers are required to deliver over offenders or accused persons to the civil magistrate, and to aid and assist the officers of justice in apprehending and securing the person of the accused in order to bring him to trial, the penalty denounced by the same article against any officer who shall willfully neglect, or shall refuse, upon application to deliver over such accused commissioned officer or soldier to the civil magistrate or to aid and assist the officers of justice in apprehending such accused person, is cashiering."

It is therefore, plain, that according to military authority, and the Army regulations, persons in civil or private life are not subject to military law; Vallandigham was in civil life, therefore his trial by a military Court was illegal.

Further, according to the 33d Art of war the penalty for refusing or neglecting to give up the accused person to the civil magistrate is cashiering; Burnside neglected to give up Vallandigham to the civil authorities, therefore he should have been cashiered.

This illustration is taken because it is the most prominent one; there are hundreds of like cases of the illegal experience of authority.

Ignorant persons may claim that the President as Commander-in-chief, may change these Regulations; but De Hart says explicitly "he cannot ordain any penalty for any military crime, not expressly declared by act of congress; and congress itself is restrained by the fundamental rules of a written Constitution." Scott in his military Dictionary, says, "the chief magistrate in a republic is not the fountain of all honor and power; and Congress alone has the power to raise armies and to make rules for their government and management."

Martial Law differs from military law in this; that martial law extends to all persons; military law to all military persons, but not those in a civil capacity.

De Hart considers a proclamation of martial law within the limits of the United States as unconstitutional. He says: "How and where, under particular conjunctures of the time, martial law may be declared, and by whom, is not here considered; but the proclamation of such a rule within the limits of the United States is a very questionable proceeding, and though to be an 'excess' not warranted or sanctioned by any disempower of the State. The substitution of this power for the civil courts, subjects all persons to the arbitrary will of an individual, and to imprisonment for an indefinite period, or trial by a military body. Of such high importance to the public is the preservation of personal liberty that it has been thought that unjust attacks, even upon life or property, at the arbitrary will of the magistrate, are less dangerous to the Commonwealth, than such as are made upon the personal liberty of the citizen."

Scott endorses the same sentiment, and says: "The Constitution of the United States has guarded against the effects of any declaration of martial law within the United States, by providing: 'No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case to be witness against himself, nor be deprived of life, liberty or property without due process of law,' (Art. 5, Amendments), and further, 'In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation;' (Art. 6, Amendments.)"

Military writers, therefore, claim no such powers as are usurped by Burnside, Shenck, Stanton, and others, but readily recognize the following truths: that citizens are not triable by military law, and that even when under martial law, persons not in the military service of the United States, shall not be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, "nor be deprived of life, liberty, or property, without due process of law,"

and "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

The frequent and glaring violations of these principles need no further comment from me. I wish, however, to add a few words in relation to the writ of *habeas corpus*.

Scott says, "Within the United States, the effect of a declaration of martial law would not subject citizens to trial by court-martial, and the suspension of the writ of *habeas corpus* would enable a commander to incarcerate all dangerous citizens; but when brought to trial, the citizen would necessarily come before the ordinary civil courts of the land."

D. Hart speaks of the writ of *habeas corpus* as a remedy for the abuses of military power; but in our times we have the abuse, and the remedy has been suspended! He also says that "the intervention of Congress is necessary before such suspension can be made lawful." Unquestionably, then, President Lincoln committed an illegal act, and struck down the dearest right of an American citizen, in suspending it before the "intervention of Congress."

Blackstone, in commenting on this portion of English law, which is the basis of our own, says, "the happiness of our constitution is, that it is not left to the executive power to determine when the danger of the State is so great as to render this measure (the arbitrary imprisonment of a person) expedient; for it is parliament only, or legislative power, that, whenever it sees proper can authorize the crown by suspending the *habeas corpus* for a short and limited time, to imprison suspected persons without giving any reasons for so doing."

In conclusion I wish to quote a sentiment from an eminent English writer on military law, and his remarks have the more weight when it is considered that our military law is almost wholly copied from the English.

Daphin, in his "View of the Military Force of Great Britain," says: "By the constitution of Great Britain the sovereign is vested with the supreme military authority. His orders, and his alone, are to be obeyed as long as they are in wisdom with the fundamental laws of the empire. Beyond this, obedience itself would be deemed treason to the State, whatever the rank or station of the offender."

Certainly, Americans should possess as much freedom as the country whose tyranny drove us into rebellion; and if we possess it we dare openly maintain that obedience to Pres. Lincoln, or any other person, "beyond the fundamental laws of the Union is treason, whatever the rank or station of the offender."

SOLRAC.

Army of the Potomac, Oct. 1863.

Stick This in Your Hat and Keep it There.

"I declare upon my responsibility as a Senator, that the liberties of this country are in greater danger to-day from the corruptions, and from the profligacy practiced in the various departments of the Government, than they are from the enemy in the open field.—J. P. HALE, Republican Senator from New Hampshire.

"If these infernal fanatics and Abolitionists ever get the power in their hands, they will override the Constitution, set the Supreme Court at defiance, change and make laws to suit themselves. LAY VIOLENT HANDS ON THOSE WHO DIFFER IN OPINION, or dare question their fidelity, and finally bankrupt the country and deluge it with blood.—DANIEL WEBSTER.

The Louisville Journal, one of the staunchest Union papers in the country, thus speaks of the Republicans:—"The Republican party is now an out-and-out-radical party—an Abolition party—a revolution party—a disunion party. Upon its overthrow at the ballot box depends the suppression of the rebellion, the salvation of the country, and the welfare of the cause of human liberty."

LET every citizen remember that a vote for Judge Woodward is a vote for his own personal liberty, safety and security. If your standard bearer is struck down, "Then we and you and all of us fall down, And bloody treason triumphs over us."

Governor CURTIN CAN NOT SECURE THE SUPPORT OF EITHER HIS OWN PARTY OR HIS OFFICE-HOLDERS.—Speech of Alexander Cummings before the Republican State Convention, Aug. 5, 1863.