The Pittsburgh Post.

James P. Barr, Editor & Proprietor. FRIDAY MORNING, SEPTEMBER 25, 1863. Established 1842.

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In the District Court of the United States, for the Western District of Pennsylvania.

UNITED STATES, vs. JOSEPH WILL.

Opinion of the Court by McCandless, U. S. District Judge, delivered at Williamsport, Sept. 21st, 1863.

This case was argued at Pittsburgh, with marked ability, and this opinion written there, but as it involved a principle of National importance, I have delayed the announcement of my decision, until I could have a conference with my brother, Mr. Justice Grier. I am pleased to say that we concur in opinion.

The defendant was convicted at the late term of this Court upon an indictment charging him with "obstructing, hindering and delaying" an enrolling officer in the performance of his duties. The indictment is framed under the 25th Section of the Act of the 3d of March last, commonly called the "Conscription Ac." It is moved in arrest of judgment:

1. That the Act of Congress, under which the indictment is drawn, does not provide any punishment for the offence for which the defendant is indicted.

An Act of Congress passed during the commotion of a civil war, is, sometimes, difficult of construction. Its peace and warlike provisions must be separated, and the penal sanctions applicable to the one, should not be applied to the other. I have been impressed with this distinction in examining the provisions of the Act in question. Its title indicates that it has two objects: *First*, "enrolling," and *second*, "calling out" or drafting the "National forces." The first is a peaceful measure, the other peremptory in its character and requiring *force* to support it.

Since the world began, all civilized nations at given periods in their history have ascertained not only their material wealth, but their physical force. In ancient times it was an authentic declaration, before the *Censors*, by the citizens, of their names and places of abode. In the United States, this enumeration has been once in ten years, and its primary object is to fix the rate of representation in Congress, but to this is now added a vast compendium of the National resources. When a great public emergency arises, Congress may direct another, and an intermediate enumeration for the purpose of ascertaining the power they possess to suppress insurrection or repel invasion, and this they have done in the present instance, the census of 1860 affording but an imperfect guide to the National strength in 1863. Congress had a right to suppose, and did suppose, that the enrollment would be a peaceful measure, in which there would be a general acquiescence, and which required neither penalties nor military authority to accomplish it. The National force was to be found by the same mild means that an assessor would fix the value of real estate, or other property subject to taxation. From the past history of the American people, Congress did not presume that there would be any resistance to a measure merely preliminary in its character. The Act is not for the time being only, for this register of the people is to occur every two years, and without limitation. Congress designed that the Government should at all times be ready, whether for a foreign war, or any new complication of domestic difficulties. Wise statesmen always anticipate such emergencies and provide for them. They have done so here, in trying to reduce to précision the force or power upon which they could rely to restore the rightful authority of the Government.

The first eleven sections of this Act are wholly taken up with provisions relative to the enrollment, and there is no penalty interposed for resisting the enrolling officer, or omitting to respond to his enquiries if he should choose to make them. Thus far the Act treats the enrollment as a thing complete in itself. A draft may or may not be made. That is to happen when in the judgment of the President the public safety may require it. By the twelfth section, he is then authorized to assign "to each district the number of men to be furnished by each district," and "*thereupon*" the enrolling Board shall, under the direction of the President, *make a draft*." This is the first exhibition of the warlike power. Then spring into activity the Provost Marshals, other officers and their subordinates, who are to *draw* or "call out" the people, in given classes, who have been previously enrolled. They are to answer the President's demand, or upon failure, they become, for the first time, subject to the Rules and Articles of War, except where the Act directs that they shall be turned over to the Civil authorities for trial. As was well said, upon the argument, the enrollment left every man where he was, minding his own business; the draft took the citizen from his home, his parents, his wife, or his children. Hence, Congress might well consider the enrollment able to take care of itself; while the draft should be guarded by severe penalties.

Full directions are given in the following sections, as to the mode of conducting the draft, until we arrive at the 24th and 25th, which may be termed the penal clauses of the Bill. As this Indictment derives its validity from the latter, this brings us to the consideration of the other reason assigned for arresting this Judgment, which is,

2. That the Indictment sets forth no crime for which the Defendant can be convicted.

The point is well taken. The section declares "That if any person shall resist any *draft* of men *enrolled* under this act into the service of the United States, or shall counsel or aid any person to resist any such *draft*; or shall assault or obstruct any officer *in making such draft*, or in the performance of any service in relation thereto; or shall counsel any person to assault or obstruct any such officer, or shall counsel any drafted man not to appear at the place of rendezvous, or wilfully dissuade them from the performance of military duty as required by law, such person shall be subject to summary arrest by the Provost Marshal, and shall be forthwith delivered to the civil authorities, and upon conviction thereof, be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding two years, or by both of said punishments."

It will be borne in mind that the Indictment charges that the Defendant did "assault" the "enrolling officer" and did "hinder, delay and obstruct" him, in the performance of his official duties. But the section has no reference to the enrollment except in the past tense, as a fact accomplished, an act consummated. The draft is the subject matter treated of, and the draft alone. It is the draft of men already "enrolled" under the provisions of the Act. The clause "or in performance of any service in relation *thereto*" can have for its antecedent the draft and nothing else. The sentence can bear no other gramatical construction, and that is its fair legal interpretation.

Congress having provided no penalty for obstructing the enrollment, we must take the law as we find it, and not create an offence by intendment. If experience has shown that the officers charged with this public function are not sufficiently protected, the omission can be supplied at the next session, and before by the terms of the Act, the next biennial enrollment is to take place. As the law now stands, the opinion of the Court is with the Defendant on both the points submitted, and the JUDGMENT IS ARRESTED.

This case was argued by Mr. CARNAHAN, United States District Attorney, for the Government, and by Mr. NOON, Mr. MAGEEHAN, and Mr. JOHNSTON, of Cambria County, for the Defence.

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A HIGHLY CONCENTRATED

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GERMAN BITTERS

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They will cure the above diseases in ninety-nine cases out of a hundred.

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Do you want a brisk and vigorous feeling?

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There are many preparations sold under the name of Bitters, put up in quart bottles, compounded of the cheapest whisky or common rum, costing from 20 to 40 cents per gallon, the taste disguised by Anise or Coriander Seed.

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ATTENTION SOLDIERS,

AND THE FRIENDS OF SOLDIERS

We call the attention of all having relations or friends in the army to the fact that "HOOFLAND'S German Bitters" will cure nine tenths of the diseases induced by exposures and privations incident to camp life. In the lists, published almost daily in the newspapers, on the arrival of the sick, it will be noticed that a very large proportion are suffering from debility. Every case of that kind can be readily cured by Hoofland's German Bitters. Diseases resulting from disorders of the digestive organs are speedily removed. We have no hesitation in stating that if these Bitters were freely used among our soldiers hundreds of lives might be saved, that otherwise will be lost.

We call particular attention to the following report, and well authenticated cure of one of the nation's heroes, whose life, to use his own language "has been saved by the Bitters!"

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Messrs. Jones & Evans.—Well, gentlemen, your Hoofland's German Bitters has saved my life. There is no mistake in this. It is vouched for by numbers of my comrades, some of whose names are appended, and who were fully cognizant of all the circumstances of my case. I am, and have been for the last four years, a member of Sheridan's celebrated battery, under the immediate command of Capt. R. B. Ayres. Through the exposure attendant upon my arduous duties, I was attacked in November last with inflamation of the lungs, and was for seventy two days in the hospital. This was followed by great debility, heightened by an attack of dysentery. I was then removed from the White House and sent to this city on board the steamer "State of Maine," from which I landed on the 28th of June. Since that time I have been about as low as any one could be and still retain a spark of vitality; For a week or more I was scarcely able to swallow anything, and if I did it was a morsel down, it was immediately thrown up again.

I could not even keep a glass of water on my stomach. Life could not last under these circumstances, and, accordingly the physicians who had been working faithfully, though unsuccessfully, to rescue me from the grasp of the dread Archer, frankly told me they could do no more for me, and advised me to see a clergyman, and to make such disposition of my limited funds as best suited me. An acquaintance who visited me at the hospital, Mr. Frederick Steinbron, of 6th below Arch Street, advised me as a forlorn hope, to try your Bitters and kindly procured a bottle. From the time I commenced taking them the shadow of death receded, and I am now, thank God for it, getting better. Though I have taken but two bottles, I have gained 10 pounds, and feel sanguine of being permitted to rejoin my wife and daughter, from whom I have heard nothing for eighteen months; for, gentleman I am a loyal Virginian, 12 m the vicinity of Front Royal. To your invaluable Bitters I owe the glorious privilege of again clasping to my bosom those who are dearest to me in life.

Very truly, yours, ISAAC MALONE.

We fully concur in the truth of the above statement, as we had despaired of seeing our comrade, Mr. Malone, restored to health.

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GEORGE A. ACKLEY, Co. G. 11th. Maine.
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WITH NITRATE OF SILVER,

Use CRISTADORO'S HAIR DYE,

Certified to be PURE—SAFE—UNEQUALLED, by Dr. Chilton, of New York, and other eminent Chemists.

IT PRODUCES ANY SHADE FROM rich, mellow brown to glossy black in ten minutes, and contains no ingredient that is injurious to the hair.

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Price, 50 cents $1 and $2 per bottle, according to size. jy13:&w:1me

SURGEON GENERAL HAMMOND, by ordering calomel and destructive minerals from the supply tables, has conferred a blessing on our sick soldiers. Let him not stop here. Let him order the discontinuance of "Bleeding," and the substitution of Brandreth's Pills in the place thereof. Then will commence a "new era" in the practice of Medicine, which would then become emphatically

THE HEALING ART.

I have for thirty years taught that no diseased action could be cured by mercury or tartar emetic. That the human body could only be "made whole" by "vegetable Pills." Animal food being, in fact, condensed vegetables. Brandreth's Pills should be in every military hospital. These Pills cure Bilious Diarrhea, Chronic Diarrhea, Chronic Dysentery, and all Fevers and Affections of the Bowels, sooner and more surely than any medicine in the world. Brandreth's Pills in these cases should be taken night and morning. Read Directions and get new style.

CASE OF ROSCOE K. WATSON.

Dr. B. Brandreth,—New York,

Sir: I was a private in Co. F, 17th Regiment, New York Vols. While at Harrison's Landing, and on the Rappahannock near Falmouth, I and many of the Company were sick with bilious diarrhea. The Army Surgeon did not cure us, and I was reduced to skin and bone. Among the company were quite a number of members who had worked in your Laboratory at Sing Sing. They were not sick, because they used Brandreth's Pills. These men prevailed upon me and others to use the Pills, and we were all cured in from five to five days. After this our boys used Brandreth's Pills for the typhus fever, colds, rheumatism, and in no case did they fail to restore health.

Out of gratitude to you for my good health, I send you this letter, which if necessary, the entire company would sign.

I am, respectfully yours,

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Principal office, 294 Canal street, New York.

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Empress Cloth,
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se9

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FOR SALE.

Including all the Unsold Lots in the Town of Irondale.

OWING TO A DISSOLUTION OF co-partnership, the IRONDALE IRON WORKS are offered for sale.

These works are situated at Irondale, on the Iron Mountain Railroad, 79 miles from the city of St. Louis, consisting of one hot blast Furnace, 1,000 acres of timber and farming lands, twenty dwelling houses, suitable for laborers, one large three story brick store-house, fine stable and barn, saw and corn mill, about 200,000 bushels of charcoal, 2,000 tons of iron ore on furnace yard, mules, wagons, hay, corn, oats, &c., &c. The Furnace and machinery in perfect order.

Also a contract with the American Iron Mountain Company for the delivery of their ore, having twelve years to run; large banks of hematite ore in the immediate vicinity of the Furnace. The above works are among the most desirable in the United States, and offer every inducement to persons desirous of engaging in the manufacture of iron. The above property includes the unsold lots in the town of Irondale, and if not sold at private sale before

Saturday, 10th Day of October, 1863,

will, on that day, be sold at public vendue (as a whole and without division) to the highest bidder, at the east front door of the Court House, in the city of St. Louis, at 12 o'clock, noon. Terms, half cash, balance in twelve months, with six per cent. interest, or all cash, as the purchaser may desire. For further information and particulars, apply at the office at Irondale, or to

BELT & PRIEST.

Real Estate Agents, St. Louis.

au29

NOTICE.

HAVING RECEIVED INFORMATION that persons have at different times in the name of the Subsistence Committee, solicited contributions of Fruits and Vegetables from the gardners and country people in the markets of Pittsburgh and Allegheny, we take this method of giving notice, that we never authorized any one to collect such contributions for use of the Hospital, and that contributions thus collected have never reached us.

W. P. WEYMAN,
JOS. ALEREE,
H. M. ATWOOD, } Ex. Com.

Contributions for the Subsistence Committee, should be sent to Messrs. Weyman & Son, Smithfield st. or Messrs Geo. Albree, Son & Co. Wood street. se12

NOW IS THE CHANCE to get bargains in

BOOTS, SHOES,

GAITERS and BALMORALS,

cheaper than ever auction goods,

Go to BORLAND'S.

No. 98 Market street,

Second Door from Fifth.

au22

A NEW LOT OF CLOTHES WRINGers, just received by

BECKHAM & LONG.

127 Liberty street.

ap25

CHEAP WALL PAPERS—LOWER than present manufacturer's prices, for sale by W. P. MARSHALL

my16 87 Wood St.

Banking Houses.

FIRST NATIONAL BANK

OF PITTSBURGH.

TREASURY DEPARTMENT, OFFICE OF COMPTROLLER OF THE CURRENCY, Washington City, Aug. 5th, 1863.

WHEREAS, By satisfactory evidence presented to the undersigned, it has been made to appear that the FIRST NATIONAL BANK OF PITTSBURGH, in the County of Allegheny and State of Pennsylvania has been duly organized under and according to the requirements of the Act of Congress, entitled "an Act to provide a National Currency, secured by a pledge of United States Stocks, and to provide for the circulation and redemption thereof," approved February 25th, 1863, and has complied with all the provisions of said Act required to be complied with before commencing the business of Banking.

NOW THEREFORE, I, Hugh McCulloch, Comptroller of the Currency, do hereby certify that the said FIRST NATIONAL BANK OF PITTSBURGH, county of Allegheny and State of Pennsylvania, is authorized to commence the business of Banking under the Act aforesaid.

In testimony whereof witness my hand and seal of office, this 5th day of August, 1863.

HUGH McCULLOCH, Comptroller of the Currency.

The First National Bank of Pittsburgh, Pa.,

LATE PITTSBURGH TRUST COMPANY.

Capital $400,000, with privilege to increase to $1,000,000.

The Pittsburgh Trust Company having organized under the act to provide a National Currency, under the title of the FIRST NATIONAL BANK OF PITTSBURGH, would respectfully offer its services for the collection of Notes, Drafts, Bills of Exchange, &c., receive money on deposit and buy and sell Exchange on all parts of the country.

The success which has attended the Pittsburgh Trust Company since its organization in 1852, will we believe be a sufficient guarantee that business entrusted to the new organization will receive the same prompt attention.

Having a very extensive correspondence with Banks and Bank-ers, throughout the country, we believe we can offer unusual facilities to those who do business with us.

The business will be conducted by the same officers and directors.

DIRECTORS:

James Laughlin,	Wm. K. Nimick,
Robert s Hays,	Alexander Speer,
Thomas Bell,	Francis G. Bailey,
Thos. Wightman,	Alex. Bradley.

Samuel Rea.

JAMES LAUGHLIN, President.

JOHN S. GUILLY, Cashier.

August 5th, 1863:d&wtf.

W. J. KOUNTZ.....PR. S. MERTZ

KOUNTZ & MERTZ,

BANKERS,

No. 118 Wood St., Second doo above Fifth Street,

DEALERS IN FOREIGN AND Domestic Exchange, Coin, Bank Notes, and Government Securities. Collections promptly attended to. apl1

GOLD, SILVER, DEMAND NOTES Certificates of Indebtedness, Quartermasters Certificates.

7 3-10 Bonds and Coupons,

and all other government securities, bought by

W. H. WILLIAMS & CO.,

mh5:6m d Wood street, corner of Third.

State Fair,

THE ELEVENTH ANNUAL EXHIBITION OF THE PENNA. STATE AGRICULTURAL SOCIETY, WILL BE HELD AT NORRISTOWN, MONTG'Y CO., PA., September 29th and 30th, and October 1st and 2d, 1863.

NORRISTOWN IS ABOUT 17 MILES West of Philadelphia on the Schuylkill River and is accessible by Railway to every part of the State.

The grounds are beautifully situated, containing 28 acres of ground with fine large buildings thereon erected, together with a large amount of shedding. The track is said to be one of the best half mile tracks in the State. The premiums are larger than ever offered by the Society, amounting to about $7,000. The premiums for all grades of cattle exceed $1,000, five of which are $50 each, 19 from $25 to $5, others running down to lesser rates. Best have not less than 15 head, first premium $40; second premium $25.

Horses for all grade: the premiums exceed $1350. The highest $100; 22 between $30 and 30, and others ranging from $15, 10 and 5. For sheep and swine the premiums range from $10 to 5 and $3.

For Poultry there is a long list of premiums from $2 to 1 each. In the following classes most liberal premiums are offered: Plowing, Cultivator, Drills, Wagons, Reaping and Mowing Machines, Cutters, Corn Shellers, Cider Mills, Threshers, Fanning Mills, Leather and Its Manufactures, Gas Fixtures, Marble Mantles, Butter, Flour, Grain and Seeds, Vegetables: and also for Domestic and Household Manufactures, Quilts, Carpets, Satinet, Shirting, Sheeting, Blankets, Flannels, Shawls, Knit Goods, Needle work, &c., Bread Cakes, Preserves, Jellies, &c.

Large premiums are offered for every variety of Fruits and Flowers. The Floral Tent will be the largest ever erected by the Society and will form one of the most attractive features of the Exhibition. Fruit, Grapes and Wine will be exhibited in this department.

The Pennsylvania Railroad and Norristown Railroad have engaged to carry articles for exhibition to and from the Exhibition free of freight, requiring the forwarding freight to be paid which will be repaid shipper when goods are returned to the station whence shipped. It is hoped to effect the same with other important roads.

Excursions at reduced rates will be run on all the leading Railroads.

Entries can be made at the Office in Norristown after the 4th day of September. All articles must be entered on the books on or before Tuesday evening, September 29th. Exhibitors must become members. Membership $1, with four Coupon Tickets, each of which will admit one person to the Fair once.

Single Admission.....25 cts

A List of Premiums and Regulations can be had by address, to the Secretary.

THOMAS P. KNOX, President.

A. BROWER LONGAER, Secy.

au27-dawtd Norristown, Pa.

J. DUNLEVY,

Grocer,

NO. 4 DIAMOND,

PITTSBURGH, PA.

my22:1ydaw

PITTSBURGH FEMALE COLLEGE,

REV. I. C. PERSHING, President.

BEST SUSTAINED COLLEGE IN the State. Superb buildings, to which extensive additions are making. Nineteen Teachers. Unsurpassed facilities in the ornamental Branches. Forty Dollars per term pays for all expenses in the Boarding Department except Washing and Fuel.

The Fall Term will commence on Tuesday, September 1st. Send to President Pershing for a Catalogue.

M. SIMPSON, President of Trustees.

au26:3w

NEW BOILER WORKS.

J. J. POWERS

ATTENDS TO THE MANUFACTURE of Steam Boilers, Stills, Tanks, Agitators Salt Pans, Sugar Pans, Sheet Iron Chimneys, Breechings, and all other articles usually manufactured at similar concerns.

Prompt attention paid to all kinds of repairs on reasonable terms.

Works CORNER OF LOCUST and DUQUESNE WAY, 14th Ward, Allegheny River,

jy8-1yd

H. J. LYNCH

HAVING VACATED THE FRONT of his store, No. 96 Market street, to make alterations, will be found in the new addition, in rear of old store, entrance on Market alley, first door from 5th street, where Dry Goods will be sold cheap. au15

Hydropolis, or Garden Sprinkler.

A NEW AND USEFUL ARTICLE FOR wetting plants and flowers, washing windows, carriages, &c. Pumps