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BY M'CLURE & STONER.

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PHILADELPHIA.

A startling Decision by the Supreme Court.—The Constitution Act Declared Unconstitutional by Judges Lowrie, Woodward and Thompson.—Strong and Reed Affirm It.—The Secret History of this Judicial Proceeding Against Our Nationality—Its Early Correction Assured by the Late Election.

Editorial Correspondence of The Repository.

PHILADELPHIA, Nov. 12, 1863.

The decision just rendered by a majority of the Supreme Court of Pennsylvania in Pittsburg, whereby the Conscription Act is declared unconstitutional, has just startled the loyal sentiment of all parties throughout the State. It has fallen with appalling solemnity upon men of every political persuasion, and has brought mingled shame and sorrow upon all of the Democratic faith, save only the Reeds, the Wharbons, the Ingersolls and others who are saved from open treason only by their cowardice. Hundreds of honest Democrats, who supported Judge Woodward at the late election, believing that he would maintain the right of the Republic to preserve its own life against armed treason, openly congratulate themselves and the country that Gov. Curtin was chosen over him; and were the vote to be taken to-morrow, he would be beaten by treble the majority cast against him here in October last.

It is painful to dwell upon the narrow prejudices, the petty political uses, and the controlling disappointments to which the judicial tribunal of last resort in Pennsylvania has been dwarfed. I would gladly turn from these to vindicate its unwavering dispensation of justice; its enlightened, liberal and faithful devotion to the government whose guardianship has been therein entrusted. But the spoiler has invaded the sacred sanctuary of the court, tempting its high priests with the dazzling bauble of ambition, and they have proved themselves but mortals with no common share of infirmities.

As soon as it was officially announced that the draft would be enforced in Pennsylvania to replenish the shattered ranks of our heroic armies, it was resolved, by a conclave of Democratic politicians in this city, that its constitutionality should be tested in the Courts. It was not to be done for the purpose of testing the correctness of the law so much as to accomplish certain political results. I do not know that any of the Judges of the Supreme Court were in any degree a party to the movement. Judge Woodward was then the Democratic nominee for the gubernatorial chair, and the original intention of the proceedings was to promote his election. Politicians of widely different views of party policy united in it—one party insisting that Judge Woodward should deliver the opinion of the Court affirming the law, while others hoped to have him pronounce it unconstitutional preparatory to the practical overthrow of the government after he should be elected Governor. It is not probable that he was consulted by these men, as Chief Justice Lowrie says, sought to make the Union "the sport of partizan struggles," but they confidently relied upon a Democratic court, whose members composed the entire Democratic State ticket, to yield no common degree of deference to the political necessities of the times, and to render a decision for or against the law as policy might dictate.

Accordingly a case was made up. Three conscripts were brought before Judge Woodward by petition, as soon as the draft had been made, and Gen. M. Wharton and one or two attorneys of like rebel proclivities, appeared to defend the claims of the petitioners for an injunction to restrain the officers of the draft, on the ground that the law was unconstitutional. The government did not appear by counsel, mainly, I presume, because the jurisdiction of the court was not conceded by the United States authorities, and Woodward heard the case on the petition and *ex parte* arguments against the law; but when the time arrived for a decision, he became afraid to raffle for so huge a political elephant lest he should lose his stake or win his deadliest foe in the animal. I do not conjecture when I say that the question of Judge Woodward deciding for or against the law, or not deciding at all until after the election, was the subject of repeated and grave consultations by the political leaders of his party; and that earnest and conflicting suggestions were made to him on the subject by those leaders, is not a matter of doubt. How far he deferred to them, if at all, I cannot say; but his timidity disappointed all parties when he resolved to postpone the issue and compel his associates to take their share of the responsibility. Thus was the decision postponed until after the election; and now it would seem that the defeated members of that court had aimed, with usurious vengeance, at the government of the people who had discarded them.

It is not the purpose of this letter to attempt to discuss the legal questions raised and decided in this case. But a glance at the circumstances surrounding it; the

causes which combined to produce this untimely, deformed and still-born legal birth; the men who must stand before the world stamped with the blot of its paternity, and the results hoped to be attained by it, is merited alike by the gravity of the issue, and the fearful subordination of judicial fidelity to political prejudice, intensified by a distasteful popular verdict.

Chief Justice Lowrie was the nominee of his party for re-election, and his Union competitor was chosen. He is a man of moderate abilities; of eminent piety of character, and had he been able as measured by himself, would have been above the cruel follies which come from little minds in the day of political misfortune. A seceder from the Whig faith, he naturally took on the extreme opposite view of political questions, and had he not been restrained by the judicial mantle, he would doubtless long since have been side by side with Reed, Wharbons and other renegade anti-slavery Whigs. As it was, he imagined himself a very respectable conservative, and has just cropped out a deadly but impotent foe of the Republic. He perhaps does not believe that his decision is a very humble and abortive imitation of one of old, who pulled the pillars of the temple down with him to give his enemies a common grave with himself; but it is nevertheless the truth.

It is due to him to say that he has not performed his intended work of death without some hesitation, and in decent show of deference to the claims of an imperiled Nation and the well matured opinions of men abler than himself. He admits that he has not "an entire conviction of the truth of my (his) conclusions" as he would like to have, and follows with an apology to the effect that the injunction he granted "is only preliminary to the final hearing," but upon the whole he concludes that the conscription act invades the sacred rights of the States and must therefore be void. He of course refers to the provisions of the Constitution which authorize Congress "to raise and support armies;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection and rebel invasion;" admits that it is expressly empowered to "pass all laws which shall be necessary and proper" for the purpose; and with much more candor than strength to his argument, he concludes that President Washington and Gen. Knox, his Secretary of War, in 1790, and President Madison, with Monroe as Secretary of War, in 1814, "recommenced plans of recruiting the army which were very similar to this one," but he dismisses the opinions of those eminent military and civil functionaries, who helped to create the Constitution, by saying that Congress did not adopt or discuss the measure so as to "settle the question." In this the Chief Justice has allowed his zeal to get the better of his knowledge of history. The law proposed by Madison and Monroe in 1814, which was "very similar" to the one he declares void, was well matured in the Cabinet; was passed by both branches of Congress, and failed finally on a disagreement between the two Houses, both adopted it—the Senate by a vote of 19 to 12, and the House by 84 to 72; and the clause authorizing the President to overhauled such Executives as Judge Woodward would have made had he not been second best at the late election, passed the House 87 to 42. This measure had the high sanction of Madison, of Monroe, of Giles, and of Calhoun, the father of the ultra States Rights heresy; and it was left to two discomfited Judges of Pennsylvania to signalize their overthrow, by drinking deeper at the very fountain from which has coursed gigantic treason, than did those who opened up its pestilential stream.

That Judge Woodward should decide with Lowrie, or rather have Lowrie decide with him, is only natural. Eminently able; with prejudices rising high over himself; implacably bitter, and ever the child of political misfortune, he goes at the work of striking at the vitals of the Nation with a staff before which petty treason pales. While Lowrie hesitates, pretends some deference to the fathers of the Republic who originated the measure, and approaches his conclusion with a modest trembling, Judge Woodward strikes out with a gallantry that would have made him beloved and great had it been right instead of wrong—had it been to preserve the government and not to destroy it—had his keen blade been aimed at treason instead of his own Nationality. He defers to none—concedes to none, but in relentless vengeance hurls back upon the people, whose highest office he sought in vain, a parting broadside which, however harmless here, will make every despairing traitor glad.

It is fearfully manifest that the decision rendered in Pittsburg was meant to embarrass the loyal power of the government. It was rendered in the face of two decisions given in this city—where the cases decided at Pittsburg were initiated—by the United

States Court; and also in the face of the conviction that in thirty days the same court would reverse itself, and declare for the exercise of all the powers of the Republic to preserve its life. Judge Cadwallader, a life long Democrat and one of Woodward's supporters at the late election, has rendered two decisions in the United States court here affirming the law; and the last case presented covered every question controverted before the Supreme Court of the State, and he broadly sustained it. With him sat Judge Grier of the Supreme Court of the United States, when this case was heard and decided, and the decision of Cadwallader was rendered with the concurrence of Judge Grier. Neither of these Judges would consent that our Union shall become "the sport of partizan struggles," nor did they hunt for the whining sophistry of Judge Lowrie nor the vengeance of Woodward to justify judicial suicide. The State court of last resort was hurried defiantly against the United States Court, apparently for no other purpose than to make a record of a brief and petty conflict of authority; and it was done by two defeated candidates and one—Judge Thompson—more eminent for political management than judicial learning. For the mere satisfaction of seeing an impotent blow aimed in the direction of the government,—a blow that is paralyzed by the coming of Judge Agnew in the place of Lowrie in a few days—three sore headed politicians who, in an evil hour had been made Judges, confront the authors of the constitution itself on constitutional law, and blot their own and their country's history with an exhibition showing how meanly vexed ambition dies. It has well been written—

"Swans sing before they die—

"T were well some died before they sang."

On the first Monday of December next, Judge Agnew will take the place of Lowrie, and thus give the loyal side of the court a majority. Of course the decision will be speedily reversed.

I had thought of reminding Gen. M' Clellan of Woodward's decision—of his exemplification of his "views" in favor of a "vigorous prosecution of the war," &c., but—*Nisi nisi bonum.*

Judge Strong has simply done his duty; but he deserves more than ordinary credit for it. He has defied the machinations of sore-heads and politicians, and declared unqualifiedly for his country. Judge Reed of course was faithful to the high trust reposed in him.

A. K. M.

BRIEF WAR ITEMS.

Thirty Paymasters have gone down to pay off the Army of the Potomac.

Gen. Burnside's resignation is accepted, and Gen. Foster will succeed him, in command of the Army of East Tennessee.

The secession papers of Canada admit the failure of the rebel plot to burn Buffalo and other towns, and release the prisoners at Sandusky.

Thomas Francis Meagher, has been reinstated in the rank of Brig. Gen., with permission to recruit it to its complement of his old Irish Brigade.

Jeff. Davis has recently sent commissions to the most notorious bushwhackers in Arkansas for the purpose of raising men to carry on the guerrilla warfare.

A letter from Little Rock on the 6th inst., says that Price and Holmes are still at Marshal, Texas. There are very few confederate troops, except cavalry at present in the State of Arkansas.

Gen. Peck has made reconnaissance of the Chowan river, North Carolina, to the mouth of the Blackwater. This point is 250 miles from Newbern. The rebels are fearful of a movement on Weldon.

The prisoners at Belle Isle, near Richmond, are in a state of starvation, their supplies of food having been entirely cut off. This is stated on the authority of a chaplain who was exchanged last Wednesday.

A Union prisoner in Richmond has managed to send to Washington that the rebel authorities, having fully determined to starve all their prisoners to death, have stopped the meat rations to those in the Libby prison.

Gov. Bramlette has issued his proclamation seconding the President's call for troops. It is business-like and patriotic. His appeal to Kentuckians to come forward and fill the ranks of their thin regiments in the field is eloquent.

A few days since a party of rebel guerrillas, under the command of Capt. Beale, landed on the eastern shore of Virginia, near Drummondtown. Before they had time to make a thieving expedition into the interior they were all captured.

Gen. Averill's victory at Droop Mountain was most decisive. The rebels acknowledge that out of a force of 4000 they lost over 800 in killed and wounded. Averill took over 100 prisoners, one flag, three guns and a large quantity of small arms, wagons, &c.

It is officially stated that 4,000 refugees from northern Alabama and Georgia have arrived in Nashville since last August, and been variously provided for by the Government. Most of them have been sent North. They were in a deplorably destitute condition, having been robbed of everything by the rebels.

The town of Arkadelphia was taken by a Union force on the 28th ult. Subsequently the salt works at that place were destroyed.

Brig. Gen. Garfield recently tendered his resignation to the President, for the purpose of taking his seat in Congress, to which he has been elected. The only reply he received was a commission for him as Major General of volunteers, for gallant services at the battle of Chickamauga.

Gen. Meade has sent to Washington his official account of the late engagements on the Rappahannock. The only new point in this report is that Gen. Sedgwick captured 4 guns, 8 battle flags and over 1500 prisoners; French took over 400 prisoners; Sedgwick's loss about 300 killed and wounded, and French's about 70.

At last we have the details of the reported disaster to Gen. Burnside. It appears that it occurred at Rodgersville, Hawkins county, Tenn., about fifteen miles from Knoxville, and at the termination of a branch railroad. The rebels captured six hundred men and four cannon. No mention is made of the number of killed and wounded. The main body is in an impregnable position, where it was when Rosecrans was attacked.

THE BATTLE OF GETTYSBURG.

Official Report of Gen. Meade.

A Summary of the Results of the Battle.

Headquarters Army of the Potomac, Oct. 1.—To Gen. Halleck.—General: I have the honor to submit herewith a report of the operations of this army during the month of July, including details of the battle of Gettysburg, which have been delayed by failure to receive the reports of the several Corps and Division Commanders, who were severely wounded in battle. On the 28th of June I received orders from the President placing me in command of the Army of the Potomac. The situation of affairs was briefly as follows: The Confederate army, which was commanded by Gen. R. E. Lee, was estimated at over one hundred thousand strong. All that army had crossed the Potomac river and advanced up the Cumberland Valley. Reliable intelligence placed his advance thus:—Ewell's corps on the Susquehanna, Harrisburg and Columbia. Longstreet's corps at Chambersburg, and Hill's corps between that place and Cashtown.

The 28th of June was spent in ascertaining the positions and strength of the different corps of the army, but principally in bringing up the cavalry which had been covering the rear of the army in its passage over the Potomac, and to which a large increase had just been made from the force previously attached to the defenses of Washington.

Orders were given on this day to Major Gen. French, commanding at Harper's Ferry, to move with seven thousand men to occupy Frederick and the line of the Baltimore and Ohio Railroad, with the balance of his force, estimated at four thousand, to remove and escort public property to Washington.

On the 29th the army was put in motion, and on the evening of that day it was in position, the left at Emmetsburg, and the right at New Windsor. Buford's division of Cavalry was on the left flank, with his advance at Gettysburg.

Kilpatrick's division was in the front at Hanover, where he encountered this day Gen. Stuart's Confederate cavalry, which had crossed the Potomac at Soper's creek, and passing our right flank, was making its way towards Carlisle, having escaped Gregg's division, which was delayed in taking position on the right flank by the occupation of the roads by a column of infantry.

On the 30th the right flank of the army was moved up to Manchester, the left still being at Emmetsburg, or in that vicinity, at which place three corps, First, Eleventh and Third, were collected under the orders of Major Gen. Reynolds. Gen. Buford having reported from Gettysburg the appearance of the enemy on the Cashtown road in some force, Gen. Reynolds was directed to occupy Gettysburg.

On reaching that place on the 1st of July, Gen. Reynolds found Buford's Cavalry warmly engaged with the enemy, who had debouched his infantry through the mountains on Cashtown, but was being held in check in the most gallant manner by Buford's Cavalry. Major Gen. Reynolds immediately moved around the town of Gettysburg, and advanced on the Cashtown road, and without a moment's hesitation deployed his advance division, and attacked the enemy, at the same time sending orders for the Eleventh Corps, Gen. Howard, to advance as promptly as possible.

Soon after making his disposition for attack, Major Gen. Reynolds fell mortally wounded, the command of the First Corps devolving on Major Gen. Doubleday, and the command of the field on Major Gen. Howard, who arrived about this time (11:30 A. M.) with the Eleventh Corps, then commanded by Major Gen. Schurz. Major General Howard pushed forward two divisions of the Eleventh Corps, to support the First Corps, now warmly engaged with the enemy, on a ridge to the north of the town, and posted his Third Division, with three batteries of artillery, on the cemetery ridge, on the south side of the town.

Up to this time the battle had been with the forces of the enemy debouching from the mountain on the Cashtown road, known to be Hill's corps. In the early part of the action the success was on the enemy's side. Wadsworth's division of the First Corps having driven the enemy back some distance, captured numerous prisoners, among them Gen. Archer, of the Confederate army.

The arrival of reinforcement to the enemy on the Cashtown road, and the junction of Ewell's Corps coming in on the York and Harrisburg roads, which occurred between one and two o'clock P. M., enabled the enemy to bring vastly superior forces against both the First and Eleventh Corps, outflanking our line of battle and pressing it so severely that about 4 o'clock P. M. Maj. Gen. Howard deemed it prudent to withdraw these two corps to the Cemetery ridge, on the south side of the town, which operation was successfully accomplished; not, however,

without considerable loss in prisoners, arising from the confusion incident to portions of both corps passing through the town, and the men getting confused in the streets. About the time of the withdrawal, Major Gen. Hancock arrived, whom I had dispatched to represent me on the field, on hearing of the death of Gen. Reynolds.

In conjunction with Major Gen. Howard, Gen. Hancock proceeded to post the troops on Cemetery Ridge, and to repel an attack that the enemy made on our right flank. This attack was not, however, very vigorous, the enemy seeing the strength of the position occupied, seemed to be satisfied with the success he had accomplished, desisting from any further attack this day.

About 7 o'clock P. M., Major Gens. Slocum and Sickles, with the Twelfth Corps, and part of the Third, reached the ground, and took post on the right and left of the troops previously posted. Being satisfied, from reports received from the field, that it was the intention of the enemy to support, with his whole army, the attack already made, and reports from Major Gens. Hancock and Howard on the character of the position being favorable, I determined to give battle at this point, and early in the evening first issued orders to all corps to concentrate at Gettysburg, directing all trains to be sent to the rear at Westminster, at 11 P. M. first.

I broke up my head-quarters, which till then had been at Taneytown, and proceeded to the field, arriving there at 1 A. M. of the second. So soon as it was light I proceeded to inspect the position occupied and to make arrangements for posting several corps as they should reach the ground.

By 7 A. M. the Second and Fifth Corps, with the rest of the Third, had reached the ground, and were posted as follows:—The Eleventh Corps retained its position on Cemetery Ridge, just opposite to the town; the First Corps was posted on the right; the Eleventh on an elevated knoll connecting with the ridge and extending to the south and east, on which the Twelfth Corps was placed, the right of the Twelfth Corps resting on a small stream at a point where it crossed the Baltimore pike, and which formed on the right flank of the Twelfth something of an obstacle.

Cemetery Ridge extended in a westerly and southerly direction, gradually diminishing in elevation till it came to a very prominent ridge called "Round Top," running east and west. The Second and Third Corps were directed to occupy the continuation of Cemetery Ridge on the left of the Eleventh Corps, and Fifth Corps, pending the arrival of the Sixth Corps, was held in reserve. While these dispositions were being made the enemy was massing his troops on an exterior ridge, distant from the line occupied by us from a mile to a mile and a half.

At 2 P. M. the Sixth Corps arrived, after a march of thirty-two miles, which was accomplished from 9 P. M. of the day previous. On its arrival being reported I immediately directed the Fifth Corps to move over to our extreme left and the Sixth to occupy its place as a reserve for the fight.

About 3 P. M. I rode out to the extreme left to await the arrival of the Fifth Corps and post it, when I found that Maj. Gen. Sickles, commanding the Third Corps, not fully apprehending my instructions in regard to the position to be occupied, had advanced, or rather was in the act of advancing, his corps some half mile or three quarters of a mile in the front of the line of the Second Corps on a prolongation which it was designed his corps should rest.

Having found Maj. Gen. Sickles, I was explaining to him that he was too far in the advance, and discussing with him the propriety of withdrawing, when the enemy opened upon him with several batteries in his front and his flank, and immediately brought forward columns of infantry, and made a vigorous assault. The Third Corps sustained the shock most heroically. Troops from the Second Corps were immediately sent by Maj. Gen. Hancock to cover the right flank of the Third Corps, and soon after the assault commenced.

The Fifth Corps most fortunately arrived, and took a position on the left of the Third, Maj. Gen. Sykes, commanding, immediately sending a force to occupy "Round Top" ridge where a most furious contest was maintained, the enemy making desperate but unsuccessful efforts to secure it. Notwithstanding the stubborn resistance of the Third Corps, under Maj. Gen. Birney (Maj. Gen. Sickles having been wounded early in the action), superior in numbers of corps of the enemy enabling him to outflank its advanced position, Gen. Birney was counseled to fall back and reform, behind the line originally desired to be held.

In the meantime, perceiving the great exertions of the enemy, the Sixth Corps, Maj. Gen. Sedgwick, and part of the First Corps, to which I had assigned Maj. Gen. Newton, particularly Lockwood's Maryland Brigade, together with detachments from the Second Corps, were all brought up at different periods, and succeeded, together with a gallant resistance of the Fifth Corps, in checking, and, finally, repulsing the assault of the enemy, who retired in confusion and disorder about sunset, and ceased any further efforts on our extreme left.

An assault was, however, made about 8 P. M., on the Eleventh Corps, from the left of the town, which was repelled with the assistance of troops from the Second and First Corps. During the heavy assault upon our extreme left, portions of the Twelfth Corps were sent as reinforcements.

During their absence the line on the extreme right was held by a very much reduced force. This was taken advantage of by the enemy, who, during the absence of Geary's Division of the Twelfth Corps, advanced and occupied part of the line.

On the morning of the third, Gen. Geary, having returned during the night, attacked at early dawn the enemy and succeeded in driving him back and reoccupying his former position. A spirited contest was maintained all the morning along this part of the line. Gen. Geary, reinforced by Wheaton's Brigade of the Sixth Corps, maintained his position and inflicted very severe losses on the enemy.

With this exception our lines remained undisturbed till 1 P. M. on the 3d, when the enemy opened from over 125 guns, playing upon our centre and left. This cannonade continued for over two hours, when, our guns failing to make any reply, the enemy ceased firing, and soon his masses of infantry became visible, forming for an assault on our left and left centre.

with equal firmness by the troops of that corps, supported by Doubleday's Division and Stannard's Brigade of the First Corps. During this assault both Maj. Gen. Hancock, commanding the left centre, and Brig. Gen. Gibson, commanding the Second Corps, were severely wounded.

This terminated the battle, the enemy retiring to his lines, leaving the field strewed with his dead and wounded, and numerous prisoners in our hands. Buford's division of cavalry after its arduous service at Gettysburg, on the first, was, on the second, sent to Westminster to rest and guard our trains. Kilpatrick's Division, that on the 29th, 30th, and 1st had been successfully engaging the enemy's cavalry, was, on the 3d, sent on our extreme left, on the Emmetsburg road, where good service was rendered in assaulting the enemy's line and occupying his attention.

At the same time Gen. Gregg was engaged with the enemy on our extreme right, having passed across the Baltimore pike and Bonough town roads, and boldly attacked the enemy's left and rear. On the morning of the 4th the reconnoissances developed that the enemy had drawn back his left flank, but maintained his position in front of our left, apparently assuming a new line parallel to the mountains.

On the morning of the 5th it was ascertained that the enemy was in full retreat by the Fairfield and Cashtown roads. The Sixth Corps was immediately sent in pursuit on the Fairfield road, and the cavalry on the Cashtown road, and by Emmetsburg and Monterey passes. The 5th and 6th of July were employed in securing the wounded and burying the dead.

Major Gen. Sedgwick, commanding the Sixth Corps, having pushed on in pursuit of the enemy as far as the Fairfield pass in the mountains, and reporting that Pass as very strong, and one in which a small force of the enemy could hold in check and delay considerable time, and boldly attacking the enemy's left and rear. On the morning of the 4th the reconnoissances developed that the enemy had drawn back his left flank, but maintained his position in front of our left, apparently assuming a new line parallel to the mountains.

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