The South.

SATURDAY AFTERNOON, JULY 6, 1861.

"A WELL-REGULATED MILITIA BEING NECESSARY TO THE SECURITY OF A FREE STATE, THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS SHALL NOT BE INFRINGED.—*Constitution U. S., Amendments, article 2.*

"No Soldier shall in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.—*Const. U. S., Amendments, Art. 3.*

"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, *shall not be violated*, and no Warrant shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.—*Constitution U. S., Amendments, art. 4.*

"To secure these rights, governments are instituted among men, deriving their just powers "from the consent of the governed."—*Declaration of Independence, July 4, 1776.*

It is idle to say that the power of taxation (or, by parity of reasoning, any other power) rests on consent, provided there be a right claimed for the government to compel that consent by force.—*Say, Political Economy, Chapter on Taxation.*

"That in *all cases, and at all times*, the military "ought to be under strict subordination to, and "control of the civil power."—*Declaration of Rights of the People of Maryland.—Art. 27.*

Can anybody show a different principle in the Constitution of the United States?

"That no man ought to be *taken, or imprisoned*, "or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner "destroyed, or deprived of life, liberty, or property, but by the judgment of his peers, or by "the law of the land."—*Declaration of Rights of the People of Maryland, Art. 21.*

Notice to Correspondents.

In consequence of the multitude of anonymous communications received every day, it is found necessary to remind correspondents, that in no case can any notice be taken of any communication, unless accompanied by the name and address of the writer, not necessarily for publication, but as an evidence of good faith.

THE SOUTH is published every afternoon, after the arrival of the mails, and consequently contains all the latest news by mail and telegraph, up to the hour of publication, and fully twelve hours in advance of the morning papers.

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HABEAS CORPUS.

The whole reasoning of Lincoln in his message, relative to the suspension of the *Habeas Corpus*, betrays the opinion that he is the monarch of a limited monarchy. That unless restrictions upon his power are to be found in the Constitution, it is general, supreme, and unchecked:

"The provision of the Constitution, that the privilege of the writ of *Habeas Corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require, is equivalent to a provision—is a provision—that such privilege may be suspended when, in cases of rebellion or invasion, the public safety does require it."

Now any one having the least acquaintance with the Constitution knows that it is distributed into Articles: that the entire powers of the United States are *delegated;* that it is a Government of enumerated powers, and of such as are necessarily incident to such powers as are expressed. Under and pursuing this principle of its frame work, the power of the Judiciary, Executive and Legislative Departments are classified into *separate* articles. *The President has no power not enumerated or necessarily incident to some power which is expressed in the Executive Article. There is no control whatever given him in that article in relation to the Habeas Corpus under any circumstances.*

With audacious effrontery, if it be not ignorance, he turns to a different and separate Article altogether which relates to the *Legislative* power, and argues that because *Congress* is restricted in the suspension of the *Habeas Corpus* Writ to cases of insurrection and invasion, that therefore in such cases the Executive has the right. The fact that there is no mention of it among the Executive powers and is restrictively alluded to among the legislative powers, shows conclusively that the suspension is a *legislative* and not an Executive function. No sooner is this seen, than the exclusive character in Congress is shown by the Art. I, Sect. I, of the Constitution. "ALL legislative powers herein granted, shall be vested in a "CONGRESS of the United States, which shall consist of a Senate and House of Representatives." Is the President a part of the Senate and House of Representatives? If not how does he get *legislative* power?

Why was it that he was empowered "on extraordinary occasions to convene both Houses or "either of them."—Art. 2d, Sect. 3d. For the very purpose of enabling the *legislative* power to exercise, among other rights, that of suspending the *Habeas Corpus* if in their judgment the exigency warranted it. But it is exclusively their province to determine upon the character of the exigency. Does any one think that with Courts of Justice open in Maryland and with Marshals of fidelity to the general government, Congress would have suspended the writ and immured Merryman and others? Seeing that no such outrage could be expected from the representatives of the people, he pursued the same policy with that used by as great a simpleton, Hicks, and refused to convene a body who might check his treason to the Constitution.

Closely following the legislative restriction in the legislative Article in relation to the *Habeas Corpus*, is this restrictive provision: "No capitation or other direct tax, shall be laid, unless in "proportion to the *census* or enumeration herein "before directed to be taken." By Lincoln's reasoning his power of taxation would follow. This restriction proves a census as indispensable to taxation and levy. If, therefore, a *census* has been taken, the power of taxation exists. If the power exists, the Executive has it, and can use it. This is quite as legitimate as the Presidential formula of development. *Habeas Corpus* shall not be suspended unless in cases of insurrection and invasion. This proves it can be suspended in such cases: When, therefore, insurrection or invasion exist, the Executive has the power of suspension. By this sort of ratiocination he has all legislative powers, unless there is a difference when legislative powers are granted to Congress by necessary implication from the mere restriction under given circumstances. That is to say, the *Executive* can take legislative powers when they are inferably or obscurely granted to *Congress*—one would think he could more readily take those which are clearly and expressly bestowed.

It is with such stuff that every English Tyrant, with Loud and Stafford and Buckingham at their back sought to reconcile the English people and Parliaments to the Kings right of [illegible] laws.

LINCOLN ON THE CONSTITUTION.

"These measures, whether strictly legal or not, "were *controvert upon* what appeared to be a public "demand and a public necessity, trusting then, "as now, that Congress would easily ratify them. "It is believed that *nothing has been done* beyond "the Constitutional competency of Congress."—*Lincoln's Message, 5th July.*

The above will serve as a sample of the Constitutional opinion of the President and his party.—Whoever heard before that Congress could ratify what is unconstitutional. If any of the "measures" which have been taken are *unconstitutional*, how can it be said that "nothing has been done beyond "the Constitutional competency of Congress." Are not the members of Congress limited in their powers? Are they not sworn to support the Constitution? Can they delegate *judicial* powers to the Executive? Can they delegate legislative powers? Can any such powers be exercised by any person to whom they could not delegate them so that this exercise could be ratified by Congress? Who does not see that the discretion and judgment of differing bodies of men would be a nullity and deception and the whole safeguard of the Legislative, Executive and Judicial powers be confounded, if an illegal exercise of power by one branch could be ratified by another branch of Government? Can the President decide law cases and the decision be ratified by the Supreme Court of the United States? Why not? If the Constitution vests the power in the Judges, why cannot the exercise by the Executive be ratified by them? This is the logic of a "Consolidated Despotism."

If Lincoln is perjured, the Congress will perjure themselves by ratifying his perjury.

A RELIABLE PROMISE.

"Lest there be some uneasiness on the minds of candid men as to what is to be the course of the government toward the Southern States after the rebellion shall have been suppressed, the Executive deems it proper to say, *it will be his purpose then, as ever, to be guided by the Constitution and the laws;* and that he probably will have no different understanding of the powers and duties of the federal government relatively to the rights of the States and the people under the constitution, than that expressed in the inaugural address. He desires to preserve the government that it may be administered for all as it was administered by the men who made it."—*Lincoln's Message, 5th July.*

Since we know now by the above engagement what is to be expected by the "Southern States "after the rebellion shall have been suppressed," that "then, *as ever*, it will be his purpose to be "guided by the Constitution and the laws," no one need be surprised if any thing, "whether "strictly legal or not," shall be "ventured on under what appeared a popular demand." It is distinctly announced the past fidelity to the Constitution is to be the standard for the future. We will see what Greeley and Beecher will incite the President to do, and what he will call upon Congress to ratify, if subjugation shall be accomplished.

Important Movement of Troops.

Passengers from Washington by this morning's train report that General Mansfield will leave Washington this afternoon at the head of several regiments—three at least—to reinforce and act in conjunction with Gen. Patterson. It is said they will pass through this city this evening on the way to Harrisburg, and thence to Hagerstown. Advices from Washington show that the War Department designs greatly increasing Patterson's division, before he advances farther into Virginia, with these regiments from Washington, others from Harrisburg, and forces from different points in Pennsylvania.

Col. Stones command of 3,000 men, is also ordered to move up and take possession of the Maryland Heights and Sandy Hook, and to be prepared to co-operate with Gen. Patterson, or at least to protect his rear by keeping Harper's Ferry clear of the Confederates, and if necessary to cross over seven miles above the Ferry, to participate directly in Patterson's movements. Col. Yohe's Pennsylvania Regiment has also been ordered to Martinsburg, so that by the time Gen. Patterson feels himself able to meet Gen. Johnston his force will be nearly or quite 30,000 men.

Gen. Johnston, it is reported, has drawn up his force near Martinsburg, where he is awaiting the advance of the Federal army, but Gen. Patterson does not seem disposed to offer battle until his army is increased to double that of the Confederates.

Several additional regiments were this morning sent into Virginia from Washington, and the stir about the War department indicated that an engagement was near at hand in front of Washington. Both the Confederate and Federal lines are being extended, bringing the contending forces so near as to give assurances of an early action.

The Battle near Williamsport.

A gentleman whose veracity we can fully vouch for, favors us with reliable particulars of the late fight at Hainesville, near Williamsport. He arrived here yesterday on the train from Hagerstown, where he had heard read a letter written by a Federal officer of General Patterson's command, who was in the engagement, to a relative residing in Hagerstown. This letter, in detailing the fight, states that when the Federalists came up with the Confederates, at Porterfield's farm, near Hainesville, the latter were distributed upon sloping land, in a wheat field, facing a piece of woodland. They had not a single cannon in their possession, General Patterson's report to the contrary notwithstanding. At first the Federal troops supposed there were 1500 of the Confederates, but from information subsequently obtained from their wounded, they learned that they had only about five hundred. When the three regiments forming the Federal advance came in sight the Confederates fired upon them four volleys, killing two, wounding one mortally, two severely, and eleven others so seriously that they are now in the hospital at Hagerstown. The Confederates then withdrew. Their camp, which Gen. Patterson says in his report was taken, consisted merely of some shelter made by poles stuck in the ground and covered with boughs. The only trophies of the *victory* obtained by the Federalists were two leaky canteens. The same officer also writes that Patterson's command was at Martinsburg, waiting for the arrival of Burnside's Rhode Island battery (since arrived), and that in a day or two they expected to have a desperate battle, as the Confederates not only fought well, but with a bravery and skill which showed they were well officered.

The Confederates in this engagement, the officer writes, were only outposts, and did not retire until Perkins' battery unlimbered and prepared for action. Our informant also learned from the wounded Federal soldiers brought to Hagerstown, that 44 of Company F, of the 11th Pennsylvania Regiment were taken prisoners by the Confederates and conveyed to Winchester.—In Frederick he met a gentleman from Winchester, who saw them brought into that place. The Confederate loss, so far as is known, was two killed and one wounded, the latter so badly that he will probably die, being shot in the head, the ball entering over the eye. He is now in the hospital at Hagerstown.

——A young lawyer, a soldier in Duryee's New York Regiment, writes a sorry tale of the sufferings of the corps in general, and his own in particular. He says "a great many men must die before long for the want of decent food. I have lost eighteen pounds since I have been here."

War Movements.

The despatches from the West indicate that an engagement between Johnston's and [illegible] armies is imminent. [illegible] Johnston's army, [illegible] Patterson's army, [illegible] Harrisburg, [illegible] Washington, [illegible] Harper's Ferry, [illegible] Winchester, [illegible] Martinsburg, [illegible] Hagerstown, [illegible] Williamsport, [illegible] Hancock, [illegible] Cumberland, [illegible] Grafton, [illegible] Parkersburg, [illegible] Wheeling, [illegible] Gallipolis, [illegible] Point Pleasant, [illegible] Ripley, [illegible] Charleston, [illegible] Lynchburg, [illegible] Staunton, [illegible] Harrisonburg, [illegible] Winchester, [illegible] Leesburg, [illegible] Alexandria, [illegible] Richmond, [illegible] Norfolk, [illegible] Yorktown, [illegible] Fortress Monroe, [illegible] Hampton, [illegible] Newport News