

HON. FRANCIS D. FLANDERS, AND JUDGE JOSEPH
R. FLANDERS.

HON. FRANCIS D. FLANDERS, and Judge Joseph R. Flanders, brothers, reside at Malone, Franklin County, New York.

They were arrested about seven o'clock, on the morning of Tuesday, the 22d day of October, 1861, by four Deputy Marshals, coming in upon them while they were at breakfast with their families. They were told by the officers that their instructions were to disregard any writ of *habeas corpus* which might be issued in their behalf, and arrest any person attempting to take them from their custody, under any process or authority whatever.

The following is a copy of the order under which the Deputy Marshal acted:

“DEPARTMENT OF STATE,
Washington, Oct. 11, 1861.

“EDWARD I. CHASE, Esq., United States Marshal of the Northern District of New York, Lockport:

“*Sir*: Please confer with the United States District Attorney for the Northern District of New York, and arrest Francis D. Flanders, and Joseph R. Flanders, and convey them to Fort Lafayette.

“Very truly yours,

“WM. H. SEWARD.”

There was a regiment of volunteers in camp at Ogdensburg, about sixty miles from the place of their arrest, the two places being connected by railroad. The Deputy Marshal said they had made arrangements for any requisite number of these soldiers being brought down upon them in case of any resistance. The chief officer who made the arrest told them that Judge Hall, the United States District Judge for

the Northern District of New York, was at Albany when they left, and that if he was still there, they should be taken before him and have an examination.

But they did not allow them to stop at Albany, and evidently did not intend to do so when they gave this assurance. They were taken to the cars at ten o'clock, and travelled night and day, until they reached Fort Lafayette, in the afternoon of the next day. They were delivered by the Deputy Marshal to Colonel Burke, at Fort Hamilton, and by him sent over to, and placed in the custody of a ruffianly civilian lieutenant, of the name of Wood. He took from them all their money, giving a written acknowledgment for it. They were then placed in a large battery-room of the Fort, in which were five or six guns upon carriages. This room was then tenanted by forty or fifty prisoners, of a most promiscuous sort, and of every variety of character. They had no tables, chairs, washstands, or bowls, and all the prisoners had to go out in the square of the Fort to wash, the weather being cold and frosty. The beds furnished them at Fort Lafayette were comfortable. All that they had to eat was cooked by a soldier, and served to them in the soldiers' mess-room on a common table. Their meals immediately succeeded those of the soldiers, and consisted, for breakfast, of a slice of half-boiled fat pork, a slice of very poor stale bread, and a tin-cup of black, bitter liquid, called coffee, without milk, and sweetened with strong and unpleasant sugar or molasses. At dinner they had the same kind of bread, some thin beef-soup, and boiled beef or pork. For supper, the same as breakfast.

A day or two before they left for Fort Warren they were furnished with tables, chairs and pails. They remained in Fort Lafayette one week, and were then conveyed, on the steamer State of Maine, together with about a thousand others, prisoners of war, political prisoners, and a guard, to Fort Warren, in Boston Harbor. They were on board the State of Maine some forty hours, including two nights, and all felt that, overloaded as it was, should a storm arise,

nothing could save them from destruction. The few state-rooms were occupied by those fortunate enough to get them; all the rest slept on chairs, round stools, settees, and on the floor of the deck. They had nothing to eat but hard biscuit and raw meat, with coffee once or twice, without milk, brought around in horse-buckets, and dipped out in tin cups.

When they entered Fort Warren, on the morning of the 1st November, no provision had been made for them, and the first that they got to eat was late in the afternoon, when a barrel of hard biscuit, and a raw ham set upon the head of a barrel, were placed on the parade-ground of the fort, and from these the prisoners made their only meal that day. Things were but little, if any better, the next day. After that the prisoners were allowed soldiers' rations, but no conveniences for cooking, without going into a large room where there were forty or more prisoners all struggling for the use of one common stove.

When they arrived at Fort Warren, they had nothing to sleep on but a stone or brick floor, or some wooden slats like a gridiron, without beds or blankets. After a week or more they were furnished with a straw tick and a shoddy blanket, and some time afterward, with a moss mattress and pillow and some additional blankets, and an iron bedstead.

After they had been in the Fort some weeks, Seth E. Hawley, of New York, as agent of Mr. Seward, came to the Fort and offered to investigate the cases of all prisoners of state, who would first take the oath prescribed by the Lincoln Government, called the oath of allegiance.

The prisoners drew up and caused to be handed to him their reasons for refusing the Lincoln oath, and a protest against it, of which the following is a copy:

"The undersigned prisoners confined in Fort Warren, Boston Harbor, having been offered a discharge upon the condition of our taking the oath prescribed for certain officers of the United States, by a law passed at the late extra session of Congress, decline to take said oath, upon the following grounds:—We

have been guilty of no offence against the laws of our country, but have simply exercised our constitutional rights as free citizens in the open and manly expression of our opinions upon public affairs. We have been placed here without legal charges, or indeed any charges whatsoever being made against us, and upon no legal process, but upon an arbitrary and illegal order of the Hon. Wm. H. Seward, Secretary of the United States. Every moment of our detention here is a denial of our most sacred rights. We are entitled to, and hereby demand an unconditional discharge; and, while we would cheerfully take the oath prescribed by the Constitution of the United States, because we are, always have been, and always intend to be loyal to that instrument, (though, at the same time, protesting against the right of the Government to impose even such an oath on us as the condition of our discharge,) we cannot consent to take the oath now required of us, because we hold no office of any kind under the Government of the United States, and it is an oath unknown to, and unauthorized by the Constitution, and commits us to the support of the Government, though it may be acting in direct conflict with the Constitution, and deprives us of the right of freely discussing, and by peaceful and constitutional methods opposing its measures—a right sacred to freedom, and which no American citizen should voluntarily surrender. That such is the interpretation put upon this oath, and such its intended effect, is plainly demonstrated by the fact that it is dictated to us as a condition of our discharge from an imprisonment inflicted upon us for no other cause than that we had exercised the above specified constitutional rights.

“F. D. FLANDERS.

“J. R. FLANDERS.”

Nothing further was heard of this.

A few weeks afterward the wives of the prisoners, accompanied by their fathers, and carrying a letter from Hon. E. D. Morgan, Governor of New York, to the President, urging a hearing of their cases, proceeded to Washington, and were, by the kind offices of Hon. Erastus Corning, immediately introduced to Mr. Lincoln. They stated the object of their visit, when the President replied that these things belonged

entirely to Mr. Seward's department; he knew nothing about them; had never heard of their cases before, and they must go to Mr. Seward.

They accordingly went to the office of the Secretary of State, where they were received very reluctantly, and only through Mr. Corning's influence. Scarcely had they become seated when the Hon. Secretary turned to one of the ladies, and in a very loud and excited tone of voice, said: "Well! what propositions have you got to make?" She replied: "We did not come to make propositions, but to demand a trial for our husbands, or their unconditional release." "No!" was the short answer, in a still higher key. Astonished more by his manner than his answer, a pause ensued, when he said: "Have you anything more to say?" Mrs. F. D. Flanders said: "Our husbands object to taking the Lincoln oath, but are willing to take the oath prescribed by the Constitution." He replied: "Any loyal man will take that oath; your husbands are traitors; I have put them in there, and they shall stay there." She answered: "They are *not* traitors." He said: "They *are* traitors; you say they are not traitors, and I say they are traitors; now what are you going to do about it?" She then said: "Governor Morgan wrote a letter to the President, calling for a trial for them as citizens of his State." He replied: "I don't care if all the governors in the world should ask it, they shan't come out till they take that oath." One of the ladies then asked: "Won't you tell us what they have done?" "I make no charges; I won't argue with you; they shall take that oath;" was the reply, in the most excited manner. He then added: "If you haven't anything more to say, I have done with you; I have nothing more to say to you." Mrs. J. R. Flanders, whose father is a Republican, then asked: "Won't you hear my father? He supports *your* Government, and is a Republican." "The more shame to him that he has not brought up his daughter and her husband better," was the dignified and courteous answer of the Hon. Secretary of State. Dr. Bates, the father of Mrs. F. D. Flanders, then said "The gentlemen have

been in prison almost four months; haven't you punished them enough to let them have a trial?" "I have no trial to give; I leave that to my successor;" was the reply. Mr. Raymond (the Republican) then said: "I am sorry to hear such a remark from *you* as you made to my daughter a moment ago." "I am not sorry. I repeat it. You ought to be ashamed, not to have brought your daughter up better," said this model of suavity, and thus the interview ended.

On the 14th day of February, 1862, Hon. Edwin M. Stanton, who had succeeded General Cameron, issued an order, by direction of the President, taking the political prisoners, as prisoners of state, out of the hands of Seward, and placing them under the control of the head of the War Department, and stating that all who were not spies of the enemy, or of such character that their liberation would be dangerous to the public safety, would be liberated upon their signing a parole not to give aid and comfort to the enemy, of which the following is a copy:

" FORT WARREN,
Boston Harbor, Feb. 22, 1862.

"I, (*here follows the name*), a prisoner, do pledge my word of honor, that I will render no aid or comfort to the enemies in hostility to the Government of the United States.

(Signature)"

They signed this parole on the 22d of February, and on the next day, the 23d, they were landed at Boston, and Government *care* for them ceased.

On the twelfth day after the arrest of these gentlemen, two of the marshals concerned in their seizure returned to Malone, and, taking with them the sheriff of the county and several constables to protect them against *helpless women and children*, thoroughly searched their houses and offices, took from them all the private letters and papers, the accumulation of years, many of them valuable, and sent them to the Secretary of State; and up to this time they have not been able to recover them

REV. JUDSON D. BENEDICT.

REV. JUDSON D. BENEDICT is about sixty-one years of age, of fine physical and intellectual appearance. He is a minister of the Gospel, of the Campbellite persuasion, and was born and reared in the State of Vermont. He had not voted for fifteen years prior to his arrest, which took place at his residence in East Aurora, Erie County, New York, September 2, 1862.

On Sunday, the 31st of August, he preached a farewell sermon to his congregation at Aurora, which numbered some three or four hundred persons. His text was taken from "CHRIST'S SERMON ON THE MOUNT." The objectional part of the sermon was the fact, that he had given it as his opinion that the command of the New Testament was explicit that Christians should not engage in wars of any kind. He referred to the Constitution of the State of New York, which granted military exemption to Quakers, and said he saw no reason why his brethren should not obtain like immunity.

If such were not granted in the case of a draft, he advised his brethren not to resist it, but rather, as law-abiding citizens, to submit cheerfully to any penalty the law might impose. He said that there was no binding rule of the church; that a majority of its members held a different opinion; and that the subject was one for every man to decide for himself, according to his understanding of the word of God. On Monday, a complaint was made to Deputy Marshal A. G. Stevens, that Rev. Mr. Benedict had uttered seditious language "tending to discourage enlistments," and requesting him to come to Aurora and obtain the proof.

Mr. Stevens went to Aurora on Monday night. At a

private house that night and the next morning he took the affidavits of four persons, neither of whom were members of Mr. B.'s church. The contents of these affidavits are to this day unknown, the Marshal having repeatedly refused to furnish the prisoner or his counsel with copies of them. During the preceding winter, the Rev. George B. Cheever preached a sermon at the Church of the Pilgrims, in New York, to about two thousand people, and published the same, in which he insisted that the policy of the President, in prosecuting the war, was to restore the Union as it was, and that, if successful, it would leave slavery unabolished; that therefore no Christian, in any way, could give aid to the Administration in the prosecution of the war against the rebels, without sinning against God. Although listened to by many leading citizens who favored the Administration, and disapproved by them, none ever thought that Mr. Cheever could be arrested for the sentiments he had expressed. Yet it was a strong denunciation of the war, and tended more toward discouraging enlistments, delivered as it was in a city, and before five times the number of people, than any sentiment contained in the sermon which caused the arrest of Rev. Mr. Benedict.

On the supposed evidence contained in these (mute) affidavits, Marshal Stevens arrested Mr. Benedict at his residence, before breakfast, on Tuesday morning, September 2. He took him to Buffalo, and confined him in the guard-house at Fort Porter, with other political prisoners as companions in tribulation. Mr. Benedict says: "One was a 'wild Irishman,' of no possible utility but to cut bog and consume bad whiskey; the other, an old German of some seventy years of age, who could not speak three words of the English language; and the third a crazy man by the name of Clark, whose business appeared to be selling 'wooden nutmegs' and other New England indispensables." They had all been arrested for "using language tending to prevent enlistments."

He remained immured in the filthy guard-house until

Wednesday morning at 11 o'clock, without having food or drink offered him. At noon he was transferred to the county jail, by order of the Marshal. During the transit, "*handcuffs*" were applied to the other prisoners, but he was spared the indignity, and permitted to accompany his custodians without wearing Mr. Stanton's official and ornamental jewels.

On the 3d of September, his counsel, Mr. Albert Sawin, of Buffalo, applied to several Federal officers and citizens for letters to the Secretary of War, recommending his release. These they all refused. He then applied to Deputy Marshal Stevens for a like recommendation. The Marshal refused, saying that he had "discretion to exercise in arresting," but that he had "no power to discharge." Whereupon Mr. Sawin said to him, "but the War Department, upon being advised by you that the Government would be strengthened by his discharge, would undoubtedly be governed by your opinion, and order his release."

To which he replied, "I shall make no such recommendation."

The question here arises, "Should a man, under any circumstances, do that which conflicts with his conscience or is against good morals." If a superior makes an order, should an inferior obey it right or wrong? Only he who is mercenary in all the affairs of life, would permit his integrity to be influenced by the mandate of a superior, when he was conscious the order under which he acted was contrary to his own sense of justice.

The following statement, signed by a large number of the prominent citizens of Aurora, was then presented to Marshal Stevens. The loyalty and integrity of the subscribers were certified to by Judges Hall and Sheldon:

"We, the undersigned, would respectfully represent to the proper authorities, (if they can be reached,) that we are pained to learn that Rev. J. D. Benedict was arrested on Tuesday morning, for preaching a sermon in Aurora, on Sunday last, which sermon, it is alleged, was calculated to discourage enlistments. We, the

undersigned, attentively listened to said sermon, and can put no such construction on it.

“AURORA, September 3, 1862.

GEN. AARON RILEY,
HORACE HOYT,
DANIEL D. STILES,
SABINA POTTER,
ALONZO HAVENS,
HARRY H. PERSON,
NEHEMIAH SMITH,
EPHRAIM WOODRUFF,
DORR SPOONER,
WHIPPLE SPOONER,
EDWARD SPOONER,

ROBERT PERSON,
WM. D. JONES,
TIMOTHY PAINE,
WM. B. PAINE,
ISAIAH PHILLIPS,
REYNOLDS COLE,
JOHN P. WILSON,
HORACE PRENTICE,
N. A. TURNER,
JONATHAN SMITH,
HUGH MINTON,

together with numerous ladies, members of the church and congregation.”

Mr. Sawin further inquired of the Marshal, “Will you certify to the good character of the people of Aurora, who have signed that statement?” This he obdurately refused to do. He then applied to the Supreme Court for a writ of *habeas corpus*, which was refused him by two of the three Judges on the bench. Judges Noah Davis, of Albion, and James G. Hoyt, of Buffalo, refusing the writ, while Judge Martin Grover, of Angelica, dissented. He then, on the same day, requested Deputy Marshal Stevens to informally consent to, or not oppose an allowance of a writ of *habeas corpus* by Judge Hall, for the sole purpose of enabling Mr. Benedict to give bail; that he could give bail, to the amount of \$50,000, to comply with any condition the Federal officers might impose. Stevens replied he would consent to no such thing, and he would “disobey any order for his release on bail, which Judge Hall might make.” And yet, in the case of Mr. Barker, of Gowanda, such bail, with the consent of a Deputy Marshal of Buffalo, had been given, and Barker released. Mr. Sawin soon after had an interview with Marshal Chase, who proposed that, on a future day, witnesses should be examined on both sides, before a Federal commissioner, in the

regular way, by examination and cross-examination in public, and he would forward their depositions to Washington. This Mr. Sawin agreed to, and on the day fixed, several men and women who heard the sermon that occasioned Mr. Benedict's arrest appeared as witnesses. But instead of being examined publicly, Marshal Chase insisted that the affidavits should be drawn in private; that each witness should be brought to his private room, when he would cross-examine them in private, which might be written down as a part of their depositions. This was agreed to, and five hours were spent by the prisoner's counsel in the work. When finished, Marshal Chase said that he might forward the papers, and he would write to the Department, recommending the restoration of the prisoner to liberty.

Mr. Sawin took the affidavits drawn by Marshal Chase, with his consent, to his office, and directed his student to copy them. In about fifteen minutes afterward, and during Mr. Sawin's absence, Deputy Marshal Grant entered the office and said to his student: "The Marshal has sent me for those depositions."

The latter replied: "I am copying them."

Grant then took them from the table and proceeded to the Marshal's office, accompanied by the student, Mr. Miller, who said to Stevens: "I am copying the papers." Stevens replied "there was no use of copying them, and Sawin knew it; and Sawin could not make any damned political capital of it. I want the papers to send off immediately, and if Sawin wants a copy of them, he can take them and go to hell with them." But he nevertheless retained them.

The family and friends of Mr. Benedict waited for a week after this for word from Washington, but none came. The papers of Noah B. Clark, who had been committed for "discouraging enlistments," had been forwarded to Washington by the United States Marshal two days later, and he was released.

After the release of Clark, and being unable to learn that there was any prospect of voluntary action on the part of

the Marshal or the Secretary of War for the prisoner's discharge, Mr. Sawin, at the request of Mr. Benedict's family and friends, presented the papers to Judge Hall for a writ of *habeas corpus*.

For the benefit of our readers, we give the subjoined copies of such papers, together with the writ and proof of service, the return of Best and Stevens, the order of Judge Hall on Chase, the first petition for a writ of *habeas corpus*, and the papers accompanying the same:

TO THE HON. NATHAN K. HALL, *United States District Judge for the Northern District of New York.*

"The petition of Judson D. Benedict shows:

"That he is now confined and restrained of his liberty in the jail of the County of Erie, by William F. Best, the keeper of said jail.

"That your petitioner is not committed or detained by virtue of any process issued by any Court of the United States, or any judge thereof, or by virtue of the final judgment or decree of any court, or by virtue of any process of any kind or description.

"That the only cause of such detention by said jailor is a paper delivered to him by A. G. Stevens, Deputy United States Marshal, a copy of which is hereto annexed, marked schedule (A).

"That A. G. Stevens arrested your petitioner at Aurora, Tuesday morning, the 2d of September inst. All he said to your petitioner at the time of arrest was: 'I have an unpleasant duty to perform; I have come to arrest you. I suppose you are willing to go with me without opposition?' Your petitioner replied, 'Most certainly.' Said Stevens then took deponent to Fort Porter, and left him there, where your petitioner stayed until removed to jail.

"Said Stevens showed no paper to your petitioner, nor did he state any cause for such arrest.

"Your petitioner has neither by act nor speech been disloyal to the Constitution or laws of the United States, or been guilty of any violation of any order of the War Department, or of the President of the United States, or been guilty of any offence or act subjecting him to arrest.

"That your petitioner alleges, that such arrest and imprison-

ment are illegal, for the reason that he has not been charged with any offence known to the laws, no process has been issued by any court or magistrate for his arrest; and deponent refers to annexed affidavit of Albert Sawin, his counsel, for the only pretence for his arrest given by the United States Deputy Marshal.

"Your petitioner therefore prays your Honor to direct and authorize the issuing of a writ of *habeas corpus*, to be directed to said A. G. Stevens, such Deputy Marshal of the United States, and William F. Best, aforesaid jailor of the County of Erie, directing and requiring said Deputy United States Marshal and said jailor to produce the body of your petitioner before your Honor, that the cause of such imprisonment may be inquired into, and your petitioner may be set at liberty.

(Signed) J. D. BENEDICT."

"THE UNITED STATES OF AMERICA,
The Northern District of New York, } ss.
County of Erie.

"Judson D. Benedict, being duly sworn, says that he has heard the foregoing petition signed by him, read, and knows the contents thereof, and the same is true of his own knowledge.

(Signed) J. D. BENEDICT.

"Sworn to before me, this 15th day of September, 1862.

(Signed) P. G. PARKER,
U. S. Commissioner for Erie Co."

("A")

"MARSHAL'S OFFICE,
Buffalo, September 2, 1862. }

"David M. Grant will take from Fort Porter, Thomas Cummings, James Parker, Antoine Quanliet, Noah B. Clark, and Jared Benedict, prisoners confined there, committed under orders of the War Department, and remove them to the Erie County jail for safe-keeping, and there detain them until further order, and the sheriff or jailor of said county will keep them, until further order, in said jail.

(Signed) A. G. STEVENS,
U. S. Deputy Marshal

"To COL. E. P. CHAPIN, and the
Sheriff and Jailor of Erie County."

"UNITED STATES OF AMERICA,
Northern District of New York, } ss.
County of Erie.

"Albert Sawin, counsellor at law, being duly sworn, says that, at the request of the above-named Judson D. Benedict, on the 3d day of September inst., he inquired personally of Deputy United States Marshal Stevens, at his office in Buffalo, if he arrested said Benedict by virtue of any order, process, or paper. He said he did not, but he showed deponent a slip cut from a newspaper, printed, a copy of which is hereto annexed, and said that printed slip was his only authority for the arrest of said Benedict.

(Signed)

ALBERT SAWIN

"Sworn this 15th day of September, 1862.

(Signed) P. G. PARKER, U. S. Commissioner."

"WAR DEPARTMENT, }
August 8, 1862. }

"ORDERED :

"*First.* That all United States Marshals, and Superintendents and Chiefs of Police of any town, city, or district, be and they are hereby authorized and directed to arrest and imprison any person or persons who may be engaged by act, speech, or writing in discouraging volunteer enlistments, or in any way giving aid and comfort to the enemy, or for any other disloyal practice against the United States.

"*Second.* That immediate report be made to Major L. C. Turner, Judge Advocate, in order that such persons may be tried before a military commission.

"*Third.* The expense of such arrest and imprisonment will be certified to the Chief Clerk of the War Department for settlement and payment.

(Signed)

EDWIN M. STANTON,
Secretary of War."

INDORSEMENT ON PETITION.

"NORTHERN DISTRICT OF NEW YORK, ss.

"On the within petition I allow a writ of *habeas corpus*, to be directed to Albert G. Stevens, United States Deputy Marshal, and William F. Best, the keeper of Erie County Jail, and made

returnable on the 18th day of September inst., at 10 A. M., before me; and I direct the Clerk of the District Court to prepare the writ, that I may indorse an allowance thereon.

(Signed) N. K. HALL,
U. S. District Judge.

"Dated September 15, 1862."

THE WRIT OF HABEAS CORPUS.

"THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To *Albert G. Stevens, Deputy Marshal of the United States, and*
[L.S.] *William F. Best, the Keeper of the Erie County Jail,*
Greeting:

"You are hereby commanded, that you have the body of Judson D. Benedict, by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said Judson D. Benedict shall be called or charged, before the Honorable Nathan K. Hall, District Judge of the United States for the Northern District of New York, at the United States Court-room, at the corner of Washington and Seneca Streets, in the City of Buffalo, in said Northern District of New York, at ten o'clock in the forenoon of the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-two, to do and receive what shall then and there be considered concerning the said Judson D. Benedict. And have you then and there this writ.

"Witness, the Hon. Nathan K. Hall, Judge of the District Court of the United States for the Northern District of New York, at the city of Buffalo, the sixteenth day of September, in the year of our Lord one thousand eight hundred and sixty-two.

(Signed) GEO. GORHAM, Clerk."

INDORSEMENT.

NORTHERN DISTRICT OF NEW YORK, SS.

"The within writ, on petition of the within named Judson D. Benedict, has been allowed, and hereby is allowed by me, in pursuance of the statute in such case made and provided, September 16, 1862.

(Signed) N. K. HALL,
District Judge of the United States, for the Northern
District of New York."

THE JAILOR'S RETURN TO THE WRIT.

TO THE HON. NATHAN K. HALL, *Judge of the United States for the Northern District of New York:*

"The statement of William F. Best respectfully showeth:

"That he is now, and since the first day of September instant has been the keeper of Erie County Jail. That on or about the third day of September instant, he received into said jail one Judson D. Benedict, by the name of *Jared Benedict*. That he received him under and by virtue of a written order signed by A. G. Stevens, as a Deputy Marshal of the United States, of which a copy is hereto annexed, and not otherwise. That since he so received the said Benedict he has held and now holds him by virtue of said order, and no other order or process; that he has held and so holds him as the bailee or custodian of said Deputy Marshal and his principal, and not otherwise. That on or about the sixteenth day of September instant, he was served with a writ of *habeas corpus*, issued by your Honor, directed to said A. G. Stevens, and to him the said William F. Best, as keeper of the Erie County Jail, commanding them, among other things, to bring and have the body of the said Judson D. Benedict, and said writ before your Honor as such Judge, on the eighteenth day of September instant, at 10 o'clock A.M., at the United States Court-room, in Buffalo. That in obedience to said writ, it was the intention of me, the said William F. Best, in good faith, to bring and have the body of the said Benedict before your Honor at the time and place last aforesaid, as by the said writ commanded, and to that end I, the said William F. Best, had made and annexed to said writ my return thereto, which return comprised a copy of the order under which said Benedict was held by me, and a statement that it was by virtue of that alone that I held him, and that I produced the body of said Benedict before your Honor, as by the said writ commanded. That this morning, at about the hour of half-past nine o'clock, in the office of Edward I. Chase, the Marshal of the United States for the Northern District of New York, in Buffalo, the said Edward I. Chase asked me to let him take and look at said writ and return. That not suspecting bad faith on his part, and believing that he would return the same to me, and at the suggestion of Asher P.

Nichols, my counsel, I handed the same to him. That after examining the same he said it was his writ, and refused to return it to me. That thereupon, I made a formal demand on him for the same, which demand he refused to comply with. That having no writ, I cannot have here the said writ or make a formal return thereto, as by the said writ I was commanded; nor can I have the body of said Judson D. Benedict here, as commanded by said writ, for the reasons above stated.

“ Dated, September 18, 1862.

(Signed)

WILLIAM F. BEST.

“ NORTHERN DISTRICT OF NEW YORK, ss.

“ William F. Best being sworn, says he is the person described in and who signed the within statement; that he has heard the same read and knows the contents thereof, and the same is in all respects true, as he verily believes.

(Signed)

WILLIAM F. BEST.

“ Subscribed and sworn this 18th day of September, 1862, before me.

(Signed)

N. K. HALL, U. S. District Judge.”

“ UNITED STATES OF AMERICA, }
Northern District of New York, } ss.
County of Erie, }

“ Albert Sawin, being duly sworn, says he is counsel for Judson D. Benedict, named in a writ of *habeas corpus*, a copy of which is hereto annexed, and also a copy of original order of allowance indorsed thereon.

“ That on the sixteenth day of September inst., he served the said writ of *habeas corpus*, with said copy and order, upon Albert G. Stevens, the Deputy Marshal therein named, by delivering a copy of the same, and of said order of allowance, so indorsed personally, to said Stevens personally, at the city of Buffalo, and at the same time showing him the said original writ, and said original order, indorsed thereon. That on the same day he delivered to said William F. Best, keeper of the common jail of the County of Erie, personally, said original writ, with said order indorsed thereon. That this morning, about the hour of eight o'clock, deponent paid to said William F. Best, two dollars and

fifty cents, being the fees named by him, allowed by law for the return to and execution of said writ, who received the same.

"That on the morning of the 17th day of September inst., deponent was present at an interview between said Stevens and said Best, in which said Stevens told said Best he had received instructions from the War Department to resist said writ, and he, said Stevens, directed said Best not to obey it, such being the order of the War Department. Deponent said, 'Of course Mr. Best will obey the writ, and bring Benedict before Judge Hall.' Said Stevens said he would have a force to prevent. Deponent said, 'Mr. Best, I will be present to-morrow morning as one to assist you in obeying said writ, though at the peril of being shot.' Said Stevens replied, 'Then you will be shot, and I will report you to the War Department.'

"Deponent further says, that this forenoon he inquired of said Stevens what fees he demanded for making return to said writ of *habeas corpus*, and informed him he, deponent, was ready to pay the same; the only reply he made was, 'No matter.'

(Signed)

ALBERT SAWIN.

"Sworn and subscribed this 18th day of September, 1862.

(Signed) A. P. NICHOLS, U. S. Commissioner."

DEPUTY MARSHAL STEVENS'S RETURN TO WRIT.

"TO THE HON. NATHAN K. HALL, *District Judge of the United States for the Northern District of New York:*

"The annexed paper was delivered to me. It purports to be a writ of *habeas corpus*. It is not under the seal of the Court; the signature to the same is not the handwriting of the Clerk, nor is the signature to the allowance indorsed on the same in the handwriting of your Honor, nor is it certified to be a copy of an original process. I understand that an original writ was served upon, and is in the hands of William F. Best, one of the persons to whom the same is directed; the said Best refuses to allow me to have said writ, or recognize any authority on my part to the prisoner therein named, or to allow me to have the custody and control of the prisoner, and claims that he alone should make return to said writ. I would further state that said prisoner was legally arrested by me by authority of the President of the United States, and delivered by me in custody,

under such authority, in the jail of Erie County, where I placed him for safe keeping merely, and where he now is, and that I still have lawful right to said prisoner; but the jailor of said Erie County jail, on demand of said prisoner this day made by me of him for said prisoner, refused to deliver said prisoner to me, as he rightfully and lawfully should do. I further state that no return made by said Best, to said writ, can present the true facts of the case, or the cause of the detention of said prisoner.

(Signed) ALBERT G. STEVENS.
U. S. Deputy Marshal."

IN HABEAS CORPUS.

"In the Matter of Judson D. Benedict.

"It appearing to my satisfaction, by the affidavit of William F. Best, that Edward I. Chase, now present, has received from him, on request, and detained from him, against his will, the writ of *habeas corpus* heretofore issued in this matter, (and directed and delivered to said William F. Best,) and thereby prevented his obedience to said writ; I hereby order and direct the said Edward I. Chase to deliver the said writ to the said Best, or to the undersigned, or show cause, before me, at the United States Court-room in Buffalo, at half-past two o'clock this afternoon, why he shall not be committed for a contempt.

"September 18, 1862. N. K. HALL,
U. S. District Judge."

Albert G. Stevens, Deputy Marshal, was made a party as well as the jailer, who had his actual custody. The return of Stevens is a curiosity. The object of making Stevens a party was to enable him to produce any evidence showing Benedict had done anything worthy of bonds. He declined to do this. Marshals Chase and Stevens had previously declared that Jailer Best should not take Benedict from the jail to Judge Hall's court-room, and they would use force to prevent it. Accordingly, in the absence of the Colonel of the regiment, Marshal Chase procured from Camp Morgan a company of soldiers, and placed them in the vicinity of the jail for the purpose of executing that threat. The friends of the jailer, Best, were likewise in the vicinity in sufficient numbers to

enable him to obey the writ, no matter how much force the Marshal might have obtained. However, without opposition, the loyal jailer was permitted to obey the writ.

“U. S. DISTRICT COURT.—*Judge Hall presiding.*
September 18th.

“The case of the writ of *habeas corpus* commanding A. G. Stevens, Deputy United States Marshal, and Wm. F. Best, Jailer, of Erie County, to produce the body of Rev. Judson D. Benedict in court, was before the court.

“A. Sawin made a statement of the service of the writ of *habeas corpus* upon the jailer of the Erie County jail.

“A. P. Nichols, Esq., the attorney for the jailer, made a return, stating that the jailer had handed the writ of *habeas corpus* to United States Marshal Chase, by the advice of his attorney, and that Mr. Chase had refused to return it to him, and that it was impossible to return either the writ or the prisoner.

“United States Marshal Chase claimed that the prisoner was in his custody, having been arrested by order of the President, through the Secretary of War; that the jailer was simply a machine, and that he was the proper custodian of the prisoner.

“This was the position taken by United States District Attorney Dart.

“Mr. Nichols claimed that the prisoner was now held by the jailer by virtue of the writ of *habeas corpus*, and that he could not surrender him until that writ was vacated.

“After a somewhat extended argument, Judge Hall made an order that Marshal Chase return the writ to the jailer; and that he make a return at two and a half o'clock, etc.

“The court adjourned till that hour.”

During the recess of the court, Marshal Chase offered to deliver up the writ of *habeas corpus*, which he had withheld from Jailer Best, on the condition that the jailer would deliver the prisoner into his custody. This the jailer refused; and before two o'clock Marshal Chase surrendered the writ, evidently not wishing to disobey the order of the court.

The jailer, now being in possession of the writ, took the prisoner, in company with Sheriff Best, and escorted him to

the court-room, where he was cordially greeted by many of his friends.

"United States Marshal Chase came into court and delivered to the Judge a return to the writ of *habeas corpus*, setting forth by what authority his deputy had arrested the prisoner, and that the writ of *habeas corpus* having been suspended, and he ordered to resist any attempt to execute it, he could not obey the order of the court. This was understood to be the substance of the return.

"Marshal Chase requested the jailor to give him a copy of the order of the court compelling him to return the writ.

"The Judge said a copy would be furnished him.

"A. P. Nichols, Esq., then made the proper return to the writ, and produced Rev. J. D. Benedict in court.

"United States District Attorney Dart said, that a turnkey had in some way obtained possession of a United States prisoner, arrested by order of the President of the United States, through the Secretary of War, for uttering seditious language, or language calculated to weaken the confidence of the people in the Government. In such cases, the President suspended the writ of *habeas corpus*, and ordered *that forcible resistance be made to its execution*. He hoped that the occasion for arrests under this order had ceased, and that there would be no conflict of jurisdiction in this case. He asked the suspension of proceeding until Tuesday following, trusting that the matter might be satisfactorily arranged before that time.

"Albert Sawin opposed the postponement. It was important that the great question of personal liberty, in connection with the arbitrary arrests, should be disposed of by a legal tribunal.

"Judge Hall said the real question at issue was whether the President *had the power to suspend* the writ of *habeas corpus*, and if this was the question to be argued, the time asked was not unreasonable. He was anxious that the matter should be fairly canvassed, and a conflict of authority avoided. He would, therefore, grant the request of the United States District Attorney, and adjourn the case to Tuesday next, September 23, at 11 A.M., meanwhile the prisoner to remain in the custody of the jailor, to be again produced in court at the time named.

"The District Attorney desired the Judge simply to remand the prisoner, without naming the custodian.

"Mr. Sawin opposed this. The Marshal wished to gain possession of the prisoner for the purpose of placing him in military custody, and beyond the jurisdiction of the court.

"A. P. Nichols, Esq., asked the court to make an order stating by what authority the jailor held the prisoner, whether by order of the Marshal, or under the writ of *habeas corpus* and the order of this court. He wished the duty and the authority of the jailor clearly defined.

"Mr. Dart desired that the court would make no such order, but simply remand the prisoner. He thought the court ought to have confidence in the Marshals, and believed they would respect the court.

"Judge Hall said the custody of the prisoner will continue with the jailor as it is now. The prisoner is now held by virtue of the writ of *habeas corpus*. He is removed from the custody of the Marshal or Deputy Marshals, and neither of them can interfere with him until the hearing and determination of this writ.

"Marshal Chase wished to know whether his authority in this case was at an end.

"The Judge replied, that he had as much and no more to do with it than any other citizen. If he, or any other man, knew of any crime the prisoner had committed, it was his duty to inform against him, that he might be punished according to law. It was especially the duty of the United States District Attorney to ascertain the facts and proceed against him, if he had been guilty of any violation of the laws of the land."

The following is the copy of the order of Judge Hall in the case:

"ON THE HABEAS CORPUS

"In the Matter of Judson D. Benedict.

"The said Judson D. Benedict having this day been brought before me by W. F. Best, the keeper of the common jail in the County of Erie, in obedience to the annexed writ of *habeas corpus*, and the hearing under the said writ, and the return made thereto, having, at the request of the Hon. Wm. H. Dart, United States District Attorney, been adjourned until Tuesday, the 23d day of September, at eleven o'clock in the forenoon, it is hereby ordered,

on the motion of the counsel for the defendant, that the said Judson D. Benedict be and he is hereby remanded and committed to the custody of Wm. F. Best, as such jailor, to be kept and detained by him under the authority of such writ of *habeas corpus*, and this order, until the time to which said hearing is so adjourned; and that said Wm. F. Best produce and bring the body of the said Judson D. Benedict and the said writ of *habeas corpus* before the undersigned, at the United States Court-room, in the city of Buffalo, on the 23d day of September inst.. at 11 o'clock A.M., then and there to do and receive what shall then and there be considered in that behalf.

(Signed)

N. K. HALL,
U. S. District Judge.

"September 18, 1862."

After the necessary papers were made out, Rev. Mr. Benedict walked, in company with Mr. Best, back to his apartments at the jail. It was rumored that the Marshal would attempt the rescue of the prisoner, but this was unfounded.

U. S. DISTRICT COURT. — *Buffalo, September 23d, 1862.*

... "Shortly before 11 o'clock, the prisoner appeared in court, in company with the jailor, Wm. F. Best. A. P. Nichols, Esq., attorney for the jailor, handed up the original writ of *habeas corpus*, with the order of the Judge, remanding the prisoner to jail, engrossed upon it.

"The court did not understand that any demurrer had been made to the writ as returned, or issue taken on the facts stated in the return.

"Albert Sawin, Esq., claimed that the return, as made, stated in what manner the prisoner was arrested and was held, sufficiently clear to enable the court to determine that the arrest is illegal, and that the prisoner should be discharged.

"The court inquired if the United States District Attorney was to be present, and directed the officer of the court to inquire if the District Attorney desired to be heard in the case.

"Marshal Chase soon after appeared in court, and held a conversation with Judge Hall, which was not audible. After the close of the interview, the Court announced that the U. S. District Attorney did not propose to appear, or to make any further state-

ments to the Court, or furnish any proofs in the case ; that neither the Marshal nor his Deputy, Stevens, would appear ; and that, so far as they were concerned, the case was left to the Court in its present condition.

“The Court desired to say to any person and to all persons present, that if they knew of any crime that the prisoner had committed against the laws of the United States, or any cause of arrest, other than that set forth in the return, they should make it known. He had prepared an opinion in the case, embodying its legal bearings, which he should publish as his justification.”

The opinion of Judge Hall, discharging the Rev. Mr. Benedict on writ of *habeas corpus*, is replete with learning and research, and we regret that want of space prevents us from presenting it to the reader in full. He refers to English and American statutes and constitutions from the settlement of England by the Saxons to the present time, and cites from the Magna Charta, the Petition of Right, the Bill of Rights, the Act of Settlement, and quotes from Hume, Hallam, Blackstone, Story, and other authors. He refers to the decisions of the purest and ablest jurists of England and America in support of his opinion, and concludes his erudite and profound reasoning as follows :

“The decisions referred to have been before the profession and the country for more than forty years ; and, so far as I know, they had not, until a very recent period, been questioned, or their doctrines assailed by any respectable jurist. I cannot but endeavor to follow, though with feeble and unsteady steps, in the paths of constitutional duty, clearly and distinctly marked with the ineffaceable footprints of Marshall, of Story, of Washington, of Livingston, of Martin, and of Taney ; and, guided by the serene and steady light of their recorded opinions, I may certainly hope not to go far astray.”

This opinion *alone* stamps Judge Hall as one of the purest, most learned, and upright jurists that America has produced.

At the conclusion of the opinion, Judge Hall made an order discharging the prisoner from arrest, no cause having been shown why he should be detained.

The following is a copy of his order :

"IN HABEAS CORPUS,

"In the Matter of Judson D. Benedict.

"The said Judson D. Benedict, having this day been again brought before me in pursuance of the annexed writ of *habeas corpus* and order, and the counsel of the said petitioner having filed a demurrer to the return of the said writ, made by W. F. Best, jailor, and to the statement heretofore made by A. G. Stevens, Deputy Marshal, (no one appearing to oppose the discharge,) I having proceeded *ex-parte* to hear and consider the case as now presented, and determined that no legal cause for the arrest, imprisonment, and detention of the said Benedict is shown by said return, or said statement and return, and having invited all persons present to make proof, if any could be made, that the said Benedict had been guilty of any offence against the laws of the United States, or was subject to arrest for any cause other than that appearing on said return, and no such proof being offered, I do hereby order and direct that the said Judson D. Benedict be and is hereby discharged from custody.

(Signed)

N. K. HALL,
U. S. District Judge."

Marshal Chase stated that previous to the issuing of the writ of *habeas corpus* by Judge Hall, he had written to the War Department, recommending the release of Mr. Benedict, and that he would have been released before, had it not been for the attempt of Sawin to raise an issue with the United States Government. Mr. Benedict, who had been discharged from arrest by the order of the highest court known to the Constitution, was again arrested by the United States Marshals, although his release had been recommended by Mr. Chase. Several members of the police force were seen to enter the court and disperse themselves about the room, while Marshal Chase, and Deputy Tyler, of Lockport, sought positions near the then free citizen of the United States, standing in the Temple of Justice, and awaiting a copy of the proclamation of emancipation just issued by the Judge.

As soon as he received a copy of the order, Officer Tyler

was observed to speak to him, and the reverend gentleman, with his papers in his hand, demanded to be shown the authority for his arrest. He said he did not propose to resist, but wished to know by whose orders he was seized. He was told, "*We will show you the authority, when we get you where we want you.*" He was hurried, Marshal Chase on one side of him, and Officer Tyler on the other, down the stairs, and to a carriage in waiting, in which Deputy Marshal Stevens sat. A large crowd gathered about the carriage, and much feeling was exhibited, but no attempt was made to rescue the prisoner. The carriage was driven off, Marshal Chase on the box with the driver, and the prisoner inside with Officers Tyler and Stevens. This was done by *special order of the War Department* to Marshal Chase, directing him to resist the writ, or, in the event of the prisoner's discharge, to re-arrest him. Mr. Sawin again applied to Judge Hall for a writ of *habeas corpus*, which was granted, and served upon the Marshal by Harvey B. Ransom, as the annexed return will show :

"UNITED STATES OF AMERICA, }
Northern District of New York, } ss.

"HARVEY B. RANSOM, being duly sworn says: that he is well acquainted with Edward I. Chase, named in annexed copy of writ of *habeas corpus*. That he served upon said Chase, at the city of Buffalo, on the 23d day of September inst., at or about the hour of five o'clock P.M. of that day, an original writ of *habeas corpus*, with the original order of allowance, signed by Judge Hall, indorsed thereon, copies of which writ and order are hereto annexed, by delivering the same, at the time and place aforesaid, to said Chase personally. That deponent and said Chase went yesterday afternoon, on same train of cars, to Lockport. Deponent saw, after his arrival, *within named Benedict in front of said Chase's office, at Lockport, said Chase, as deponent was informed, being in his office at the time.*

(Signed)

HARVEY B. RANSOM.

"Sworn and subscribed before me, this 24th day of September, 1862.

(Signed) A. P. NICHOLS, U. S. Commissioner.'

The writ of *habeas corpus* was made returnable at 10 o'clock A.M., on Thursday, the 25th inst., at the United States Court-room in Buffalo, at which time United States Marshal Chase made the following return, to wit:

“TO THE HON. NATHAN K. HALL, *District Judge of the United States for the Northern District of New York*:

“The annexed writ was delivered to me between five and six o'clock in the afternoon of the 23d day of September last. Before that time, and about noon of that day, Judson D. Benedict, the person named in said writ, had been arrested by me for disloyal practice, by order of the President of the United States, and put in charge of Daniel G. Tucker, with direction to convey him to the Old Capitol Prison in the city of Washington, and said Tucker immediately left Buffalo with the prisoner for that purpose.

“Under general orders made by the President, through the War Department, bearing date the 18th of August, 1862, said Benedict had been, on September 2, 1862, arrested by my deputy, A. G. Stevens, for such disloyal practice, and said deputy was ordered by the War Department to detain him in custody until the further order of said Department. For safe keeping, said Benedict was removed from Fort Porter to the jail of Erie County.

“Afterward, as is said, a writ of *habeas corpus*, directed to said Stevens and William F. Best, the jailor, was delivered to said jailor. The War Department was informed by said Stevens of the allowance of said writ, and said Stevens was directed by said Department not to regard said writ. But said William F. Best, the jailor, refused to allow me or my deputy, Mr. Stevens, to have any control of the prisoner, or of the writ, and avowed his intention to make return to said writ, and produce the prisoner before your Honor.

“I informed the War Department of such refusal and avowal. In answer, I received an order made by the Secretary of War, saying, in substance: ‘Your deputy, Mr. Stevens, was directed to disregard the writ of *habeas corpus*. If Stevens or the jailor permits Benedict to be discharged on *habeas corpus*, arrest him again, and convey him to the Old Capitol Prison at Washington.’

"The original order was delivered by me to Mr. Tucker, into whose charge I delivered the prisoner, and I have no perfect copy. The above is a substantial copy, and in all essential particulars is correct.

"In pursuance of such order, after said Benedict was, on the 23d inst., discharged from the custody of said Best, and said Benedict had left the United States Court-room, I arrested him, and put him in charge of Mr. Tucker, with the directions above stated.

"A formidable insurrection and rebellion is, as is well known, now in progress in this country, and the writ of *habeas corpus* suspended, and the President of the United States, by one of the orders above referred to, made on the 8th of August, declares the same to be suspended in case of disloyal practices. I would also refer your Honor to the proclamation of the President of the United States of the 24th September inst.

"I, therefore, understand that the above arrests are military arrests, in relation to which the writ of *habeas corpus* is suspended. I have, however, out of respect to your Honor, and the judicial authority of the country, thought it my duty to return to you the annexed writ of *habeas corpus*, and make the foregoing statement. Very respectfully,

(Signed)

EDWARD I. CHASE,
U. S. Marshal.

"Dated the 25th of September, A.D. 1862."

After the prisoner had been placed in a carriage, with three Deputy Marshals as a special guard, he was driven to Lockport, in the County of Niagara, a distance of about forty miles.

At about 9 o'clock P.M., he was again placed in a carriage, and conveyed through highways and byways, until 3 o'clock the next morning, when he arrived at *Batavia, a few miles from Buffalo*, on the Central Railroad. At 6 o'clock, he was placed on the cars for Canandaigua, and from there to New York, thence to Baltimore, and finally to Washington, where he remained for some weeks an inmate of the Old Capitol Prison.

When the Majesty of the Despotism that ruled at Wash-

ington became appeased, Mr. Benedict was taken before one of the instruments of its tyranny, L. C. Turner, Judge Advocate, who received the reverend gentleman with one of his hypocritical smiles. After the usual interchange of courtesies, the Judge Advocate informed Mr. Benedict that he was discharged. (He was released on the 2d October, 1862.) Mr. Benedict ventured to inquire why he had been imprisoned. "Oh," said the Judge Advocate, "*it was only to show the people that the military power is now above the civil power.*"

The Bourbons and Napoleons in France, the Stuarts and other despots in England, all pleaded the "necessity of circumstances" for their arbitrary acts of power, and their infringement on the rights and liberties of the people. Louis XIV., of France—to go back into historic times no farther—said, "I AM THE STATE." James of England said to the Duke of Somerset, who told the King that he could not obey him without violating law, "I will make you fear me as well as the law. Do you not know that I am above the law?" And this monarch said to his Parliament: "For matters of privileges, liberties, and customs, be not over-curious. We do what is for the best, and as necessity prompts. Let not any one stir you up to law questions, debates, or that sort of thing, for of these cometh evil."

Mr. Lincoln acted on the principle established by these arbitrary monarchs.

HON. PHINEAS C. WRIGHT.

HON. PHINEAS C. WRIGHT, now a resident of the city of New York, is a native of Rome, Oneida County, State of New York, and was forty-four years of age at the time of his arrest. He removed from New York to New Orleans, thence to St. Louis, about a year prior to the beginning of the war, and when arrested, was a citizen of Missouri. He was incarcerated fifteen months — one day in Fort Wayne, eleven months in Fort Lafayette, and four months in Fort Warren, and was never permitted to know of what he was accused, nor who was his accuser.

On the morning of the 27th of April, 1864, he was at Grand Rapids, Michigan, on business, and was arrested at the "Rathbun House," by Captain Wilson, of the 20th Infantry, United States Army, commanding Fort Wayne.

The order for his arrest ran thus :

"You will proceed to the Russell House, in the city of Detroit, or wherever else he may be found, and arrest P. C. Wright, formerly a New Orleans lawyer, whose plantation and slaves now confiscated, who is now staying at said house. You will take him to Fort Wayne in a carriage; treat him with courtesy as a gentleman. You will confine him in a room by himself, and make him comfortable. You will allow no one to communicate with him. You will be careful to secure any papers he may have with him.

(Signed)

J. RANDOLPH SMITH,
Colonel U. S. A.,
Commanding Department of Michigan."

This order was placed in the hands of Captain Wilson a few days after Mr. Wright had started from Detroit, for Grand Rapids. Learning of his absence from Detroit, the

Captain followed him, stopping at all the important towns along the line, until he found Mr. W. at the Rathbun House. He was courteous in the performance of his duty. He had been in the "Old Army" twenty years, and had been promoted from the ranks as a guerdon of merit. On making the arrest, he stated his business to Mr. Wright in a few words, and handed him the order for his arrest, remarking, "I am charged especially to treat you as a gentleman, and was assured that I would have no occasion to do otherwise." Mr. Wright replied, "I shall give you no trouble, sir." The Captain then said, "I shall take an apartment in the sleeping car to Detroit, to-night, and no one shall know of your arrest from my words or actions." Then stepping to the door, Captain Wilson called in a man whom he introduced to Mr. Wright as "Mr. Cutcher, a detective." The party then proceeded to the prisoner's room, to "secure any papers he had with him." This being done, Captain Wilson left the prisoner in charge of Detective Cutcher, and did not again appear until 4 o'clock p.m., when he met them at the depot, and all took seats in the cars.

They arrived in Detroit at 7 o'clock the following morning. As they were emerging from the cars the Captain perceived the provost guard drawn up in line in the depot. He became much excited, and requesting Mr. W. to take his seat, he stepped up to the guard and ordered them to their quarters. He then came back to the cars, and, accompanied by Mr. Wright and the detective, walked to the "Biddle House," near by, for breakfast.

Arriving there, the Captain stepped to the office, and addressing the clerk, said: "I want a private room with a fire, and breakfast for three. I have a prisoner of state, and I don't want to expose him to unpleasant curiosity." This was said in an undertone, and was plainly not intended for the ear of Mr. Wright. But having heard it, he protested against the "private room." The large dining-room, being open, looked warm and cheerful in that frosty morning, and no guests being astir at that early hour, he induced Captain

Wilson to take breakfast in the dining-room; after which, lighting their cigars, they took seats in a close carriage, and were driven toward Fort Wayne, three miles distant.

The party had proceeded about three squares when the carriage was stopped, and a long, lean, lathy, and cadaverous individual thrust his countenance into the open door of the carriage, and squeaked forth in a cracked voice, "Good morning, Capt'n! We made a big arrest yesterday; we got a great lecturer—" The fellow did not finish what he had evidently intended to say, for Captain Wilson, flushed with anger, cried out sternly, "Drive on, and don't stop again until I tell you." He proved to be, as Mr. W. afterward learned, an itinerant preacher, then a chaplain with some volunteers, and had been subsequently promoted to a post on the provost guard. The prisoner felt thankful to the fellow, for he had unwittingly given him the only clue to the cause of his arrest he ever received. About two weeks previously he had read a lecture to a large and interested audience of citizens, of every shade of political sentiment and opinion, at the beautiful town of St. Clair, near Detroit.

Arriving at Fort Wayne, Mr. Wright was passed through the office and its routine, and conducted to a small but cheerful room in the third story of the long line of barracks, which were used as the officers' quarters. A small boy brought an armful of wood and kindled a cheerful fire. A sentry was placed on the landing at the foot of the half flight of iron stairs which led to the door of his room. Mr. Wright was instructed to call him by a rap on the inside of the door, if he wanted anything.

Presently, Captain Wilson made his appearance, accompanied by Lieutenant Jones, a polite, cultivated young gentleman, in whose charge he left his prisoner for the day, as he himself was going to the city to report to Colonel Smith. Mr. Wright immediately asked for books and writing materials. Lieutenant Jones presently brought him both. of books an armful, and from them the prisoner was assured, that he was a gentleman of fine taste and culture. Availing

himself of the kindness of Captain Wilson, Mr. Wright addressed the following letter to "Colonel J. Randolph Smith, commanding Department of Michigan:"

"Sir: I am your prisoner. May I be permitted to know why I am here, and what are the specific charges against me?"

Mr. Wright says: "I then gave myself to musing upon the scene from my window, which, in the glorious sunlight of that lovely spring morning, was beautiful beyond description. The view embraced the entire city of Detroit, with a large section of the surrounding plain dotted with neat suburban cottages and a few beautiful mansions, with finely improved grounds; and on the opposite side of the river, a large portion of Windsor, the neat, pretty hamlet of Sandwich, with a long stretch of beautiful shore and a wide expanse of back country, all glorious in the freshness of young verdure. Further upward, 'Belle Isle' seemed to float like a beautiful emerald on the silvery bosom of the waters; and still beyond, the eye could take in the vast marshes known as the 'St. Clair Flats.' The broad, green river was literally covered with vessels, sailing and in tow, that seemed rushing in flocks like migratory fowls to the 'Upper Lakes.' Indeed, a more entrancing scene than that which greeted my first gaze from a prison-room is rarely enjoyed by mortals, even in *freedom*. I was in a spell, real, palpable. I mused of liberty, and for the first time began to estimate and appreciate its priceless worth. Then my gaze would linger and fix itself upon the Canada shore. There nature seemed to glow and bloom in quiet loveliness, as if conscious of the genial sway of peace. There the genius of liberty seemed to have found sure refuge from the madness which had rudely driven and scourged her from the land where our sires erst enshrined her; and I thought she seemed weeping in sorrow for the shameful degradation of their sons!

"I turned to look upon the noble city, when my eyes instinctively seemed to fall upon the dome of the 'City Hall,' which, as it glistened with the silver light, seemed in playful

wantonness to throw back the warm kisses of the ardent sunbeam — ay! upon that lofty roof hard by — for beneath is one who knows not yet my present sorrows, who, through sunny years has nestled in my heart of hearts! Thou art still unconscious of my fate! Then sleep on! O Memory, how faithful is thy record to my first hours in my cell?”

About four o'clock, Captain Wilson returned and presented Mr. Wright with the following answer from Colonel Smith:

“SIR: I am in possession of your letter, and will state that I was ordered to arrest you, by telegraph from General Heintzelman, on last Saturday P.M.

“I am, sir, very respectfully,

Your obedient servant,

(Signed)

J. R. SMITH, Col. U. S. A.,
Commanding, etc.

“Detroit, April 28, 1865.”

About 5 o'clock P.M., Captain Wilson again visited him, saying: “I must part with you. I am ordered to deliver you to Captain Tyler, of Colonel Smith's staff, who is waiting below. I am sorry to part with you; but I hope it is for the best. I had promised myself a pleasant time with you.” After descending to the office, the prisoner was presented to Captain Tyler, who, after receiving him politely, remarked: “I am ordered to deliver you to Colonel De Radowitz, of General Heintzelman's staff, at the Cleveland boat.”

After taking leave of Captain Wilson, Lieutenant Jones, and other officers of the garrison, he was placed in a carriage, and driven to the wharf. Of the two above-named gentlemen, Mr. Wright says: “If Captain Wilson or Lieutenant Jones be living or dead, I know not; but I know that their memory will live with me while my heart can recognize one emotion of gratitude.” At the boat, they found Colonel De Radowitz in waiting. He received them courteously, remarking: “I have an unpleasant duty to perform, Mr. Wright; I am ordered to conduct you to New York, and deliver you

to General Dix, but I shall not make myself disagreeable to you." Mr. Wright thanked the Colonel, and informed him that he need give himself no occasion for the least anxiety on his account. From that moment, until he was delivered to Colonel Burke, he was not subjected to the slightest constraint or the least surveillance by Colonel De R., who treated him, in every respect, as a travelling companion.

Mr. Wright remarks:

"We took leave of Captain Tyler, and went on board the boat as the sun was setting. We proceeded to an elegant state-room, or two state-rooms connecting; one of which was mine, and the other was occupied by Colonel De R.; and, leaving there our satchels and heavy overcoats, we took seats in the ladies' cabin. Soon came in Cutcher, with six soldiers, and stood before us. Colonel De R. immediately arose, much excited, and sternly ordered Cutcher to go with his men at once to the forward part of the boat, and remain there. Subsequently, all but two were sent back, and those two accompanied us to New York; but I did not see them until we were crossing on the Jersey Ferry, when I heard Colonel De R. order them to go to the Park Barracks, and remain there until further orders.

"I feel constrained to record here my impressions of Colonel De Radowitz. He was about twenty-four years of age, was an officer in the army of the King of Prussia, and was on 'leave of absence' for two years, that he might 'see service in America.' He was first on the staff of General McDowell, then of General McClellan, and last of General Heintzelman, which station he then held as 'aide-de-camp.' He was dressed in neat undress uniform, and wore a service-sword, but no revolver, the inevitable and disgusting appendage of our volunteers. Over all, he wore a light overcoat—not uniform. He was tall, graceful, refined and polished in manners, and withal a handsome man among a thousand. A more perfect gentleman I have never met. He pronounced the English language correctly, but with a slight foreign accent. During our whole progress to New York, he assayed

to entertain me as if he would lighten my heavy load of sorrow, which seemed almost insupportable.

"I contemplate the strange fact, unaccountable even now, that from the first moment of my arrest, and during my entire journey to New York, I never thought of Fort Lafayette, and least of all things, the possibility that I was destined for *eleven months* to its dismal, living death."

About one o'clock on the 30th of April the party arrived in New York city. On landing from the ferry-boat the prisoner was placed in a carriage, accompanied by Cutcher. Colonel De Radowitz stepped aside as if seeking some one, and was met by a young man who handed him a packet, in a large Government envelope. Immediately on receiving the packet and reading it, he stepped to the carriage and took a seat beside the prisoner. He seemed much agitated, and the carriage had proceeded some distance in the direction of the Battery, when he broke the ominous silence with these words: "I have bad news for you, Mr. Wright, very bad news!" The prisoner inquired quickly—not suspecting its purport—what the news was like? "*I am ordered to carry you to Fort Lafayette,*" replied Colonel De Radowitz with visible emotion. They proceeded in silence. Arriving at Fort Hamilton, they descended a flight of steps to the wherry, and were conveyed across the channel to Fort Lafayette.

Ascending to the Adjutant's office, Mr. Wright was formally delivered to Colonel Martin Burke, a man apparently seventy years of age, with features as hard as iron. His face plainly spoke "orders" in every feature and lineament. He looked as though he could stand by the rack, thumbscrew, or gibbet unmoved by the agonies of his victim, if "ordered." He was the man for the Bastile.

After bidding farewell to Colonel De Radowitz and Cutcher, the former of whom left him with cheering words, the victim of despotism was passed through the routine of office, relieved of his valuables, and thence conducted to casemate No. 3, scratched in the paint on the door-casing of which were the words:

"Who enters here leaves hope behind."

We again quote from Mr. Wright :

“Here, during my eleven months, there were never less than eight, and often thirteen men. We were locked up after being counted at ‘retreat,’ and released at ‘reveille,’ but in the day we were permitted to walk on three sides of the area along the borders of the parade grounds. We were provided with iron bedsteads, which folded against the walls during the day and were let down at night, and with good mattresses, pillows, sheets, and blankets in abundance; but these were not furnished by the Government, but were the gift of the ladies of Baltimore to the members of the Legislature of Maryland, who were arrested by General McClellan, and thrust into Forts Lafayette and Warren, some of whom were detained thirteen months. Government furnished nothing for the prisoners save very plain food, scantily dealt out by a thieving commissary, who was subsequently detected, and fled from the punishment he so well deserved. I will not write his name, lest I should lighten by a shade, in comparison, the character of the mean fellow who succeeded him. His successor was Lieutenant —, of the 17th Infantry, U. S. A. He had been, in the beginning of the war, a member of the noted ‘Shriver Guard,’ of Wheeling, Va., but deserted his friends and the cause of his State for ‘loil’ service, which paid better. He will know himself in this brief sketch, and will be long remembered by many prisoners.

“At the period of my arrival there were about ninety prisoners in the Fort, about sixty of whom were prisoners of war, including blockade-runners, and citizens picked up in various localities to count for exchange. Of these latter, none had been in the service. Most of them were too old and infirm for any service.

“Later came Joseph Howard, Jr., of the Proclamation notoriety, whom Colonel Burke would always call ‘Bogus Joe.’ He was a man of good heart, sprightly intellect, and fine culture, quick, lively sensibilities, and withal a most genial gentleman and a good companion. I missed him when he left us. With him came Mr. Mallison, his coad-

jutor, who was popular with all the prisoners through his good-nature, genial mirthfulness, and lively wit, which seemed ever gushing from an exhaustless fountain.

"The monotony in Lafayette was often broken by the arrival of the small steamer 'Henry Burden,' bringing fresh prisoners, but more often visitors, and still oftener the 'Commission' and Judge Advocate Bolles. There was not a prisoner in the Fort, except the accredited 'prisoners of war,' save myself, who had not been called up before that august tribunal once, twice, or thrice. Every time the boat's whistle was heard, the boys would cry out, 'Fresh fish,' meaning new prisoners, or 'Commish,' or 'Bolles.' That cry always raised my anxious expectation. I would fancy my trial was near, and I never doubted that my release would follow; but I learned that I was not answerable to that jurisdiction, but that I was the 'President's prisoner.'

"I must omit, for want of room, the narration of many notable incidents in my experience of life in Lafayette. I cannot do justice to my own feelings, nor to the memories which I shall cherish through life, without mentioning the kindness which I received from all the prisoners, without a single exception, and also the uniform good feeling that prevailed among them. There were many men of education and fine culture. We were denied the advantage of religious instruction from the outer world. No spiritual friend and counsellor could come within those dark walls to say good words to us. In our mess, and in other apartments were several gentlemen who were members of the Episcopal Church. A friend sent to me, by my own request, eighteen prayer-books, and a book of church music. I read service every Sunday morning at 11 o'clock, in the 'Battery,' which would scarcely contain all the prisoners, and there were few who did not attend regularly. We had several young men who sang well. We had musical instruments—flutes and violins—and our Sunday choir might have been welcomed in any church in the city of New York, or elsewhere."

On the 30th of August, 1864, Mr. Wright sent the following letter to Mr. Lincoln, which was never answered. Other similar letters were addressed to the President by the prisoner and his friends, asking for a trial or release; but they availed nothing, although Mr. Lincoln several times promised to grant one or the other. Similar applications were likewise made to Mr. Dana, and, after his succession, to President Johnson — but all to no purpose, as far as known. The letter reads as follows:

“FORT LAFAYETTE, August 30, 1864.

“To HON. ABRAHAM LINCOLN, President of the United States:

“*Sir*: I have been a prisoner in this fortress four months this day. I was arrested at Grand Rapids, Michigan, on the 27th day of April last, ‘by order of the President, through General Heintzelman,’ and by Colonel J. R. Smith, commanding Department of Michigan. Until this hour I am unadvised of any charge or charges against me, or of any special cause why I was arrested. My position is most painful and mortifying. In regard to my political sentiments generally, or my opinions touching the momentous questions of the day, I am prepared, as I ever have been, to make a frank avowal of them. In regard to my actions touching the questions at issue, or the parties to that issue, since the commencement of the war, I have nothing which I desire to conceal. I am a citizen of the State of Missouri, resident in the city of St. Louis, by profession a lawyer. The story of my private life, or of my relations, of blood, or social, cannot interest you just now.

“From you, as Chief Magistrate and Executive of my Government, I have the right, respectfully, to demand *justice*. As a citizen, I would fain appeal to your humane and Christian sympathies. I am incapable of crime, or of premeditated wrong. I dislike notoriety of any kind, and now respectfully request that I may be permitted to communicate personally with some one in whom you may confide, who shall be empowered to set me at liberty, in the event that he shall be satisfied that there is no just cause for my further detention. I trust that my motives in this communication will not be misapprehended.

"The welfare of my country, and her restoration to unity, peace, and prosperity, have been the burden of my highest aspirations. I am not a *criminal*, begging for mercy, but a *free citizen* demanding *justice*, to know whereof I am accused, and who is my accuser, to be confronted with the witnesses against me, tried by the law, and by it be convicted or acquitted.

"General Dix, as my counsel advises me, and Colonel Burke, have both promised that any communication which I might desire to send to you shall be promptly forwarded to you, if proper.

"I have the honor to subscribe myself with due respect,
P. C. WRIGHT."

On the 13th of March, 1865, Mr. Wright was, together with seven other political prisoners, transferred to Fort Warren, while the prisoners of war were sent to Fort Delaware. He arrived at the Fort the following day, (March 14,) and was informed, had he arrived the day previously, he would have been discharged, with some forty others, of the same class who had been released that day. The Fort was commanded by Major Allen, U. S. A., and was garrisoned by a detachment of the 4th Massachusetts Heavy Artillery, Governor Andrews's pet corps, under the command of Major Appleton, in all about four hundred men. They were a fine body of men, and were uniformly kind and just toward all the prisoners. Among the notable prisoners there, were Commodore Tucker, of the Confederate Navy, Generals Edward Johnson, Ewell, Jackson, Marmaduke, Barton, and many others of General Lee's army. These general officers were separated from the other prisoners, and were assigned very comfortable quarters on the officers' side of the Fort. They were allowed all reasonable privileges, but were not permitted to speak to the other prisoners. Mr. Wright was assigned casemate No. 6, in which were about twenty-five prisoners. There were seven of these rooms appropriated to the prisoners, but two, Nos. 6 and 7, were never locked at night, as were the other five, as the inmates of the former were under parole.

The prisoners were privileged to walk on the ramparts each day as long as they chose; but having been conducted thither by a corporal in the morning, they were compelled to remain out, or if returned to their rooms, they could not go out again that day. The two rooms 6 and 7 were not so crowded as the rest, which contained fifty, and two of them between sixty and seventy persons. It is surprising that there was so little sickness among the prisoners; but the most of them were young men who had been well nurtured, and were cleanly in their habits. Early in April he was removed from No. 6 to a very pleasant room under the officers' quarters, and for eight weeks was permitted to remain there, the last four of which he was alone.

About the last of April, Mr. Wright was informed by Lieutenant Woodman, commissary of the prisoners, that Major Bolles, Judge Advocate on General Dix's Commission, was at the Fort, and had come to see him. The Lieutenant then called a corporal and directed him to escort Mr. Wright to the august presence of the Major, who occupied the room of an officer in a distant part of the Fort. The Major received him graciously and bade him be seated. After exchanging a few commonplace remarks about the weather, the prisoner's health, and the manner in which he had endured his incarceration, and boasting of some of the exploits while in the performance of his official duties as Judge Advocate in West Virginia and elsewhere, he said: "I have called to see you, Mr. Wright, upon very important business, and I am authorized to propound to you certain questions, and to assure you that upon your answer to those questions will depend your immediate release, or your further detention." Mr. Wright became very angry and much excited at the insolent tone in which he had been addressed, but calming himself, he said, "You do not know me, sir, or you would not thus insult me. I will hear your questions, and will answer them truly if I can, or if I shall deem it proper to answer them, whether I shall be released now, or remain here to the end of my natural life. What I shall say will be

the truth, whether it should suit your purpose or not." After profuse apologies, he said: "I am Judge Advocate on the staff of General Dix, and am here in my official capacity. I have had much experience of late as a Judge; I am pushing inquiries relative to that dreadful affair of Good Friday last," pulling some papers from a large envelope; "I refer to the assassination of President Lincoln." Springing to his feet, Mr. Wright exclaimed, "What do you mean, sir?" The Judge Advocate bade Mr. W. to be calm, and cast his eye toward the stalking sentry at the door, with an ominous glance toward the prisoner, which bespoke power. Then opening a paper, he read its contents, commenting on the sentences as he read them. He argued that the prisoner must unquestionably be a party to a conspiracy long since organized to assassinate President Lincoln, remarking that the "*argument was well drawn, and the conclusion inevitable.*"

When the reading of the papers was over, and the inferences discussed, as far as force of patience on the part of the prisoner would allow, the Judge Advocate asked for a statement of his case, which Mr. Wright freely gave him. Bolles listened attentively, and noted accurately his words:

"I stated that I came from New Orleans to the West in the spring of 1857, and in the spring of 1859 I brought my family, with our servants, to St. Louis, and settled myself there for life, and engaged in the practice of my profession. It seemed to me needful to state that, during the latter part of 1857, and all of 1858, I had been in Iowa and Illinois, until I went to St. Louis, in the spring of 1859. He took down this statement, but used the word 'citizen,' making me to say that I was a citizen of Iowa and Illinois prior to my removing to St. Louis. I objected, saying, 'I was never a *citizen* of those States, but was merely a *sojourner* or *denizen.*' He made the correction I desired, and then added, 'You are now a citizen of Massachusetts, and are likely to remain so for some time to come.'" Thus another political farce ended, and with it died the prisoner's new-born hope of release.

Mr. Wright remained a prisoner in Fort Warren about

four months, and was released from his long and unjust confinement of *fifteen months*, about the first of August, 1865. No specific charges were ever made against him, nor any trial accorded him, unless a just public can pronounce the above examination, by Judge Advocate Bolles, a trial.

In conclusion, Mr. Wright says :

“I would not cherish a spirit of hatred nor revenge toward any man, not even toward one of those who persecuted me so mercilessly. I would fain believe that they were even conscientious in regard to their treatment of me, and that they thought themselves to be doing the behests of justice in view of a supreme necessity, which, if it had existed, would not have justified such outrage upon my rights to liberty and the pursuit of happiness. While I will freely ascribe to them proper motives and just considerations, I shall demand of them a due respect for my own motives, and a just consideration of all my actions touching affairs of great public interest and concern.

“I aver, that from the first hour of the signal epoch which has made up its scroll for the recording angel, I have never known but one sentiment in regard to my country, my whole country; and that had for its burden her past and future renown, through the exaltation of splendid States, each free and independent, the grand creation of her sovereign people. It is, *it was*, my simple right, nay more, my highest duty, as a free citizen, to scrutinize the conduct of men who had been raised to the places of power as servants of the people, and to judge their policy in regard to affairs committed to them, equally in a season of public emergency which threatened the destruction of all that we hold sacred, and even the entire social order, as in time of peace and tranquillity. I availed myself of that sacred right, and that was the sum of my offending. I shall again and always use that right, though the gates of the Bastile should again close behind me, and the leaden-winged months once more inscribe afresh the horrors which time cannot efface from my memory.

“While my soul would fain exalt itself in praise to Almighty

God for his dispensations, whether terrible or joyfui, I would bless anew the tyrant, my oppressor, and all his myrmidons, in that they were, unwittingly, however, His appointed agencies for my instruction and exaltation. I have learned 'how sweet are the uses of adversity'—how far more precious than gold are the lessons which persecution may impart to him who will admit into his soul the cheering light of sublime faith—how sweetly wisdom comes with her gentle insinuations in the darkest hour of trial, though in the sunshine of prosperity and success she had knocked at the door only to be scorned and denied admittance! How sweetly the grateful memories come, troop on troop, to the prisoner in his cell—come on the moonbeams, on the wings of zephyr, and even upon the harsh breath of the storm as it makes the voices of midnight revelry around battlement and tower. Ay! some holy recollections are mine! ye tyrants, usurpers, myrmidons of power! But they can never be yours! never! Ye have gathered spoils, of war and of fraud—the price of blood and the purchase of the soul's virtue! Ye flaunt the gems which meanest power has filched from weakness and innocence, until the sunlight blushes red in their flashing brilliancy! Ye may gather to these all that Golconda, Peru, and the unravished bed of the ocean may yield, and yet, with their sum twice told, ye may not purchase the immortal gems and pearls I gathered in your grim 'BASTILE BY THE SEA!' Your day has come, but its fading light proclaims the fearful night ye contemplate with fear and trembling, like cowards that await an avenging justice without hope; while your victims wait their morning, whose dawning light even now climbs up the heavens to their view."

The following beautiful poem was composed by Mr. Wright while a prisoner in Fort Warren:

MY BASTILE YEAR.

Oh! heavy, sad, and gloomy year,
As now thy retrospect I scan,
Memory waits to drop one tear
For th' inhumanity of man:
Thy record, traced upon my soul,
Each burning line instinct with life,
As though some fiend had marred the scroll,
Is stained with hate and fear and strife.

There lingers yet an angry cloud
Which shuts out every cheering ray;
I list the thunder, deep and loud,
And watch the vivid lightnings play;
Anon, that cloud by thunder riven
And scattered in the lightning's gleam,
I see beyond a silvery heaven
Where blessed rays of promise beam.

I note some weird pictures there,
And seem to hear th' enraptured strains
Of wildering accents on the air
Which zephyr wakes along the plains.

There Love's enchantments lingering glow
As now she weaves her magic spell;
I list her voice in numbers flow
Like echoes of a fairy bell.

Dear Friendship, too, handmaid of love,
Hath left the impress of her hand,
As to my questioning heart she'd prove
Her kindred with the angel band.

Now Hope essays her magic powers
To lend her radiance to the scene,
Still strives to cheer my weary hours,
Yet with illusions sweet, I ween;
She nestles under fancy's wings,
And glistens in the beams of noon,
Now her entrancing carol sings
And flies me with the waning moon.

Oft she has sought my casemate cell
To lure me with a cheering beam.

AMERICAN BASTILE

But when the stalking sentries yell
 She flees like phantom of a dream ;
 But still she points me to the skies,
 And leads her sister, Faith, to me,
 That from despair my soul may rise.
 And bright, celestial joys may see.

Faith, sweet messenger of Heaven
 To every wretched child of earth,
 Now whispers me her mission given
 To tell my soul its heavenly birth ;
 She blends her light with Hope and Love,
 And sheds her pure, transcendent rays
 T' illumine the path to realms above,
 Where pleasures dwell through endless days
 And Faith brings Patience in her train,
 The virtue gentle, meek, and fair ;
 She constant sings her dulcet strains
 With chorus spirits of the air.

Be still, sad heart ! thy murmuring cease,
 And heed the message from above !
 There's nought of earth thy pain can ease,
 Make room for Patience, Faith, and Love

Now, Memory ! the scroll is thine,
 Essay thereon thy weird skill,
 Bid hate to mar no single line
 By faintest trace of suffered ill.

Let envy's dull envenomed trace,
 As serpent slimes the fairest flowers,
 Thy precious tablets ne'er deface,
 Nor soil the wings of golden hours.

Dispel the dark'ning shades of fear
 That come like shadows of the night .
 Tell my sad heart that God is near,
 He ever will defend the right.

Let malice ne'er the cup infuse,
 Which angels proffer to my lips,
 Brimful with nectar, pure as dews
 The bee from th' opening rosebud sips
 Should she, perchance, prevail to blot
 Thy record of my Bastile year,
 Bid Charity conceal the spot,
 Or cleanse it with a shining tear.

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Oh! let oblivion's darkest wave
Roll o'er thy gathered horrors now,
Or hide them in that welcome grave,
O'er which eternal waters flow.

Thy task is done; bind up the scroll;
Bear it in triumph to thy shrine,
And thither lead my willing soul,
To dream in pleasures only thine.

COLONEL SAMUEL NORTH, MAJOR LEVI COHN,
AND LIEUTENANT MORVEN M. JONES.

THE trial of Samuel North, Levi Cohn, and Morven M. Jones, before an United States Military Commission, commenced at Washington, D. C., November 3, 1864, and ending January 7, 1865, was one of the most interesting and important ever held in the United States, involving numerous and highly important legal and constitutional questions, including those affecting the powers of the Government and the rights and privileges of American citizens.

The commission was instituted on the 27th of January, 1864, more than nine months before the accused were arrested, to try whoever might be brought before it. General Abner Doubleday was President. The trial did not end until the 7th of January, 1865. North was retained in prison nineteen, and Jones and Cohn thirty-two days, after the trial closed.

New York had promptly responded to the President's first call for 75,000 men, and cheerfully met those which followed. The inexperience of the officers was felt in the care and management of the sick and wounded. With the hearty approval of Governor Seymour, the Legislature of New York passed a bill on the 24th of April, 1863, authorizing the Governor to appoint suitable agents to provide additional relief for the sick, wounded, furloughed, and discharged soldiers, and to facilitate the removal of the bodies of deceased soldiers, and to perform such other duties as he might direct. He was also authorized to employ surgeons and other agents to look after the sick and wounded. To meet these expenses, \$200,000 were appropriated.

The Governor appointed Colonel Samuel North, a distin-

guished citizen of Otsego County, who had been a magistrate of his town, clerk of his county, and for seven years an agent of the Post-office Department, and then a merchant, agent for the State at the City of Washington. The manner in which he discharged his duties was satisfactory to all who did business with him.

At his request, the Governor determined to send a State paymaster to pay all back bounties, and whatever might be due to soldiers from the State. The Paymaster General of the State recommended Major Levi Cohn, then in his own office, for this employment, and he was selected by the Governor, and repaired to Washington to perform his duties. He stood high in Albany as a book-keeper and merchant's cashier, and an accurate and trusted business-man.

Nurses were needed at the hospitals. Morven M. Jones had assisted in raising a company of volunteers at Utica, and was commissioned a Lieutenant and entered the Army of the Potomac. He was in the second battle of Bull Run, and was taken prisoner. He was compelled to march four days without food, and was subsequently thrown into Libby Prison, where he remained until paroled. He was subsequently exchanged. Being advanced in years, his health became too much impaired to permit him to continue in the service, and he resigned. The General State Agent, knowing him and his wife personally, requested them by telegraph to proceed to Washington to engage in hospital duties. On the second day after its receipt, their house was closed, and they on their way to duty. They, like Major Cohn, reported to Colonel North, and then entered upon their arduous duties. The manner in which Governor Seymour executed this law has never been the subject of complaint by any one.

On the 21st of April, 1864, the Legislature passed another law, authorizing volunteer soldiers in the national service to vote, and prescribing the mode of doing so. This law was so framed that, if not executed in an open and public manner, innumerable frauds might be committed under it. Governor Seymour proposed to the leading officials of the Repub-

lican party, so to arrange as to have all the voting in an open and public manner, under the superintendence of a representative of each political party. This reasonable proposition was neither accepted, nor even answered.

The law required the votes to be authenticated by a New York commissioned officer. These being mostly Republicans, exercised a controlling influence over the soldiers, and especially so when they were taken in secret.

Neither Colonel North, Major Cohn, nor Lieutenant Jones was charged by Governor Seymour with any duties under this act. If soldiers called, wishing to vote, they were aided by some one person present, but never by Colonel North or Major Cohn, and only on one or two occasions by Lieutenant Jones. But it was assumed by Republicans, Colonel North's office was the headquarters of Democratic voting, and that great frauds and numerous forgeries were committed there. It was thought that the arrest and conviction of Governor Seymour's agent before election, on charges of fraud and forgery, would secure the success of the Republican ticket.

Without an affidavit, or any evidence that a crime had been committed, Mr. Dana, Assistant Secretary of War, issued an order for the arrest of "Colonel North, James M. Murphy, Cohn, and Jones," and he directed the seizure of all the papers of the agency, and all their private papers at their lodgings. To screen himself from personal responsibility, he stated in it, that it was issued by order of the President. Under it, Colonel North, Major Cohn, and Lieutenant Jones were arrested on the 27th of October, 1864, and thrown into the Old Capitol Prison, without being informed of the accusations made against them. When Governor Seymour received information of this outrage upon citizens of New York, employed by him and acting for the State, he appointed Amasa J. Parker, William F. Allen, and William Kelly, three distinguished and well-known citizens, to proceed to Washington and investigate the matter, and employ, in behalf of the State, counsel to defend the accused. They

faithfully performed these duties and reported to the Governor.

The following is an extract from the report of these commissioners:

"They found them in the 'Carrol Prison' (a part of the Old Capitol Prison) in close confinement. They learned that Messrs. North and Cohn had been confined together in one room, and had not been permitted to leave it for the four days they had been prisoners for the purpose of answering the calls of nature. They had been supplied with meagre and coarse prison rations, to be eaten in their room, where they constantly breathed the foul atmosphere arising from the standing odor. They had no vessel out of which to drink water, except the one furnished them for the purpose of urination. They had but one chair, and had to sleep three of the nights of their confinement on a sack of straw upon the floor. They had not been permitted to see a newspaper, and were ignorant of the cause of their arrest. All communications between them and the outer world had been denied them."

The visit of these commissioners improved their condition for a time, and they were permitted to purchase better fare, and were placed in a room with a dozen other persons. But they were subsequently separated, kept in solitude, and reduced to the hardest of prison fare, compelling them to subsist upon "hardtack," which they could not eat; sometimes, only three crackers a day for each, with sour apple-sauce and black coffee.

They were required to obey prison rules which were not posted up, or otherwise accessible. They offered the Superintendent five dollars for a copy, which he refused. They were required to obey laws of which they had no knowledge.

The object of this severe and brutal treatment was to break down the independence of the accused, and induce them to become informers upon one another, and upon Governor Seymour and others in New York, in order to secure themselves a release, or, at least, better treatment. After trying it a

second time, the effort to accomplish the object in this manner was abandoned, and they were allowed to supply themselves with better food and some needful conveniences. But they were never permitted to see any person, except in the presence of some official of the prison. In a written communication from the War Department, Mrs. Jones was expressly refused permission to see her husband, and the Judge Advocate roughly told her she had better go home, as her husband would be convicted and sent to the State Prison, if not sentenced to anything worse. All correspondence, except through the prison officials, was forbidden, and for a long time they were not permitted to read newspapers. At one period, after the trial began, Cohn was not permitted, for a whole week, to see his counsel, although it was important that they should consult together.

The accused were arraigned and charged "with conduct prejudicial to the military service of the United States, and in fraud of the election rights and duties of the soldiers and officers of said service."

The specification set up that they were the ostensible agents of the State of New York, to aid in the execution of the law authorizing soldiers to vote, and had fraudulently signed, or caused to be signed, blanks under said law purporting to have been signed by soldiers, and witnessed and sworn to in the presence of, and by an officer, and intended to be used at the election in fraud of the soldiers' rights.

The counsel for the accused pleaded to the jurisdiction of the commission:

- 1st. The commission had no jurisdiction over the parties.
- 2d. Not over the subject-matter.
- 3d. The subject is not within the powers of the National Government.
- 4th. The National Government has never legislated on the subject.
- 5th. There is no law of the National Government authorizing the institution of a military tribunal to try a person, not in the military service, for any offence, he not being a spy.

In support of this plea, the counsel cited numerous authorities, including the Constitution of the United States, defining the powers of the Judiciary, and prohibiting the exercise of criminal power, except through presentments by grand jurors, and limiting military powers to persons in the military service.

It was contended that the acts charged were not declared, by any law, to be an offence, and Congress had not attempted to confer jurisdiction. No national tribunal could enforce the penal laws of a State. It had been settled by the Supreme Court that no common-law offences existed under the Federal Government. The Courts of the district were open. The laws had not been suspended, nor martial law been declared. If the laws of New York had been violated, that State had the will and capacity to assert her dignity and defend her sovereignty. A conviction by the commission could not be pleaded in bar, if the accused should be prosecuted in her courts. This tribunal could not deprive her of her rights to vindicate her dignity and execute her laws. If the commission has not jurisdiction, its members will be personally answerable for their acts. An English soldier had once been proceeded against and sentenced to be punished by an unauthorized commission like this. He died while undergoing the punishment it had ordered. Years afterward the officer ordering it was indicted for murder, convicted, and actually hung. Shall we be less firm in defence of the rights and lives of our citizens than mother England?

The Judge Advocate answered by saying, among other things, "In time of war, a great many provisions of the Constitution, which were intended for time of peace, are, *pro tanto*, suspended. The Constitution, or rather the mass of its details, is intended for time of peace; but, in time of war, the general war powers therein delegated to Congress and to the President, take the place of the general provisions in time of peace."

He did not inform the commission who had the power to suspend these provisions, or how the people were to learn

which were suspended, and when that occurred, nor how they were to know when they were restored. The fallacy and absurdity of this argument were most fully exposed. But the commission concurred in these monstrous doctrines, and overruled the plea to their jurisdiction. The Supreme Court of the United States has since decided that they had no jurisdiction.

When the decision overruling the plea was announced, the Judge Advocate demanded final judgment against the accused upon the absurd ground that the plea to the jurisdiction admits the truth of the charge and specifications. Upon this motion, a long argument ensued. The proposition was so monstrous, and the reasoning against it too strong to be overcome by the sophistry of the prosecutor, the motion was overruled, and the accused permitted to plead, whereupon they entered a plea of not guilty.

After issue joined, the accused demanded separate trials. This was resisted upon the ground that it would enable one of them to testify in favor of the others, and thus avoid a conviction. Although clearly entitled to the privilege of separate trials, the commission refused to permit it.

The counsel for the accused then moved that the Judge Advocate be required, before proceeding to trial, to elect which he would try as principals, and which as accomplices, both offences being averred in the specification, without any means whereby they could determine for which offence they were to be tried. This motion was resisted on the ground that, if he were now required to make election, it would diminish the chances of conviction. The commission refused the motion.

The counsel for the accused thereupon demanded process to compel the attendance of witnesses in their behalf. This brought on a long discussion. The Judge Advocate resisted their right to require the attendance of more than two witnesses each to establish their good character. The accused demanded several. The commission, without assigning any reasons therefor, determined to reserve its decision until a

later period, and thereupon allowed the Judge Advocate to call witnesses, and proceed with the trial.

Without deciding whether the accused should be allowed process for any witnesses, the commission arbitrarily and most wrongfully allowed the trial to commence and progress. A greater outrage was never perpetrated by a tribunal claiming to administer law and justice than the refusal of the means to procure the attendance of the witnesses of the accused, as provided in the Constitution, and, at the same time, permitting the prosecution to proceed in the trial.

James O. Clephane was then called as a witness by the Judge Advocate, and testified that he went some two days before, with the Judge Advocate, who was dressed in citizen's clothes, to the Carrol Prison, and had Jones, one of the accused, brought before him—that he made a confession, to which he made oath, being the same published in the "Evening Star" the day the trial commenced. This paper contained statements which, if unexplained, were injurious to Jones, but on which no conviction could be sustained. On cross-examination it appeared that Clephane went to the prison as a stenographer and took notes—that Jones's attention was not called to this fact, nor was what he took down read over or stated in substance to him. Without attempting to make a statement, or to give a narrative of events, he had simply answered the questions proposed to him by the Judge Advocate. On being asked if he would be willing to swear to what he had stated, said he would. Clephane wrote out a statement, and headed it thus: "Morven Jones, being duly sworn by John A. Foster, deposes as follows." This statement was proved by Clephane to be false. The counsel for the accused required him to produce his notes, and when he did so, and translated them into English, the concluding words were:

Q. "Are you willing to be sworn to this statement?"

A. "I am."

This proves that Jones did not in fact swear to the statement, although willing to swear to what he did say. Cle-

phane and the Judge Advocate are responsible for getting up and publishing this fraudulent paper. On comparing this pretended affidavit with Clephane's notes, they were found unlike in many essential particulars, and that Clephane had left out of the assumed confession what Jones had stated favorable to the accused, and which proved beyond a doubt that no crime had been committed, or intended. The following questions and answers he had omitted, but were found in his original notes :

Q. "Do you know any case where names have been signed without the parties being present?"

A. "No, sir."

Q. "And never heard anybody say such a thing had happened at any time?"

A. "No, sir."

This covered the whole case, and proved all innocent. But the commission not only allowed this false affidavit to be received against Jones, but against North and Cohn, and refused to strike it out as evidence, when appealed to for the purpose. Such a violation of the rules of evidence as to make a statement of third persons evidence against those accused, except where a conspiracy had been charged and proved, cannot be found in the records of any trial in the civilized world, nor defended where reason and justice are respected.

Josiah Cleghorn was then called by the prosecution, and testified that he was a Lieutenant in a negro regiment, and resided in Erie County, New York, that he called at North's office on the 20th of October, 1864, and found him and Jones there, and a man signing his name Murphy, who made out voting papers for him, which he signed and took away. He was told where to go to swear to them. That he did not in fact go and swear to them. That on the 25th or 26th of the month, he again went to Colonel North's office, when all three of the accused were there. He informed the persons present that his papers had been directed to the wrong post-office, and that he desired new ones to be made out, which Jones proceeded to do, he using blanks that had been pre-

viously signed by an officer. The old papers were twisted up and thrown under the table, and new ones made out, which he signed and took away, the envelope containing a Democratic vote. All was done as he wished, except he did not like the Democratic vote. On his cross-examination he swore that he "surrendered" this package to Mr. Clarence Seward, son of the Secretary, and that when he got the papers prepared it was not his intention to send them away. From his own statement it is inferrible that he was twice sent to Colonel North's office to obtain something out of which an accusation could be framed to cause arrests. Palmer, whose suspicions had been awakened concerning the State Agency, swore that early in October his suspicions had been aroused, and he had communicated them to Assistant Secretary Seward, at the State Department. He and his brother Clarence doubtless were acting in concert, and prompted Dana to action. According to Cleghorn's statement, Jones neither perpetrated fraud nor forgery, but served him at his request. Cleghorn was guilty of both fraud and falsehood. He went to the office with a lie in his mouth, and while there actually told several. On going a second time he did the same thing. Jones obligingly served him without fee or reward. What was prepared for him he did not intend to use, but placed in hands which caused the arrest of the accused. This whole proceeding was planned and executed by Government officials enjoying the confidence of the Administration. They attempted to induce the commission of crime, that they might cause men to be punished. In this they were criminal. But they failed. This pretended crime was no offence. It was unmerited kindness bestowed upon a black-hearted conspirator, who was willing to ruin individuals for political effect.

The counsel for the accused renewed his motion for process to obtain their witnesses. After sundry objections as to the number, the prosecution having so utterly failed in its proof, the Judge Advocate consented, and the commission ordered subpoenas for such witnesses as were required. As the trial could not be completed before election, and there being no

probability of any testimony damaging to the accused being obtained, the prosecution consented to adjourn the further hearing of the case until the 14th of November.

On the reassembling of the commission, the Judge Advocate introduced and swore one *Craig*, who testified that Colonel North, early in October, made out voting papers for him. This was shown to be utterly false, as the papers, when produced, were conclusively proved not to be in his handwriting, but in that of one Mott, who was not employed at the New York State Agency.

One Palmer also swore that Jones, in the presence of Colonel North, tried to induce him to sign a lot of blanks, which he refused, and of which he gave immediate notice at the State Department to Assistant Secretary Seward. This story was improbable and undoubtedly false, as Colonel North had been, for several days previously and subsequent to the time he named, absent from Washington in the State of New York, and that no proceedings preparatory to voting at his office took place until after his return, and that then neither of the accused became the actors.

No other material evidence was offered by the prosecution concerning the crimes charged upon the accused. But the commission indulged the Judge Advocate, contrary to all just rules of law, in an endeavor to prove that somebody had committed some other crime, not charged in the specifications. This seemed to be an effort to find evidence to excuse the arrest, imprisonment, and trial. It was a failure. No such crime was proved, even if full credence had been given to all the idle tales invented by witnesses to secure a trip to Washington at the expense of the Government.

Various letters and papers found in the New York Agency, not in the handwriting of either the accused, nor shown to have been in their possession, were offered in evidence. Their introduction, without evidence connecting them with the accused, was objected to. But the objection was overruled and they were admitted in evidence, but proved nothing material. Here the opening evidence for the prosecution was closed.

The prosecution having rested their case, and there being no evidence against Colonel North, nor pretence of any against Major Cohn, a motion was made to discharge them. This was resisted by the Judge Advocate on the ground, if discharged, they might be called as witnesses for the defence, and the conviction wholly defeated. This reasonable and proper motion was overruled.

The accused introduced a large number of witnesses to prove their high character, and among them Judge Nelson, of the United States Supreme Court, Governor Fenton, the Republican member of Congress from Colonel North's district, Judge Garvin, of New York, and several distinguished citizens of Albany, Utica, and Washington. They continued this sort of evidence until the commission announced that further evidence on that point was unnecessary.

They then proved that the State Agency was a public place, where a large number of persons were employed, and others continually coming and going. That Colonel Bradley, North's predecessor and a Republican, occupied a place where he could see and hear whatever occurred. The prosecution did not call him. It was contended, under such circumstances, it was not probable that frauds and forgeries, ^{ing J.} or there attempted.

The accused offered as a witness, Charles M. Schofield. The Judge Advocate objected to his being sworn, on the ground that he had inserted in the accusation the name of "Schofield," without any given name, or other description, as a defendant. He had been a daily attendant upon the trial, and had not been arrested. He had been employed at the Agency, and could testify to nearly everything that had occurred there. After full discussion, the commission decided that no one could be sworn whose family name had been inserted in the accusation, whether arrested, or put upon trial or not. They thus, in legal effect, declared that the Judge Advocate had the power to deprive the accused of all their witnesses by inserting family names in the charges. Under this decision, it is the Judge Advocate, and not the law, that

deprives accused persons of evidence to defend themselves. He may insert the name of every man whom he suspects of knowing facts in favor of the accused, and thus prevent his being sworn. This decision excluded another person who had also been present and had seen and heard all that occurred in Colonel North's office.

After the trial had progressed several weeks, Major Cohn was separated from his companions, and his counsel, Hon. R. H. Gillet, refused permission to see him upon his general pass. A new and special one from the Judge Advocate, or Secretary of War, was required. The former refused to give one, and informed the counsel that Cohn had employed other counsel, whose name he would not give, and did not wish to see him. As he left the prison, Major Cohn beckoned to him from a window to come up and see him. For a whole week the counsel daily pressed the Judge Advocate to permit them to see Major Cohn and learn from him his wishes. But he refused. On one morning the counsel saw the Judge Advocate and his stenographer going toward the President's, and renewed his application, but was abruptly refused. At that very moment the Superintendent of the prison had Major Cohn in a carriage, not over thirty feet distant, taking him to the President's, where the Judge Advocate and stenographer joined them. Major Cohn had been coaxed and threatened, and often told by prison officials while shut up alone, that he could be set free by coming out with a full statement of the whole matter. He consented to make such a statement, but only to the President. When the counsel saw the Judge Advocate and stenographer, Major Cohn was on his way to make the promised statement.

Before making it, he asked the President if he was to be released on making it, and was assured by him that he should be discharged and not tried. He thereupon made a full statement of all he knew of the matter, and among other things stated that he had never committed forgery or fraud upon any soldier. The Judge Advocate asked him numerous questions, and pressed him hard to admit that he had forged the

name of one Smith, but not having done anything of the kind, he refused to do so. He told the President that Colonel North had not attended to the filling out of blanks, or voting at all, and that he (Cohn) had never seen a vote taken where the soldier did not sign the papers himself—that he saw Colonel North, the evening before the arrest, burn the blanks that Captain Otternott had signed to take and use at Camp Distribution, and which he had left behind when he went, by mistake. When Major Cohn was leaving the office, the President told him he would be discharged, and only be required to remain on parole until after the trial. The President remarked that he saw no criminality in anything stated by Cohn.

On going down stairs from the President's office, the Judge Advocate told Major Cohn, if he were discharged, he should state that it was through the influence of his (the Judge Advocate's) uncle, Henry Smith, a lawyer of Albany, who had been permitted to have free access to Major Cohn in prison, after he was separated from his companions, while his regular counsel had been excluded. Why Mr. Smith came from Albany to Washington, and why he was allowed to see Major Cohn when he chose, to the exclusion of his own counsel, and why Major Cohn was separated from his companions, why the counsel who had served him through the most important portions of the trial was excluded, and why he was privately taken to the President's office with the Judge Advocate and a stenographer whose reputation had been so seriously damaged by his own oath, to make a statement, and promised a discharge from trial, can only be answered by drawing the conclusion which such facts naturally suggest. They fully authorize the belief that Major Cohn was separated from his companions and denied the right to see his counsel to break down his spirit—that Smith was introduced to advise and persuade him to make such a statement as would cause his discharge, and if obtained he would expect heavy compensation from Major Cohn's rich relatives—that an accusatory confession would save those engaged in the arrest and trial

from the odium already arising from an unlawful arrest and brutal imprisonment, and would let them down easy. In their eyes, Major Cohn committed a new offence by not accusing any one of crime. His integrity had resisted all the temptations held out to him. By way of punishment, he was remanded to prison, roughly treated, and tried. He was acquitted without any of the agency of this Albany counsel, who so mysteriously came into and went out of the case. In this strange proceeding, neither the arrest, the crushing imprisonment, nor the trial found any justification. The forfeiture of the President's pledge covered him and those engaged in the matter with imperishable infamy.

At the next meeting of the commission, this pledge of the President was formally brought before it by special plea, accompanied with a demand, if its truth should be questioned, of a subpoena requiring the attendance of the President. After argument, the commission announced, "The court declines to entertain the plea, or application of the accused, Levi Cohn, unless there is a written order produced, emanating from the President, or Secretary of War." This decision was a self-stultifying one, furnishing conclusive evidence that the commission had no settled convictions of duty, and dare not act upon a vitally important question without the permission of those creating it, even if such question furnished a controlling issue within their assumed jurisdiction, involving the honor of the President and the character of the country. The commission knew that the conditions of action they imposed could not be complied with. It would have been more manly to have overruled the plea and said nothing.

Soon after the commencement of the trial, which lasted over two months, the Judge Advocate opened a place in the city of New York, to which people from all parts of the country were brought at the expense of the Government, by subpoena, and where they were privately examined, and their statements taken down by a stenographer. If matter accusatory of the defendants was developed, the party was subpoenaed to attend the trial at Washington. This mode of

fishing for evidence brought a vast number to the place of inquisition. Of all these, a few were brought before the commission. Not one of those who came testified anything against either of the accused, or attempted to disprove the good character imputed to them by their own witnesses. But the skill of the Judge Advocate invented a new mode of attack, which the commission tolerated. He was allowed to attempt to prove that, notwithstanding the high moral character proved in behalf of the accused, their character was questioned in political matters, and that they would get political advantages whenever they could. But this effort entirely failed, except as to Colonel North, who, it was said, had been doubted by one man. Daniel S. Dickinson had declared that he had no confidence in him politically after having, at Baltimore, refused to vote for his nomination for the Presidency. And here this effort of drowning men to save themselves by catching at straws, ended.

The case was elaborately argued by W. A. Beach, of Troy, N. Y., and R. H. Gillet, of New Lebanon, for the defendants, and by John A. Foster, as Judge Advocate. Mr. Beach eloquently remarked:

“You see this case mingles with the great topics of governmental power which have stirred the hearts of the world since the endless struggle began between liberty and oppression. You cannot, if you would, belittle it. It is not alone the fate of these defendants you are to decide. Strange as it may seem, here — even here, before a military commission, the legal representative of the Government of the United States demands a judgment, affirming the suspension of the Constitution.

“He seeks the liberty, if not the lives, of these defendants, over the shattered fragments of liberty and law. The issue is sharply made between the Government and the citizen. The learned Judge Advocate concedes, argumentatively, that he can reach the accused only through a broken Constitution. Your Honors must approve his amazing doctrines, or you must acquit.”

In his concluding remarks, Mr. Gillet, in behalf of the accused, said:

“North, Cohn, and Jones are innocent men. If you find them guilty, you will never be satisfied with your decision, nor feel proud of having sat in this case. If the law required you, as in France, to write down in your finding the testimony against each, whose evidence and what words would you select to show them, or either of them, guilty? Can you select and put on paper words that you will say prove crime? When reflecting on your decision, try the experiment — read what you collate, and reflect upon it, and consider whether all you thus bring together is not consistent with their innocence. Consider whether there is no solution but in crime. You must be certain, beyond all reasonable doubt, of their guilt, before you convict. If the proof is not clear and conclusive, an inward monitor will remind you, when you hear this case mentioned, of your own doubts, and your dissatisfaction with the result. You will not feel at ease, nor will the plaudits of a satisfied republic be yours.

“It cannot be denied that the present trial has grown out of the recent party conflict. The eyes of Europe, as well as all America, are upon the proceedings of this commission. They will be read and scrutinized, and judgment rendered upon them. All mankind will give a common decision. If that decision sustains you, you will occupy an inviting page in history. But if, on the contrary, it shall be that you acted in violation of the Constitution and without jurisdiction or authority, that there existed no law which had been violated, and that you condemned without clear and undoubted evidence of guilt, then that page will be a blot—a record of unparalleled wrong and injustice among tribunals claiming to administer justice. You will make your own record, and impress upon it the character your acts will bear. In the one case mankind will admire, and in the other condemn. Your decision will be impressed upon our country, and give it character for justice or injustice, both now and in all future time, like the decisions of Hale or Jeffreys. The Administration

which brought this tribunal into existence, sustains it in the exercise of its functions, and which approves and executes its decisions, will share in the common approval of mankind, or will stagger under the weight which will rest upon and finally crush it. Both the honor of the Administration and of the country are involved in the decision you shall make. In my judgment, honor follows acquittal. I speak plainly, because it is my duty frankly to express what I believe. The case of my clients is now with you. I ask no sympathy, but demand justice for them in the name of the Constitution and laws of my country."

The final argument before the commission was on the 7th of January, 1865, although the record, General Holt says, shows no proceedings after the 4th. The finding of the commission, as shown on the record as certified by Judge Advocate General Holt, was in these words:

FINAL DECISION.

"The commission was then cleared for deliberation, and, after due consideration, do find the accused, Samuel North, Levi Cohn, and Morven M. Jones, as follows:

"As to the defendants Samuel North and Levi Cohn:

"As to the specification — not guilty.

"As to the charge — not guilty.

"As to the defendant Morven M. Jones:

"As to the specification — guilty, except as to the words 'with the intent and for the purpose of having such blanks, so signed, used as and for the deed of the soldier whose name purported to be signed thereto, and in fraud of the true electors.'

"As to the charge — not guilty.

"And do therefore acquit said Samuel North, Levi Cohn, and Morven M. Jones.

"Signed — John A. Foster, Colonel and Judge Advocate.

"Signed — Abner Doubleday, Major-General Volunteers, President M. C.

"Official — J. Holt, Judge Advocate General."

General Holt, in a letter to Hon. J. L. V. Pruyn, states that these proceedings were not filed in his office until the 26th of January, 1865.

Where were they between the close of the argument and making the decision, and their being filed in the Judge Advocate General's office? This was a period of painful suspense to the prisoners. Public rumor said they were all convicted, then that North was pardoned. The "New York Tribune," of the 27th of January, contained the following from its Washington correspondent: "Colonel North has been released by the War Department. He was convicted by the finding of the Court which tried him. Before his trial was concluded, it was felt here that North would escape all punishment. The pressure to have his trial stopped was immense. This was nearly done, but finally desisted from. The pressure for his unconditional release has been irresistible."

Why this reiteration of the falsehood that Colonel North had been convicted? The record had been withheld for weeks, either by the Judge Advocate, John A. Foster, or by Edwin M. Stanton, Secretary of War, as it did not reach the Bureau of Military Justice until the 26th of January, 1865, to the great injury of the accused, who had been proved not guilty. This neglect of a public duty doubtless led to the rumors that North had been convicted, and, when released, to the further falsehood, that he had been pardoned—all with the view of satisfying the public that there was good reason for the arrest and trials. The delay in filing the record was to allow the public mind to become occupied with something else, and to have these great wrongs forgotten. Colonel North was discharged on the 26th of January, 1865, under an order from the Assistant General's office, stating his acquittal, and directing his immediate release from confinement, which was not then communicated to him. He was merely told by the keeper "to pick up his traps and leave the prison d--d quick—to go where he had a mind to." It was not until a subsequent time that he was furnished with evidence

of his acquittal. It is probable that, but for deep censure emanating from Congress and leading men in all parts of the country, Colonel North would not have been released at the time he left the prison. He was well known to a large portion of the American people, who saw nothing in the published evidence to warrant conviction or detention, and hence their efforts to secure his restoration to liberty. This accounts for the doors of his prison being thrown open. He was too prominent a man to render it safe and prudent longer to continue his illegal imprisonment—to deprive him of liberty without an adequate cause. Fear, and not justice, prompted this tardy action.

But why were Major Cohn and Lieutenant Jones detained two weeks after his release? Was it to avoid showing the whole failure at once, or because they were much less known, and deemed more friendless, and might more safely be kept shut up? It is certain, that E. M. Stanton, Secretary of War, and Joseph Holt, Judge Advocate General, told Mrs. Jones and the Rev. Mr. Corey, that they had been convicted and sentenced to the State prison for life. Mr. Stanton twice told the Hon. John Ganson, M. C., from Buffalo, the same thing, and did the same to others. Mrs. Jones returned home to Utica believing that her husband had been found guilty and sentenced to the State prison for life. This belief became general. Major Cohn's friends, supposing that the story was true, went to Washington to ascertain what could be done to secure his release.

What object had Stanton and Holt in telling and repeating these unmitigated falsehoods? Why strike an almost deadly blow at a poor woman who had nursed our wounded and dying soldiers? Why inflict pain and torture upon Major Cohn and Lieutenant Jones, and compel them to remain in a loathsome prison, when they knew they had been found not guilty, and were entitled to be discharged and to enjoy freedom? Were these untruths for the supposed benefit of their party or friends? Truth compels us to say, that it is quite probable that a willingness to allow friends to levy

Black mail had had something to do with these false pretences. At that time there were many men in Washington who made very large professions concerning their power and influence with the President and his Cabinet and their ability to procure pardons. Major Cohn's father and uncle were deemed rich merchants in Albany. The latter, when in Albany, and often when in Washington, was approached in mystic language in relation to the release of his nephew. Except in the single instance of Governor Thomas Ford, of Ohio, he turned a deaf ear to all such suggestions. Ford's promises proved fallacious. After being detained two weeks after the release of Colonel North, on the 8th of February, 1865, the prison doors were thrown open, and they were ordered to leave as quick as possible. They were unable, until the 12th of February, 1867, to ascertain what was the actual decision of the commission. Neither the Secretary of War nor Judge Advocate General would give either the information desired. Whether this refusal was because they disregarded their claims to the information, or for fear it would conflict with their oral statements, we can only conjecture. It may be both.

We place this arrest, imprisonment, and trial on record, that our countrymen and their descendants may learn the appalling consequences that flow from disregarding the Constitution and laws, and violating both, to secure and continue the ascendancy of a political party, who claim to act under a law higher than the Constitution, and who ridicule that sacred instrument, when its provisions are appealed to as the fundamental law of the land.

ROBERT W. NEWMAN.

PROFESSOR ROBERT W. NEWMAN is descended from one of the oldest families of Virginia. His grandfather, Robert Newman, served with distinction in the army during the Revolutionary War, and was honorably discharged. His father, Catesby Newman, was a soldier in the American army during the last war with Great Britain. Robert W. Newman, the subject of this sketch, was born and educated in Virginia, and, shortly after his graduation from college, was made Associate Principal of the Winchester High School, in that State, which position he occupied for two years, and then became proprietor and principal in the Winchester Female Seminary, in September, 1855.

In April, 1858, he was elected Principal of the Harford Academy, the State institution, located near Baltimore, Maryland, which position he retained until July, 1864, when, owing to the deplorable condition into which the society of the Border States had been thrown, he yielded to the importunities of his family, and removed to New York. Deeming the unhappy state of affairs likely to last for years, he established himself in Peekskill, in the State of New York, in January, 1865, where he has since resided.

His arrest took place at Belair, near Baltimore, in the latter part of June, 1863, and was made by Lieutenant Offley, at the head of a detachment of Delaware cavalry, stationed in Baltimore, and commanded by the notorious Colonel Fish, then acting as Provost Marshal of the city. The same individual was afterward convicted of defrauding the Federal Government in contracts for supplying horses, and sent to the Albany State Penitentiary to expiate his crime. Prof. Newman's arrest was made by the Lieutenant, without a

warrant or any formula of law, other than such as he was invested with by the orders of Colonel Fish.

The prisoner was forced from his house before daylight, taken to the County Jail, and there confined for several days, without chair, table, or bed, the necessary conveniences that are furnished even to a culprit. He was treated as a condemned felon, or even worse. After much pleading, his family were permitted to furnish him with a bed and provisions, while confined in the jail. Thence he was taken, under an escort of cavalymen, to Havre de Grace, about twenty miles distant, to which place he would have been compelled to walk, but that the humane Offley, after much persuasion, permitted him to obtain a conveyance, with the express stipulation that he should pay for it himself.

Arriving there, he was thrust into a guard-house, with the most abject specimens of humanity, and there compelled to remain two days and nights, and partake of the miserable rations furnished to them; and worse than all, to sleep upon a floor, the stench from which was scarcely endurable.

From Havre de Grace, he was taken by rail to Baltimore, and placed in close confinement in the Gilmore House, which was formerly used as a hotel, but then the headquarters of Colonel Fish. Here he was treated with the utmost rigor, and subjected to all the privations and petty tyrannies that the ingenuity of the Marshal and his officers could invent. Unfortunately for the honor of the Federal Army, it was disgraced by too many such officers as assisted Colonel Fish in his nefarious work.

After the excitement incident to the Battle of Gettysburg had subsided, part of the prisoners were transferred to Fort McHenry, in the harbor, and the remaining few, including the Professor, were permitted to provide—at their own expense—food and bedding, and thus in a manner to mitigate their sufferings. Those who have never been deprived of their liberty, or felt the restraints of a prison, have no adequate conception of the sufferings endured by those who, be it remembered, were refined and cultivated gentlemen, mostly

from the higher walks of life, and who were especially sensitive to the treatment which they received at the hands of the officers in charge. The treatment imposed on prisoners of state could have had but one object, and that was, to destroy their manly bearing and self-respect, which it was thought would, ever after, deter them from expressing their views concerning any act of the Administration, no matter of how violent or heinous a nature it might be. This object was steadily pursued in the majority of cases, and was made particularly severe in case the victim was a man of more than average intelligence or influence.

In the latter part of July, 1863, after about a month's imprisonment, Professor Newman was released, and in his case, as in thousands of others, no charges were preferred against him. During the period of his incarceration his property was injured, and his library and apparatus at the Harford Academy were partially destroyed or carried off by soldiers, urged on to this deed of vandalism by some of the "trooly loil" gentlemen of his community, who were carrying out their Master's precept: "Whatsoever ye would that men should do to you, do ye even so to them."