EXCHANGE OF PRISONERS.

WHICH GOVERNMENT IS RESPONSIBLE FOR THE SUFFERINGS OF UNION SOLDIERS—THE STATEMENTS OF BENJ. F. BUTLER AND ROBERT OULD, COMMISSIONERS OF EXCHANGE.

As the question of the proper placing of the responsibility for the sufferings of Union prisoners in Rebel prisons, because of faithlessness in carrying out the exchange system customary in all wars, attracts so much attention, we give below the answer from two high sources—Maj.-Gen. Benj. F. Butler, Federal Commissioner of Exchange, and Robert Ould, who held the same position in the Confederate Army. The latter's statements are in the words of Pollard, the Rebel Historian, but Mr. Ould, in his letter published in THE TRIBUNE of yesterday, indorses them and says they are correct. Gen. Butler, in his speech in the House of Representatives on the 17th of July, in reply to a paragraph in *The National Intelligencer* of the day previous, asserting that Gen. Butler was the real cause of the suffering of Union prisoners, because he would not agree to an exchange as proposed by Commissioner Ould, said:

This charge takes three distinct forms or branches: First, that the Confederate Commissioner of Exchange made an offer to give up to our Government 20,000 sick and wounded or able-bodied prisoners without any equivalent, and that this offer was refused; second, that this fact was distinctly admitted by Gen. Butler in this House; third, that instead of accepting the offer, Gen. Butler submitted a counter-proposition, which would necessarily have caused indefinite delay. The writer then asks: "Who gave Gen. Butler the right to put off 13,000 men from exchange?" Now, I have to say that each and all of these allegations are untrue in fact, in statement, and in inference. But words of characterization are useless. They will not add to the infamy of the charge; and epithets can by no means describe the author. Therefore I content myself with dealing with the simple fact and showing the proof. And the first proof I offer is that the supposed fact of the offer of exchange of 20,000 sick and wounded prisoners without equivalent has no foundation in truth. No such offer was ever made. On the contrary, the offer to exchange sick and wounded prisoners came from myself, and was addressed to the Rebel Commissioner, Judge Ould, as will be seen by the following letter:

HDQRS. DEPARTMENT OF VIRGINIA AND NORTH CAROLINA, IN THE FIELD, Sept. 9, 1864.

SIR: I propose that the belligerent parties, waiving all other questions, shall from time to time exchange all sick and invalid officers and men who from wounds or sickness shall, in the judgment of the party holding them, be unfit for duty, and likely to remain so for 60 days. I make this proposition in order to alleviate the sufferings of those unable to bear the confinement incident to a prisoner of war, and whose condition might be benefited by the comforts of home and medical treatment by their friends. I trust and believe that this measure of obvious humanity will meet your agreement, as I am satisfied no advantage can accrue to either party by retaining such men in confinement. As a further evidence of the strong desire on the part of this Government to expose their soldiers to as little hardship as possible, consistently with such action as they feel called upon to take to observe their good faith, pledged alike to all soldiers, although it will involve the Government in a very considerable expense, yet, to save the sick and suffering a long and tedious transportation by rail, I will receive such invalid officers and soldiers of the United States as may be confined in the States of North and South Carolina and Georgia, at Fort Pulaski, near Savannah, and will transport thither any such invalids of the Confederate forces as may be in our possession, who can be more easily carried thither. Other invalid prisoners in the Western Department I will deliver at such ports on the Mississippi River as may hereafter be agreed upon; the invalid soldiers of the United States to be received in exchange therefor who are convenient to the points. Full rolls of the invalids so exchanged to be kept, so that the equivalents may be adjusted hereafter.

Asking as early as possible attention to this proposition, I have the honor to be your obedient servant, &c., BENJAMIN F. BUTLER, Major-General and Commissioner for Exchange.

The Hon. Robert Ould.

To this Gen. Butler did not receive any formal answer, but was informed unofficially that the proposition to exchange invalid prisoners would be accepted, and that at least 5,000 invalid men would be delivered at Fort Pulaski. Consequently he informed the Secretary of War that he had begun to make all possible provision for the comfort of our sick soldiers, and requested that if his action was approved the Commissary-General of Prisoners be directed to name the places from which the Confederate invalids should be taken, and how many from each, so that they could be sent down in the ships which were to bring our soldiers up. Gen. Butler then submitted a number of telegrams to Col. Hoffman, Commissary-General of Prisoners, telling him to gather all the invalid prisoners he could immediately; all of the dispatches showing that Gen. Butler was most anxious to exchange the prisoners as soon as possible. On October 26, sixteen days afterward, Gen. Butler was notified that the Rebels had prisoners ready to deliver up to our fleet. Major Mulford was sent with transports to Fort Pulaski with 6,000 invalid Confederates to exchange. In his letter of instructions he was told to inform the Confederate Commissioner that there were between 2,500 and 3,000 prisoners of the same kind ready for delivery on the Mississippi as soon as a point of exchange should be designated. The following instructions were also sent in the same letter:

In the matter which has been discussed between the United States Government and the Confederate authorities, providing for their respective prisoners, you are authorized to offer the Confederate military authorities the following terms: It is understood that prisoners of both sides complain of their treatment by those having them in charge, in shelter, food, clothing, and hospital stores. You will then offer on the part of the United States: That the United States will furnish food according to its discretion to the prisoners held by the Confederate authorities, delivering it at the nearest seaport to the place where the prisoners are held, the Confederate authorities to furnish transportation from the point of delivery. The United States will furnish its prisoners in the hands of the Confederate authorities, delivered in like manner, with such articles of clothing and other necessary articles, including tea, coffee, tobacco, and stationery, as they may judge expedient, delivered in like manner. The United States will furnish such hospital stores as they deem expedient to their prisoners, delivered and to be transported in like manner. The United States will furnish such shelter to their prisoners as they deem expedient, delivered in like manner. The United States, on the other hand, will permit the Confederate authorities to furnish, at such points as they may choose, Confederates held as prisoners of war with shelter, food, clothing, including blankets and hospital stores, at the discretion of the Confederate authorities; (or, if preferred by the Confederate authorities, the United States will permit the Confederate authorities to purchase from the quartermaster, commissary, and medical departments of the United States such food and clothing, including blankets, as the Confederate authorities may choose for their prisoners, at such prices paid by the United States for such articles, except the uniform of the soldiers of the United States, which will not be permitted to be worn by the Confederate prisoners; and the United States will permit to be purchased in the markets of the United States such clothing as the Confederate authorities may choose, including blankets, to furnish to the Confederate prisoners of war, all to be paid for in the legal currency of the United States, or the United States will receive in payment for such goods so sold by them, cotton, upon the terms and conditions upon which cotton is pledged for the Confederate loan in Europe, and will permit such cotton to be sent from any port in the United States, whether such ports are in the possession of the Confederate authorities or otherwise, or we will receive such cotton in payment at any port to be designated by the Confederate authorities in the United States, or whether said port is in the possession of the Confederate authorities or otherwise, for all articles. The United States will also permit the purchase of tents, at the price paid by the United States, for shelter to the Confederate prisoners held by them upon the same terms and conditions as the purchase of provisions and supplies. Hospital stores may be furnished upon the same condition by the Confederate authorities. All these to be receipted for and distributed and expended by a board of three officers from the prisoners of war held by either side above the rank of company officers at each prison, who shall be paroled for that purpose, and shall have full liberty to communicate with the Commissioner of Exchange of the Confederate authorities and the United States in open letters. It being understood and agreed that no article permitted by either Government for the use of its prisoners shall be upon any pretext or for any cause whatever diverted from the use for which they are dedicated; and any surplus of articles furnished by the United States or by the Confederate authorities is to be returned to the place where received by either party, and put at the disposal of the party furnishing the same. Any other minor details not provided for in these instructions will be the subject of further just and equitable arrangement. It is further understood and agreed that either party shall have the privilege of putting a surgeon on each board of officers herein provided for. All these terms are believed to be equitable and just, and will so relieve either party from complaints of the other party that it is hoped they will be accepted. If any minor points, any objections, are made on the part of the Confederate authorities, you will report the objections, and they will be carefully considered, and, unless vital, will be yielded to. If, as may be the case, it is objected by the Confederate authorities that the United States had a larger number of prisoners taken from the Confederate army than the Confederate authorities hold taken from the army of the United States, and that, therefore, accepting these terms, will impose a burden upon the Confederate authorities greater than that assumed by the United States, although such claims would not apparently be well founded, yet the Government of the United States, being very anxious to relieve, in so far as they may, their prisoners of war, from what they are instructed, and believe to be great want and distress, you are authorized to offer, rather than the negotiations shall be broken off upon this point, that the United States will, after supplying an equal number of the prisoners held by the United States, according to the equivalent established by the cartel, using that as a measure of reference, supply only the surplus of prisoners held by us with precisely the same and not other and different shelter, clothing, food, and medicine with which the Confederate authorities supply an equal number of their prisoners held by the United States; but this proposition is not made except for the purpose of closing the negotiation on the point, as it is not deemed just that, from motives of humanity, the United States should bear any portion of the burden which properly belongs to the Confederate authorities because of the superiority of the United States in capturing prisoners of war. All propositions received upon this subject from the Confederate authorities will be received by you in writing, but they will prevent oral discussion of the several points involved in order to their true and just settlement, but such discussion shall not be taken or deemed to be propositions on the one side or the other. You will see how much is confided to your discretion, care, and judgment, and it is hoped that you may succeed in having established some just and equitable arrangement upon the basis of these instructions for the care and treatment of prisoners of war, which seem very likely not to be exchanged.

I have the honor to be, very respectfully, your obedient servant, BENJ. F. BUTLER, Major-General and Commissioner for Exchange.

Colonel Mulford.

Mr. Butler continued thus:

"Thus you see, Mr. Speaker, the Government of the United States not only offered to take care of all the Confederate prisoners it had, but also offered to take charge of, shelter, warm, clothe, and feed all our prisoners in the hands of the Confederacy; and that offer was continued open so long as I had anything to do with the matter of exchange. I think that these documents will satisfy the country that there is no truth whatever in the charge made by those who say our Government only is always wrong and the Rebels only always right, that any officer having charge of the exchange of prisoners failed in any respect in our duty to our sick and wounded soldiers."

The remainder of the speech was devoted by Gen. Butler to show how the Confederates treated the colored Union soldiers who fell into their hands.

Mr. Pollard's "Lost Cause" has a chapter giving the Confederate history of the exchange of prisoners, and from this we condense the statement of that side of the question:

Gen. Wool was the first Commissioner of Exchange on the part of the Federalists, and Gen. Howell Cobb on the part of the Confederates. In February, 1862, both these officers agreed upon a system by which each other's prisoners would be paroled ten days after their capture, and delivered on the frontier of their own country. A little while afterward, Gen. Wool informed Gen. Cobb that "his Government had changed his instructions," and abruptly broke off the negotiation. In the second year of the war, a cartel was arranged between Gen. John A. Dix and Gen. D. H. Hill; under this cartel Robert Ould was appointed Confederate Commissioner. Up to July, 1863, the exchange was carried on as fast as the "Federal Government furnished transportation." Commissioner Ould, on the 26th of July, 1863, addressed a letter to Lieut.-Col. Ludlow, then acting Chief of Exchange, in which he charged that from the time he and Col. Ludlow were brought together there had been an open violation of the cartel of exchange on the part of the Federal authorities—the latter keeping Confederate officers and men in confinement under different charges, and without trial, who were entitled to exchange. Pollard asserts that the only complaints on the part of the Federal Government against a violation of the cartel on the part of the Confederates were made when Col. Streight and his officers were retained in consequence of the proclamation of President Davis. In July, 1863, Commissioner Ould informed the Federal officers that the charges against Streight and his officers had not been sustained, and therefore they had been placed on the level with the other prisoners. Up to July, 1863, the Confederates had a large excess of prisoners. The larger number had been released upon parole after capture. Such paroles had been supported without questions by both parties until about the middle of 1863, when they were declared to be void except under very special circumstances by general order at Washington. The true reason of those general orders was that that the Federals had no lists of paroled prisoners (released on capture) to be charged against the Confederates. They, on the other hand, had many such lists which were unsatisfied, principally captures in Kentucky, Tennessee, etc. Such being the case, on the 8th of April, 1863, Commissioner Ould was informed that "exchanges will be confined to such equivalents as are held in confinement on either side." In other words, as all the paroles held by the Federals had been satisfied, and paid for in equivalents, and as they held none of such to be charged against the Confederates, they would no longer respect such as they held, and the latter must deliver men in actual captivity—for such as they would send. The Confederates then had the outstanding paroles, but the Federals had the majority of prisoners on hand. The effect of all this would have been after the Confederates had delivered all their prisoners, to leave a large body of their people, while they at the same time had in their possession the paroles of ten times as many prisoners as the enemy had in captivity. Commissioner Ould refused this arrangement with indignation. The officers and men who gave the parole referred to were subsequently, in violation of their parole and without being declared exchanged, ordered to duty and served against the South. Thereupon, Commissioner Ould offset such paroles against similar paroles taken by our officers and men at Vicksburg, and declared a like number of the latter exchanged. From this time, it is charged that the cartel providing that all prisoners were to be delivered within ten days was practically nullified, and was not respected during the remainder of the war. Such deliveries as were made afterward were in consequence of special agreements. On the 10th of August, 1864, Commissioner Ould addressed the following communication to Major John E. Mulford, Assistant Agent of Exchange:

RICHMOND, Va., Aug. 10, 1864.

SIR: You have several times proposed to me to exchange prisoners respectively held by the two belligerents, officer for officer and man for man. The same offer has also been made by other officers having charge of matters connected with the exchange of prisoners. This proposal has heretofore been declined by the Confederate authorities, they insisting upon the terms of the cartel, which required the delivery of the excess on either side upon parole. In view, however, of a very large number of prisoners now held by each party, and the suffering consequent upon their continued confinement, I now consent to the above proposal, and agree to deliver to you the prisoners held in captivity by the Confederate authorities, provided you agree to deliver an equal number of Confederate officers and men. As equal numbers are delivered from time to time, they will be declared exchanged. This proposal is made with the understanding that the officers and men on both sides who have been longest in captivity will be first delivered where it is practicable. I shall be happy to hear from you as speedily as possible whether this arrangement can be carried out. Respectfully, your obedient servant, R. OULD, Agent of Exchange.

The delivery of this letter was accompanied with a statement of the mortality which was hurrying so many Federal prisoners at Andersonville to the grave. The same letter was sent to Gen. Hitchcock, the Federal Commissioner of Exchange, but the only answer Commissioner Ould received was a note dated August 31, 1864, and signed by Assistant Agent Mulford, in which the latter stated he had received Commissioner Ould's letter, but was not authorized to say any more than the mere acknowledgment of its receipt. This arrangement, if it had been agreed upon, would have left the surplus in the Federal hands.

Subsequently to this, Commissioner Ould, in the same month (August 1864), acting under the direct instructions of the Confederate Secretary of War, offered to the Federal Agent of Exchange, Gen. Mulford, to deliver to him all the sick and wounded Federal prisoners without insisting upon the delivery of an equivalent number of our prisoners in return. He also informed Gen. M. of the terrible mortality among the Federal prisoners, urging him to be swift in sending transportation to the mouth of the Savannah River for the purpose of taking them away. The offer of Commissioner Ould included all the sick and wounded at Andersonville and other Confederate prisons. And further, that if the sick and wounded did not amount to 10,000 or 15,000 men, the Confederate authorities would make up that number in well men. No timely advantage was ever taken of this offer by the Federal Government.

It was December before the transportation was sent, and then 13,000 men, large numbers of whom were well, were delivered by Commissioner Ould at Charleston and Savannah, and he was ready to deliver more, notwithstanding the difficulties the Confederates were laboring under in consequence of Sherman's invasion of Georgia.

On February 11, 1865, Commissioner Ould proposed to Gen. Grant to deliver without delay all the prisoners on hand, upon receiving assurance from the latter that he would deliver an equal number of Confederate prisoners within a reasonable time. This was accepted, and every energy was used to send immediately, through Wilmington, James River, and other practicable ways, all the prisoners held. This was speedily consummated so far as all in prisons in North and South Carolina and Virginia were concerned. The presence of the Federal troops in the interior of the South prevented the design from being carried out elsewhere. A return number of prisoners, to the amount of about 5,000 a week, were sent to Richmond until the fortunes of war closed all operations, even down to the matter of an adjustment of accounts. The adjustment has never been made.

The Committee of the Confederate Congress, which was raised to investigate how their soldiers were treated in Northern prisons, in speaking of the question why the prisoners were not oftener exchanged, used the following language:

"Secretary Stanton, who has unjustly charged the Confederate authorities with inhumanity, is open to the charge of having done all in his power to prevent a fair exchange. * * * * Very recently, Benjamin F. Butler, over his signature, has declared that in April, 1864, Federal Lieut.-Gen. Grant forbade him to deliver to the Rebels a single able-bodied man, and, moreover, Gen. Butler acknowledges that in answer to Col. Ould's letter consenting to an exchange, officer for officer and man for man, he wrote a reply, 'not diplomatically, but obstrusively and demonstratively, not for the purpose of furthering exchange of prisoners, but for the purpose of preventing and stopping the exchange, and furnishing a ground on which we could fairly stand.'"

EXCISE LAWS.

REGULATING THE TRAFIC IN INTOXICATING LIQUORS.

Much is said about the present Excise Liquor Law. Webster defines "Excise," thus: "To lay an impost or duty on articles produced and consumed in a country, or on licenses." Governments have always laid or imposed Excise duties on products, or attached them to licenses granted for certain purposes; many have levied Excise on their exported products. Excise and customs duties are as old as government. The Savior found one who became an apostle, "sitting at the receipt of custom," collecting an Excise laid by the Romans. The City of Paris to-day collects an Excise duty on all provisions passing her Barriers. Our own City of New-York demands and collects an excise duty from all market gardeners who offer their products for sale in her streets. (See Controller Connolly's circular in the daily papers.) She also demands an excise duty from all her cartmen, hackmen, omnibuses, venders (what means the words "Licensed Vender" which we see on so many wagons except that an excise has been paid by the owner), porters, &c., and for every license she not only requires money but also demands conditions from the recipient. The public treasury requires the former and the public protection the latter. The city demands an excise for selling gunpowder, but couples with it the condition that only so much of that article shall be kept on hand. Why? The public safety compels it. So in regard to kerosene, saltpeter, and other inflammable and dangerous articles, and if any attempt is made to violate these proper laws the authorities are clothed with ample power to cause the removal of such articles in the most summary and arbitrary manner without resorting to the slow routine of making complaints before a magistrate, or the procurement of a process.

No man's life or property would be safe a moment but for these laws, and yet many persons complain loudly of the Excise Law, regulating the sale of liquors, and its enforcement by the police, and some go so far as to counsel violent opposition to its enforcement, forgetting the very important fact that if one class of interested persons are permitted to successfully set at naught one law of the State or City, another interested class may attempt to forcibly nullify another law, the result of which would be the practical negation of all law, and society would be ruled by brute force, and the weak soon become the prey of the strong.

Law, order, system, regularity, security of life and property constitute civilization, and that is the sole and only safeguard that the weak have against the strong, that people have against the vicious. Most laws influencing moral action are laws of restraint, laws that say you "shall not" do thus and so, not laws saying you "shall" do so and so. The law does not require you to aid your neighbor in building a house, but it does say in the most unmistakable language that when built you "shall not" tear it down. So with license or excise laws. These do not require that you shall engage in a certain business or sell liquor.

They are laws of restraint, of regulation, of system, of protection, of conditions; laws which no man is compelled to place himself under, for no man is required by the Excise law to engage in the liquor business; it is purely and entirely his own matter, dictated by his own interest or taste; but if a person will engage in that trade, he must comply with the conditions. Nothing can be more fair. The Excise law, like the city laws of license for cartmen and others, restrains the entire public from selling liquors; but, it also, like the city laws, will allow (no compulson, however), a certain portion of the public to do this thing (sell liquor) upon certain conditions, and restrains these certain parties from such selling, if they violate these conditions. Now, as the interest of the party receiving the Excise license prompts him to engage in this business, and he voluntarily takes out his license, coupled with its conditions, ought he not, as an honorable citizen, to keep his part of the contract and comply with the conditions he voluntarily takes on himself?

With what propriety, then, do the opponents of the Excise law oppose it, and threaten personal violence to the officials whose duty it is to enforce it. Are these men good law-abiding citizens? Are they setting a good example to other classes of the community who pay excise licenses? Suppose the cartmen, the hackmen, and all others who, in our city, are licensed (and all with conditions voluntarily accepted), should resort to violent opposition to the law by threats and attempts at personal violence toward the city officials, would not the public safety be endangered and public order be entirely gone?

Obedience to law distinguishes good citizens from bad. The Excise license protects the holder from the competition of the unlicensed, and he should be the last person to oppose that law.

But, say the anti-Excise Law men, we are opposed to that law every way, we desire "free trade" in liquor, just the same as others have in groceries, dry goods, &c., forgetting that there can be no such thing as freedom in the sense they use the phrase in any community. No man is free from excise, taxes, or duties in any civilized country under heaven, and cannot be; for on those excise duties and taxes depends the very life of every such Government. There is no freedom in this city for the unlicensed running of hacks, carts, trucks. The protection of those employing them requires official control over them, which is done by excise license. The cost of repaving streets demands it. There is no freedom in using the Croton water (more necessary than liquor); all must pay excise for it, and even with the license on which an excise duty has been paid, certain restraining conditions are coupled. Why? Public economy and safety require the conditions; one of which is that the licensed shall not sprinkle the street in front of his own house during certain hours of the 24. Where is the "free trade" principle in that condition? The water laws do not compel any person to ask for water permits, but, if taken, certain conditions are exacted. So with the Liquor Excise law. That law does not compel anybody to sell liquor, but it requires certain conditions of all who sell it. So with the City laws about gunpowder.

New-York City does not say to any man that he shall live within her limits, but she does say to every man that chooses to reside therein that he must pay taxes, duties, Excise. Why? Without such taxes, duties, Excise, licenses, she could not furnish streets, sidewalks, fire-engines, water, &c. No man or class of men can practice the "free trade" principle in the sense used by anti-Excise men in any civilized community. We are told that the license fee demanded is too exorbitant, too heavy. If the business covered by the license will not pay, common sense dictates that it be let alone. The Excise law compels no man to engage in the liquor trade. It is purely a personal matter. If you can't afford to pay the license fee don't get the license.

But it does pay the dealer, even at the price demanded for a license, or the receipts for licenses would not amount to from $1,000 to $2,000 per day, as they now do. Is it asked where this enormous sum goes to? It now goes into the sinking fund of the city to pay its debts and thereby reduce the taxes, duties, and excise license that are paid by the cartmen, hackmen, venders, market gardeners, &c., &c.

Heretofore this enormous sum has all gone into the pockets of the liquor-dealers, and that is the reason they now growl so loudly. If the city owed no money on which it paid interest, our taxes would not be so large. If taxes were less, rents would be lower, and the poor, hard-working men of the city would not have to work more than half their time to pay their rent, as they now do. The money received from the Excise law will in time pay the entire city debt, instead of going into the pockets of the dealers. Then our taxes and rents will be lower. Poor men and poor men's families are benefited by the Excise law. Let them uphold it.

We are told by the anti-Excise men that the law is summary and arbitrary in its nature. It ought to be, if it is to do any good, but it is not a particle more so than any other law. All effectual laws are summary, arbitrary. See if they are not. Take the law providing for the maintenance of the public peace. A street brawl occurs. Is it necessary for a policeman to get a warrant before he can arrest the offenders? Not at all. The law clothes him with power to arrest on the spot, without writ, process, or warrant. Not only is the officer empowered thus to act, but he is required by the law so to do. Why? Because the offenders would escape while the officer was after a warrant.

Not only is the officer allowed and required to make arrests for breaches of the peace, but so also is every private citizen who witnesses the brawl; especially is this the case in affairs of personal violence, assaults, attempts to kill. The reason is obvious. If A sees B firing a building he can arrest him without the aid of the magistrate's warrant. If C saw D cruelly beating a child, even D's own child, he could arrest him without a warrant. On the summary and arbitrary character of laws designed for public safety and order depends their efficiency. The Excise Liquor Law is no more arbitrary or summary than are other laws of restraint.

Excise laws like this one have been on our Statute Books for generations. They are no new thing. The only thing at all new about this law is, THAT IT IS ENFORCED. A portion of our adopted citizens say that this law interferes with such habits of recreation as they have been accustomed to in their former homes. Possible. Suppose it does? Do not other laws of ours give them other rights and privileges which they did NOT enjoy at home? Is not the balance of privileges enjoyed by them at home and here greatly in favor of America? We can't have all we desire. Reason dictates that we should reside where we may have the greatest freedom to life, liberty, and the pursuit of happiness, and experience teaches our naturalized citizens that America affords them a greater freedom in life's pursuits than they ever exercised in Europe. Even New-York City, with its Excise License Law, gives them more liberty, and opens to them more paths of honor than any city of the old world. They ought not to counsel violent opposition to a constitutional law. Suppose they are forbidden the pleasure of a Sunday beer garden, do they not get the ballot and eligibility to office in return? Suppose restraint is placed on certain pursuits during specified hours, are not all other hours and pursuits free to all? In short, are not our naturalized citizens (in common with nature) blessed with many more privileges here than elsewhere? If they are, ought they not to cheerfully comply with all laws properly made, and which have been pronounced constitutional? They do themselves a wrong by any other course. Opposition to the laws of the land they have voluntarily come to will cause people to think that they are not law maintaining citizens, and instead of being received in the future with open arms, as now, they will be met with a cold welcome, and perhaps embarrassing restrictions. The great outcry against the Sunday features of the Liquor Excise Law by our German citizens will, if persisted in, cause the American population to believe that the opposition to that feature of the law arises from a desire to break down all Sunday or Sabbath laws.

The American people will never consent to that. If there is any one institution which all Americans believe in and will uphold, it is the institution of the Sabbath, and while Christianity lives in the land that institution will also live and have thrown around it the sanction of the civil law. Our German fellow-citizens do themselves a very grave wrong in giving any grounds for the belief that they are opposed to Sunday and to Sabbath laws. Let them cease all these outcries, stop all attempts at evading the Excise Law; if they want to sell beer and other drinks let them comply with the conditions demanded by law. The American people will not allow any portion of themselves to be wrongfully deprived of any proper privilege or right. But, it is said that the City of New-York is subjected to more stringent liquor laws than the rest of the State and therefore this law is unjust.

The provisions of this law would have been extended over the State but for the opposition thereto from the leading men now opposing its enforcement in this city, whose object was to use this exceptional feature of the law as an argument against it, hoping thereby to prevent the passage of an Excise Law for any part of the State. The inequality of the law, if there be any, is due to its enemies, and not to its friends. Let it be borne in mind, too, by the anti-Excise men that when our State laws prohibited liquor selling, the same class of persons, and in many instances, the same persons that are now opposing the present Excise Law, said to the temperance people and to the Legislature: "Do, we beseech you, repeal the Prohibitory law, and allow us to sell liquors, even under an Excise license, we don't care how stringent the conditions may be, or how high the price of the license; only let us pursue our trade in some manner." This request has been complied with. A License law has been passed, and its enforcement meets just as much opposition as did the old Prohibitory law; and, if it continues in its present violent shape, there will be no other course for the friends of law and order to adopt but to call on the Legislature to reënact the Prohibition law and put an absolute stoppage to the entire liquor traffic. Indiscriminate, unregulated, unrestricted trade in liquors, on all days and at all hours, to all classes of persons, will never be permitted by the people of this State; and all attempts to accomplish this result, or to break down the legal recognition of a Sabbath, will end in failure.

Let us all, then, native and naturalized, do all we can to uphold law, to preserve order, to promote the public peace, to sustain the authorities, to put down the spirit of riot, and when the time comes let those who would change any law adopt the only Constitutional method of proceeding with changes; but do not counsel violent opposition to any law, or sneakingly seek to evade its conditions; do not cast odium on the authorities for doing their sworn duties. In our country laws must take the place of individual opinions and personal authority.

While a law remains unaltered or unrepealed, it must be obeyed by all. Then, and then only, can we, in the time to come, set that bright example to the nations of the world which our past gives them reason to expect, and none are more interested in America's good name than are our naturalized citizens of all nationalities.

BY ORDER OF THE EXECUTIVE COMMITTEE OF "THE FRIENDS OF A QUIET SUNDAY."

THE SHAKERS.

To the Editor of The Tribune.

SIR: In the account recently given by your correspondent N. C. M., of the religion and daily life of the Shakers, I find no allusion to one very important item of their theory and practice, by which they set before the world the example which should everywhere be followed. Whatever may be the judgment of the world upon their religious theories and practices, as thorough practical sanitarians, there must be accorded to them a universal meed of praise. By their rigid adherence to the laws of hygiene, they bear away the palm from all competitors. If cleanliness is next to godliness, then are the Shakers nearer to it than any other people known to history. If any good is to be derived from strict attention to the natural rules of health, from the precepts of science respecting purity of air, simplicity of diet, absence of constraint by clothing, avoidance of dust-breeding, and air-confining furniture, and all other disease producing circumstances common among other people, then should we expect to find it in the home and village of the Shaker.

Any one who has ever visited this unique people, and seen only the outside of their dwellings, and the inside of their houses of worship, must have been forcibly struck with the extraordinary air of neatness and cleanliness pervading them. But those who have had an opportunity of seeing their inner life, by abiding with them, as it was my privilege for a very brief period, on a recent unexpected occasion, at Lebanon, will have been convinced that the careful attention of these people to the purity of the outer life, is not a mere external manifestation, but the result of a profound conviction of the duty of obedience to cleanliness and purity as a virtue. Believing, as we must, that the manner of life of every individual, so far as his personal deportment is concerned, is the evidence of the *principles* by which he is guided and actuated, we can come to no other conclusion respecting the mode of living of the Shakers, than that it is an evidence of a deep rooted and ever present conviction of duty so to live as to preserve to its utmost limit, and free from every possible taint, the sacred life given by the Creator, and that the possessor of that life has no more right to trifle with his health, which is its highest manifestation, than he has to destroy it altogether. This, with them, amounts to a religious conviction, and as a man believes, so is he. But, beside this, there prevails among these communities the conviction (which is, of course, a demonstration), that in this purity of life there is found the highest degree of pleasure. Not only do they find the greatest happiness in the highest condition of physical health, but for such indulgences as may be permitted within the scope of their convictions, they find the most acute gratifications, arising from the perfectly normal and unimpaired condition of their nervous systems, and all their functions of sense; in this they constitute a model community, and may be said to stand alone. As one evidence of the prevailing salubrity, I found during my visit a hospital building furnished with every needful appliance, and in a condition of cleanliness, sweetness, and purity, like all the rest, *but without a single patient*, in a community of many hundreds. There were, nevertheless, three variations from a state of perfect health, for which my professional counsel was requested, but these exceptions demonstrated the strength of the general rule of living. One was a surgical wound of the hand from an accident with a circular saw; the second was a case of *hereditary* mental disorder of mild character; and the third was a case of slightly obstructed hearing. All of these occurred in men of advanced age, whose general condition proved the value of pure living, which either facilitated a speedy cure, or greatly alleviated the severity and danger of the disorder. Nor is the course of life there followed the result of a blind adherence to an idea, without any foundation in the truths of science, or knowledge of the laws which govern the growth and relations of the animal body and its functions, for a greater degree of intelligence respecting the physiology of animal life is probably not to be found in any other community of similar extent. This fact was demonstrated to me by the perusal of a manuscript on the subject, written by a lay member, with the matter and manner of which I was both greatly surprised and pleased. M. D.

The receiver of the First National Bank of Newton, Mass., Dr. D. W. Jones, has been engaged since the suspension of the institution, after its connection with the State-st. irregularities at Boston, in collecting its liabilities, and forwarding the amount to Boston. The discount notes foot up to $110,000, and of this amount $60,000 has been collected. Half of the balance, or $10,000, is considered good, and the other half doubtful or bad, the $2,500 of paper forged by William H. Lane being included in the latter category. The stockholders of the bank will meet at Newtonville to-morrow, to consider the present condition of affairs, as the bank must be resurrected, if at all, within the next 20 days. It is proposed, even if its affairs are wound up, to resist the payment of the checks obtained through the cashier, E. P. Dyer, jr.

THE SURRATT TRIAL

THE ARGUMENT FOR THE DEFENSE—ADDRESS OF MR. MERRICK.

BY TELEGRAPH TO THE TRIBUNE.

WASHINGTON, July 30.—The trial of John H. Surratt was resumed this morning in the Criminal Court, Judge Fisher presiding. The attendance of spectators was much greater than it has been for some days past.

Mr. Merrick proceeded to address the jury for the defense, and said: There is something in this trial beyond the ordinary arraignment of the prisoner. I find arrayed against the prisoner, the best talent and some high officers of the Government aiding a legal combination surrounded by spies and detectives, aided by the Treasury of this Government—and all arrayed as one man to urge the prisoner onward to the judgment. In discussing this case he would show there has been a conspiracy here to commit a murder under the forms of law. All this trial convinces me that there are two sets of counsel—one representing the Government in its assumed offended majesty, and the other representing officers of the United States seeking for their purposes the shedding of innocent blood. In a case of this kind, all evidence that would shed light upon it should be given to the jury; but all through this trial all the technicalities of the law have been assued by the counsel for the prosecution to exclude such testimony. The counsel for the prosecution instead of representing the United States in favor of law and justice, have used every possible feeling and sentiment they could use to excite prejudice against the prisoner, and everything in detraction of him has been persistently urged. What is John H. Surratt charged with? In the wide digression of counsel the jury have almost lost sight of the cause, and it is necessary to recur to it. Are you not, then, trying Surratt for the murder of Mr. Lincoln? There is nothing else in the indictment, and the verdict must be guilty or not guilty, as indicted. The question is, did Surratt kill Mr. Lincoln? The prosecution want to try Surratt for being a spy—a member of the Southern Confederacy—anything and everything except the crime laid in the indictment. To conspire is one thing: to do the act is another. It is a crime to conspire, and it is another crime to commit the act for which a conspiracy may be formed. It was not until the first case was not proven that these new doctrines of law sprang up. In their various twistings and turnings the prosecution have got this case in such a muddle that it is an insult to figure it before the jury. They have, themselves, shown Surratt's innocence, and have shown it to be a physical impossibility for Surratt to have got here. They felt the necessity of meeting this, and they now claim that his presence was not necessary here at the time of the murder, and the counsel dares the Judge to give other than such a decision as he desires, and holds up the fear of what the popular voice will do. The jury dare to do right. It was an insult to the Court to dare him with the popular voice. The District-Attorney seemed to press the jury very hard that it was their duty to follow the instructions of the Court. The jury must give a true verdict according to the evidence, and not the law. Mr. Merrick cited from 3d Johnson's cases, page 365, to show that the jury were the judges of the law as well as of the fact, and they must determine the crime as set forward in the indictment. Mr. Merrick said he would now call attention to the proposition of law and refer to some authorities. Even if it is proved that Surratt was in Washington City on the night of the murder, it is not enough, but they must prove that he was near the scene of the murder or at such convenient distance as to render material aid in the commission of the act. Whether Surratt was present aiding at the murder is for the prosecution to prove, but it is the rule of law that the jury must be satisfied of that fact. The proposition referred to was that which claims that the crime is enhanced from the fact that the murdered man was the President of the United States. The President, he contended, was merely a citizen of the United States, and in killing him it was taking the life of a man, no more, and no less. But the gentleman says there are no accessories! There is but one crime in which there are no accessories and that crime is treason, and in treason the defense is entitled to a list of the witnesses against him. If it was meant to call this treason why was not the list of witnesses furnished. The sixth proposition sets forth that personal presence was not necessary, but that Surratt could perform his part in the conspiracy as well in Elmira as at Washington. Was Surratt in Elmira for the purpose of performing his part in the conspiracy? The prosecution did not show that he was in Elmira doing his part in the conspiracy, and when the defense attempted to prove why he was in Elmira, and what he was doing there, it was objected to, and the objection sustained. The propositions of law of the counsel on the other side give rise to the question as to who are principals and who are accessories, and also as to the grade of principals. The principals in the different degrees involve different degrees in crime, and a principal in one degree cannot be a principal in another degree. Mr. Merrick cited from Hale's pleas of the Crown, first volume, page 438, and contended from this authority that he who strikes the blow is principal in the first degree, and he who stands by assisting is principal in the second degree. But if a crime is done, he who counsels, but is not present assisting, is an accessory. But the gentleman says that there are precedents in England to show that it is treason to compass the death of a ruler. Has a crown ever pressed the brow of a President? In France it is treason to imagine the death of Louis Napoleon—but is it treason to imagine the death of Andrew Johnson? If it is, then instruct the Grand Jury to indict Thaddeus Stevens and all his companions for treason; but this is a free country, and it is the pride of our institutions that the President is the servant of the people. Mr. Carrington's proposition is that if Surratt was in the original conspiracy, it is a presumption that he was engaged in the commission of the act. But such is not the law as laid down in 9th Pickering. If the prosecution had proven that Surratt was in the conspiracy, and that he was at the theater on the night of the murder, then he admitted that the burden of proof would be upon the defense; but they must first clearly prove actual presence at the theater. In Burr's case, Chief-Justice Marshall lays down the law to show that to be a felon a man must be present at the perpetration of the crime. In this case against Surratt, as an incentive to prejudice, there has been introduced that shocking scene at the house of Secretary Seward; but what had it all to do with this case? Payne started out to murder Mr. Seward, and Booth started out to murder the President, and the two could not be held guilty as principals in both murders. Such is not the law as laid down by Chief-Justice Marshall, for he holds in Burr's case that, though Burr devised and conceived the conspiracy, and was not on Blennerhassett Island, he was an accessory and not a principal.

At this point, 12:30, the Court took a recess for half an hour.

On the reassembling of the Court, Mr. Merrick resumed his remarks, and said when the Court took a recess he was discussing the case of Burr, and he would now come to a decision of a later day, and one which Judge Fisher had decided in this very cause. In that decision the Court said it was not necessary for the prosecution to prove that the prisoner was anywhere else than in Washington.

The prosecution must show that Surratt was here, and not only here, but here participating in the murder. The indictment charges that Surratt was actually here and that his own hand committed the murder. If the theory of the prosecution is right, that Surratt could be a principal and could yet be in Elmira, the indictment should have so stated. In Burr's case the indictment charged that the treason was committed in Blennerhasset Island, and that Burr was the soul and body of that conspiracy. He was, therefore, a principal. But, as it was charged that he was on Blennerhasset Island, and it was proved he was not there, he was acquitted. So in this case, as murder is charged, that is the only crime for which the accused can be tried. There is another principle of law to which he desired to call the attention of the Court, and that was in relation to the doubt that must be entertained to acquit a prisoner. The jury must be satisfied of guilt beyond a reasonable doubt. Suppose that ten jurors, after mature consideration of the evidence, believe the prisoner innocent—the other two will listen to the convictions of these ten. He would not have the two give up their convictions, but he would ask them to study those convictions with conscientious thought. In this case, if found that Surratt was in a conspiracy to abduct, and that conspiracy failed, and afterward a conspiracy to murder (of which the prisoner was not a member) was formed, then the jury must aquit. The first inquiry is, "Was Surratt here on the 14th of April aiding and abetting the murder?" If he was, in a conspiracy to murder, it must be admitted that he might have been here *aiding*; but if it is shown that he was not here, then it is shown that he was not in the conspiracy, and did not do that which he was charged to do. The burden is upon the other side to show that Surratt was here, and being here, that he was aiding and abetting the murder. How do they prove that? The first witness was Sergeant Dye. Dye says he saw three men together in front of the theater on the night of the assassination, and he says one was the prisoner. Summoned before the Military Commission, Dye swears it was Booth that called the time, and he said that another of the party was Spangler, and the other he (Dye) said was the smallest. When asked why he had so sworn at the arsenal, he said he "only threw that in." He (Mr. Merrick) pitied the man as he stood before him. The defense has brought the very men who called the time. Hess says he called the time. The prosecution bring in Mr. Hess and put him beside Surratt, and the jury may judge who best answered Dye's description—Hess or Surratt? Mr. Merrick then recited Dye's testimony in relation to his interview with Mrs. Surratt on the night of the murder. Two years passed. It was a dim moonlight night. Mrs. Surratt's house fronted north, and was thrown in the shade while the moon was traversing the Southern hemisphere. The house was darkened. A lady puts her head out in the darkness, and yet Dye says he identifies her. Such a story is simply absurd. If it is not perjury, it is an image created in an overwrought mind. He has thought of this, and dreamed of it, until his mind has become perverted, and, like a frightened boy, he has conjured up visions which have haunted his mind and made him see images which had no being and no reality. As in boyhood so in manhood, for the boy is father to the man.

At this point, Mr. Riddle interrupted Mr. Merrick, and called attention to the fact that a bar meeting had been called, to take action relative to Mr. Morgan's death, and he asked that the Court now take a recess.

The Court then took a recess until 10 o'clock to-morrow morning.

GEORGE FRANCIS TRAIN AND WOMAN SUFFRAGE.

The following characteristic letter was addressed to the Woman Suffrage Association of St. Louis on their request for Mr. Train to lecture there for their cause, and to stump Kansas next Fall:

COTTAGE BY THE SEA, NEWPORT, R. I., July 15, 1867.

Dear Mrs. W. T. Hazard, Woman's Suffrage Association, St. Louis: Mankind means womankind also. "The mothers of France make the men," said Bonaparte. Why should not the mothers, the wives, the daughters of America help make her statesmen? Virtues and vices are stereotyped during the tender days of youth. Place a straw across the rivulet, and how crooked becomes the river. Scar the sapling, and you gnarl the oak. When women vote their children will be taught patriotism and their country's laws. How often men take credit for that which belongs to women. Should not women, who manage their own households so well, assist in saving the nation?

Instinctively—Intuitively—Woman arrives at conclusions which man gains by reflection and reason. One of the absurdities of our poetical age is likening women to angels. A woman with wings, in a drawing-room, would create a sensation! No woman is complimented by calling her a Venus. Venus was the Goddess of Love—not of Virtue.

Men need reforming. Let woman fulfill her God-like mission. She is nobler, purer, better than man. Society is unjustly organized. Man escapes censure and punishment for acts that damn the woman. Is this right? Let her vote, and the reformation begins. I told the Senators on Pilot Knob that "Women would purify the polls. They would vote down houses of bad repute. Would vote down faro banks, vote down groggeries, shut up the rum shops, and close the gin palaces." "What, Mr. Train," said a Fifth-ave. lady to me, "Would you drag our fair women down to the Bowery to be polluted by coming in contact with the drunken orgies of a contested election?" "Most certainly not. I would have the Bowery throw away its pipe and whisky bottle, and dress itself in its Sunday clothes, and vote in the lady's parlor." Often the uneducated is more gentlemanly in a lady's presence than the so-called gentleman. Men that become debased in the society of men, become elevated in the society of women.

We have deprived women of her embroidery, her tapestry, and her needle; next she will lose her sewing-machine. What else has she to occupy her mind? Novels, gossip, and the rearing of children. Give her a vote to protect her property, and ambition is aroused, and woman will take her place as the true reformer.

As my word is my bond, I say Yes to the St. Louis Lecture, and Yes to stumping Kansas. Let our election cry in this noble cause be—"Women—they should be united—to a man!"

Sincerely, GEO. FRANCIS TRAIN.

CANDIA.

OPERATIONS OF OMAR PASHA—OUTRAGES COMMITTED BY TURKISH TROOPS.

From Our Special Correspondent.

CANEA, July 8, 1867.

The last achievement of the Turkish army, the taking of Lasithi, was one which, while it did little to honor Turkish valor, did much to diminish the credit remaining in the London Bank of reputation for humanity. The fighting was like all the other affairs, a prolonged skirmish, in which the Christians to the number of 2,000, more or less, finally retired from 15,000 troops to the Hights of Lasithi, where they remain, reënforced by a new debarkation of 400 to 500 men, under the command of Mitsos, a Deputy in the Hellenic Parliament.

Omar Pasha in pursuance of the plan, which is likely to prove the *piece de resistance* of the campaign, left Pediada to direct the movement on Sphakia from the sea. Having ordered a concentration of the troops at Dibaki in Menara, on the south side of the island, the division of Reschid Pasha was ordered to come from Candia to Dibaki direct, but was met by the Christians at Yeryeri, on the ridge which divides the waters of the north and south portions of the island, and so thoroughly held in check that Omar Pasha was obliged to send three battalions from the south to liberate them, when the whole army of the Eastern Provinces, 8,000 to 12,000, according to some estimates, was united at Dibaki.

In the mean time, Omar Pacha had made a flying visit to Kissamos to direct a resumption of operations there, in consequence of which the troops of that section, with strong reënforcements from Canea, began a raid on all the villages of that end of the island as far as the insurgents would permit them to advance. The fighting soon became sharp, and has continued almost without pause for nearly a week, wounded Turks coming in from day to day, and quantities of booty, church property, bells, cattle, sheep, all sorts of household utensils, &c., &c., and as the most of the villages of Kissamos had long ago submitted, being in the plain, the booty was easily won. In the higher villages the Christians gained considerable advantages, and to-day they have come down to attack the troops at Alikiann, threatening their communication with Canea. The reports of the destruction of property in the Kissamos district are appalling. The magnificent convent of Gonia has been bombarded and pillaged, and the enormous stock of oil, the resource of the poor of the district, all poured out.

Fighting has been pretty general in all sections where there are troops, but without noteworthy results, though the Turks pretend to splendid victories, all on paper, for diplomatic effect.

Omar Pasha, embarking at Dibaki, went by sea to Franko-Cartelli to the south of Kallikrati, where the first day he was unable to land on account of the sea. On Friday last he succeeded in landing, and sent two battalions of regulars, with a number of bashi-bazooks, to occupy the hights which command Franko-Cartelli, which they accomplished without opposition. A steamer was at once dispatched with the news to Canea, and reports were made to the Consuls that Sphakia had fallen, and it is said dispatches in this sense were at once sent to Constantinople. The achievement is about as important as the taking of Perth Amboy would be in the siege of New-York.

Troops are constantly arriving, and the news that the intervention is at hand seems to have stimulated the authorities to new energy. The pressure on the non-combatant population is more barbarous, and the military movements more rapid, but that anything will be accomplished in the delay recorded by the last reports from Europe, scarce any one believes. The season has become intensely hot, and operations on the south coast more perilous on account of the frequent siroccos which breaks communication with the fleet, and more tedious from the heat and the want of water for so large a number of men.

The division of Mahomet Pasha moves from the Apokorona to day to try again the defile of Krapi, and we shall have another week of battles; but these I believe will be the last that the Turkish army will be permitted to disgrace the century with in Crete.

GREECE.

THE GREEKS GETTING READY FOR WAR—DR. HOWE—THE EASTERN QUESTION.

From Our Special Correspondent.

ATHENS, July 2, 1867.

The Cretan question has become the Greek, or, as they delight here to say, the Hellenic question. Two important changes have taken place in it within a short time; the absorption of the committee functions by the ministry, who are now the real directors of the insurrection, and the source of all the supplies: and the abondonment of the Epirus campaign. The Cretan Committee has long since been only the organ of Greek public feeling; but now, its funds exhausted and its importance overridden by the magnitude of the issues which demand something more than a committee of conspirators to direct operations, it is even less than that.

The withdrawal of the band of Mitzos from the frontier and the sending of them into Crete indicates the resolution of the Greek Government to stake openly and boldly everything on the war in the island. Since dropping the menace they have constantly kept upon the Epirote frontier, they permit the Turkish Government to reënforce the army in Crete. To meet this, however, the Greeks have purchased two new blockade-runners who will throw volunteers into and move them round the island with greater facility than the Turkish fleet can serve its own army. In fact, it has become to the eyes of all what it was from the beginning to those who knew its hidden springs, a duel to the death between the Turk and the Greek. Public feeling has become so thoroughly aroused, the pride and passion of the Greeks so thoroughly excited, that an adverse solution to the Cretan question will precipitate a revolution, which will in all probability sweep king and constitution, alliances and protection, out with the ministry, and leave the country in a state of anarchy. Greece has too many of her children fighting in Crete, and has spent too much blood and money to be content to have the question now betrayed by ministers, or tricked out of a solution by foreign diplomats. The perception of this may be the cause of the change in policy of the Powers who have been hitherto rather trifling with the question as one which they saw must, from humanitarian and remote political considerations, be treated at least with a kind of semi-official respect. Now they begin to see that the bull may get into the china shop, and that the peril of a republican outbreak, which they thought they had with fine words and double meanings laid so long ago, may arise all the more redoubtable from having been so long retarded. To avert this danger they are willing to do what Humanity or Christianity would never have induced them to do. Accordingly, the change of plan of the Greek Government is met by a *volte face* of the most of Europe. England alone, faithful to the Stock Exchange and its idols, will not act, and will not believe that the Turk is what all the world knows him to be, and to excuse himself in the eyes of England (impossible in the eyes of the rest of the world) from doing his duty. Earl Derby dishonors his country and himself by assertions made before the Parliament which the dispatches of his own agents directly contradict, and he must know to be utterly false. I had thought that this species of political rascality and dishonesty was confined to republican legislatures and statesmen; but the course of the present English Ministry on this Cretan question proves that there are no politicians south of Mason and Dixon's line more utterly devoid of common honesty and political integrity than some who can be found in the English Parliament, of whom the chief is Earl Derby. I have a faint recollection of something in the Good Book about those who bear false witness against the poor, but I don't think the inspired writer ever contemplated so shameless a case of it as this.

But even England must not be left in a minority of one, and so will follow, I presume, in the action indicated by the last resolution of the Powers, and which I gather from a dispatch kindly read me by Mr. Comoundouros himself, yesterday, to be substantially as follows: The Porte having replied to the joint note of the Powers, demanding an inquest on the affairs of Crete, that the Government saw no objection to the inquest, although it believed such a measure useless, and consented on condition of the withdrawal of the volunteers, and the agreement not to bring into question the rights of the Sultan, the Powers reply by demanding the inquest pure and simple, and resolving, in case the population of Crete then demand annexation, to effect it, and if the Turkish Government opposes, the ships of war of all the governments will go to Crete to carry off the families, and leave the island free for the combatants. In this war, with three blockade-runners and the coast clear, it is only a question of how long the Turkish Empire will take to bleed to death.

Meanwhile, the Hellenic Government is making its best to get ready for the war which is believed to be inevitable. Great exertions are being made to fit out a fleet of swift corvettes, if only half a dozen, and with these, in the present state of the Turkish navy, I doubt little that the Greek fleet will increase rapidly.

The torpedo operations of the two American officers, though by a narrow chance having missed destroying the finest frigate in the Turkish navy, has so thoroughly demoralized the whole that no ship will now approach the northern coast, in consequence of which the Arkadi has landed this week in Sphakia without the least molestation, both volunteers and provisions, among the latter a large quantity of Dr. Howe's supplies, sent under the care of special agents, who will endeavor to prevent them from being pillaged and wasted, as is always more or less the case with the cargoes of the Committee.

The Arkadi has also carried out the first cruiser of the Cretan Government, commanded by Capt. DeKay, a fast launch, armed with a Whitworth gun, whose intention is to clear the waters of the armed boats which the ships send in to worry the people along the coast. It is also proposed to arm two or three light steamers to drive off the blockaders. These steps will bring on the question of belligerency, though I suspect the Turks will preguage that by decapitating summarily all the volunteers it may capture in this service, or simpler still, take no prisoners.

Dr. Howe is still here, and has been going the rounds of the refugee stations. The pictures he draws of the destitution of the Cretan families is distressing, in spite of all that the Committees have been able to do. Many were without a garment which would cover their nakedness. There has been great talk of Cretan charity, but except what has been sent from America, almost nothing has been done by other countries than Greece. Of the contributions credited to England, only about £1,000 were really subscribed by Englishmen, the balance coming almost entirely from Greek merchants doing business in England.

As for the Eastern question outside of Greece and Crete, events wait the accord between Russia and France, which in my opinion is slowly coming about, in spite of the obstinacy of England in support of her co-religionists and faithful allies the Turks, but the state of feeling as between England and Rome seems to be drawing to a fine edge. It is much to be desired, in the interests of humanity, that the isolation of England may become complete, for in this case the fate of the Christians of the East would lie in the hands of Russia, and though in general I have been little inclined to credit that power with any degree of disinterestedness in Oriental affairs, sign was not wanting of a positive pressure of public opinion in favor of the emancipation of the Greek Christians, which the Czar would not hesitate to avail himself of if even he could afford to disregard it. I am assured by Russian friends that the religious pressure is so great that anything like recusancy in their Government in this question would be regarded as almost certain to produce dangerous discontent in the empire. From an intercourse more or less intimate with the officers of the Russian ships now here, or which have been here for the past few weeks, I cannot only easily believe this, but see in them and the almost feverish eagerness with which they enter into the Cretan question a certain proof of it. The Russian character is one of intense religious sentiment, capable, it seems to me, of being influenced more by it to positive action than any other I know, and it only wants to be let loose on the Moslem to determine all possible questions of the East. The strange judicial blindness of England in these circumstances can only be accounted for as we account for the fatuity of the Porte, by the maxim, *quum Deus vult perdere*, &c.

It would seem that the pressure of certain questions of difference between our own Government and that of England, at this moment and in such a way as to delay speedy solution, would be in accordance with the interests of humanity as well as our own. The clear understanding that in case England should take a hostile attitude in defense of the Asiatic barbarism, the U. S. A. would avail themselves of the emergency to settle all outstanding questions in their own sense, would very soon produce its effect on the annals of the world, and place England in the best merited isolation a nation ever enjoyed.

CIVIL COURTS.

SUPREME COURT—CHAMBERS.—Justice SUTHERLAND. THE STATE LIEN LAW ON VESSELS—ITS CONSTITUTIONALITY AFFIRMED.

In re the steamship Circassian, &c.

In this case it may be remembered that the purchasers under the State Lien law, the original owners, the Sheriff of this county, and the Marshals of two districts were all contending indirectly for the right to the steamship Circassian. The main point in the case was whether the State could give a lien upon a sea-going vessel, it being claimed that all vessels came under the exclusive jurisdiction of the United States. Mr. Justice Sutherland has denied all the motions, his reasons being substantially as follows:

The steamship Circassian is a domestic vessel, owned by a New-York corporation. The New-York warrants issued by Justices of the Supreme Court, under the New-York Act of April 24, 1862 (Sess. Laws of 1862, p. 956), were all as I understand it, for supplies or stores furnished for the vessel, in her home port, or for work done, or materials or other articles furnished for or toward repairing, furnishing or equipping her in her home port. The Supreme Court of the United States in 1819, in the case of the Gen. Smith, (4 Wheaton, 438), and in 1861, in the case of the steamer St. Lawrence (1 Black, 522), fully recognized the right of a State to create by State Legislature liens in favor of material, men, for stores and supplies furnished for domestic vessels in the home port. In the case of the Gen. Smith, it was held, that the ship being a domestic ship, and the supples having been furnished at her home port, Baltimore, there was by the general maritime law no implied lien, and the decree of the Circuit Court affirming the proceedings *in rem* was reversed, on the ground that there was no statute of Maryland creating a lien. * * * * * I have not met with a dictum, suggestion, or intimation, in any reported case, that New-York, or any other of the States, has not the right to give and to enforce, *in rem*, by its own process, liens for supplies and repairs, as to domestic vessels in the home-port. I have not met with a dictum, suggestion, or intimation, in any reported case, that the adoption and enforcement (till the alteration of the 12th Admiralty rule took effect) by the Supreme Court of the United States of State liens, did or could out the State of its process or proceeding *in rem*, or did, or could affect the right of the State to give such process or proceeding, or the right of the party having the State lien to resort to and use the State process or proceeding *in rem*, if he chose to do so. I have not met with an intimation or suggestion in any reported case, that a State could not give and enforce *in rem* a lien, when or where it was not claimed by the Supreme Court of the United States that there was an implied lien by the general maritime law or code, on arising by the maratime law, from the contract. * * * * * The Constitution of the United States had given the Supreme Court of the United States jurisdiction of all cases of admiralty and maritime jurisdiction; the 9th section of the Judiciary Act of 1789 had declared that the District Courts of the United States should have "exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction," saving to suitors the right of a common law remedy, and the Supreme Court of the United States, in 1819, in the case of the Gen. Smith (4 Wheaton), by Judge Story declared, that though admiralty had a general jurisdiction in cases of material men by which it could entertain a suit *in personam*, and though for repairs or supplies to or for a foreign ship, or to or for a ship in the port of a State where she did not belong, the general maritime law gave the party a lien on the ship itself for his security, and hence could maintain a suit *in rem* in admiralty to enforce his lien, yet that for repairs and necessaries in the port or State to which the ship belongs, then there was no lien implied by the general maritime law, and hence there could be no proceeding or suit *in rem* in admiralty, on the ground of a lien implied by the general maritime law. This case, and this doctrine were recognized by the Supreme Court of the United States, directly and indirectly, in many reported cases * * * * * * I suppose, independent of express contract or special legislation, there can be, *without lien*, no process or proceeding *in rem* against a vessel for repairs or supplies; at all events, the Supreme Court of the United States have assumed throughout that there could not be in Admiralty. The question then is, has the Supreme Court of the United States, decided or established any principle of Admiralty jurisdiction, inconsistent with the doctrine that by the general Admiralty or maritime law, there is no implied lien for repairs or supplies to or for a domestic vessel in her home port, and that without a lien there can be no process or proceeding *in rem* in Admiralty for such repairs or supplies. I have looked somewhat into the reported cases for the history of the theory and practice of Admiralty jurisdiction in the United States, and though I find that history suggestive of the general tendency of authority to enlarge itself, and though it must be conceded that portions of the opinions of Justices Field and Miller in these cases, and perhaps I should say the general tenor of their reasoning as to the exclusiveness of the jurisdiction of the District Courts, would seem at first to lead to the conclusion that Admiralty jurisdiction, under the Constitution and the Judiciary Act, for any purpose, or to any extent, even for the purpose of a personal judgment *only*, necessarily excluded a State statutory remedy or proceeding *in rem*, because it was not a common law remedy, and because process, or a proceeding *in rem*, was in most cases an Admiralty remedy. Yet a careful consideration of these opinions, and of the history of Admiralty jurisdiction and practice in the United States in the reported cases, has led me quite clearly to the conclusion that it was never intended to carry the doctrine or principle of exclusiveness to this extent; that it was never intended to declare any principle of exclusiveness inconsistent with State statutory liens and State statutory proceedings *in rem* to enforce them, for supplies or repairs to or for domestic vessels in the home port, though I think it must be conceded that it was intended in both cases to declare a principle of exclusiveness inconsistent with State statutory proceedings *in rem* for supplies or repairs to or for foreign vessels. * * * * I have not been able to see how I can grant, perhaps I should say decide, either of the motions in the matter of the steamship Circassian. These motions are not made in any action. They are not made in Court, or before me, sitting as a Court. I did not issue the warrant under which the vessel was last sold by the Sheriff. The warrants in his hands were issued by Justices of the Supreme Court, under the Act of April 24, 1862 (sections 4 and 6) as Officers or Commissioners. The 17th section directs the Sheriff to return his proceedings under the order for the sale, to the Officer who granted the order for the sale, and subsequent sections provide for an issue between the contestants for the proceeds of the sale. Certainly until this issue, the Court cannot become possessed of the case for the purpose of making any order, and until this issue, I should doubt the power even of the Justice or officer who issued the warrant, to make any order not specified or provided for by the Act. * * * Certainly in no view of the case, or of the contested questions of fact, could I order the Marshal of the Eastern District to abandon his claimed seizure and custody of the vessel; nor do I see how I could enforce such an order, if I should make it; and, certainly, if I had the power, I ought not to order the purchaser at the Sheriff's sale to pay the balance on his bid, until the Sheriff can deliver the vessel; unless, indeed, the Sheriff could and did sell subject to the seizure by the Marshal, and to all the claims and interests represented by him, but the question of law, whether he could regularly so sell, and the question of fact, whether he did so sell, are two of the questions which I doubt my power effectively to determine in these motions, and which I doubt the propriety or regularity of determining, if I had the power. The result is that all the motions must be and are denied, without costs to any or either of the parties, and without prejudice to any other or future action or proceeding that may be advised.

UNITED STATES DISTRICT COURT—IN BANKRUPTCY.

Petitions in bankruptcy were filed by Loeb Hess, Ernil Hans, Henry Skelton, John M. Foss, and Edward S. Stokes, all of this city.

COURT CALENDAR—THIS DAY.

SUPREME COURT—CHAMBERS. LEONARD, J.

37—Walter et al. agt. Boardman, et al.
62—Dana agt. Strasburger.
105—Gaynor agt. Gaynor.
127—Blocks agt. Kassel.
129—Fish, jr., et al., agt. Harriott et al.
161—Ballantine et al. agt. Henry.
165—Shafer et al. agt. Bruner et al.
168—Archer et al. agt. Lessemen et al.