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REVIEW OF THE STAY LAW.

This law, which is so great a stranger to our statute books, and to which the people are so little used; which proposes so radically to change that mode of all ministering justice, which, in all its main and essential features, was used by our forefathers before the Revolution, and by them was most solemply and deliberately revised, amended and perfected within four months after the formation of the State Constitution at Halifax, by the very first legislative Assembly which ever sat under it, and has continued ever since to be our mode through nearly a century demands for public consideration more examination and discussion than have been bestowed upon it. That the people, whose rights are so deeply affected by this new law, may see some of the great fundamental changes in the legislative and judicial guarantees of their rights, I propose to present a brief analysis and review of it, with some illustrative examples of its operations. Some, I say, because, in my judgment, a dozen years would not suffice to develop all its inroads upon the long established laws and usages of the people, and their most cherished and best protected civil rights.— Many of them I doubt not were neither foreseen nor intended by those who favored the law. I shall not discuss its constitutionality, but consider it merely as a system of policy. Section first provides-

"That the several Superior Courts of law shall have exclusive original jurisdiction to hear, try and determine all causes of a civil nature whatever at the common law, which may require the intervention of a

If this section stood alone, it might be maintained with great force of argument that it confers exclusive jurisdiction on the Superior Courts in every matter of contract, however small-six pence as well as six thousand dollars. And explained as it is by section 16, which enacts that "none of the provisions of this act shall apply to the collection of interest on any contract," &c., and by section 10, that hereafter all civil warrants issued by Justices of the Peace shall be made returnable for trial twelve months after date," the true construction will, perhaps, lie in the conclusion that in all suits upon debts and demands, except for the recovery of interest, the Superior Courts and Justices of the Peace have concurrent jurisdiction. But, if this were so, the change though very great, the evil is so small compared with those other evils which the act brings into existence, that I should consume the reader's time very much amiss, if I were to invite him to consider it; although the costs of most suits in that Court would far exceed the sum sued for .-The second section of this law provides-

"That there shall be but one term of the said Superior Courts of law and equity, opened and held in each of the counties of the State, in each year, which shall be holden at the times and places now required by law for holding the Fall term of said court, and all laws requiring the holding of the Spring term of said courts are hereby repealed." The obvious purpose of this provision is to excuse the debtor from tulfilling his obligation to pay

money. But, greatly demoralizing as in this res-

pect must necessarily be its effect, it is still more vicious in its effects upon public order-upon the liberty of the citizen, and his personal security; upon the safety of his home, and his property in his actual possession, whether in lands, or slaves, or other estate. They are fatal to public order. No maxim among law givers is better established, than that speedy trials and punishments for crimes, are the best guarantees for public order. Delays of justice invites violence and crime of every grade. It is true, the County Court is open for the trial of the smaller mi-demeanors, but a large number of crimes is cogmzable only in the Superior Courts. The times naturally enough multiply criminals who prey on society; and when society finds the arm of the law nerveless or paralyzed by long delay, it is sure, in self-defence, to organize irregular tribunals, which punish by lawless trials and unmeasured revenge. If in the outset it should, in obedience to a long cherished veneration for the law, await with patience the slow coming of the Court, it will be doomed to disappointment; for, when finally the long delayed Court arrives, the week is too short to dispose of the cases, and a triffing excuse serves to postpone the trial. The crimical assent forth again to his depredations, and tramples with impunity on the prostrate law. If the offence charged is capital, and admits not of bail, the suspected man, innocent though he be, is confined to a dungeon for twelve months before he can demand a trial-and even then there may not be time to try him, or the State may continue the case, and he is doomed to suffer another twelve months in the dungeon. And as to the civil suitor, who seeks to recover the price of his land, his stave, or his horse, which are in the use and possession of the defendant, what chance has he to be heard, with a docket loaded down with criminal prosecutions and all the civil suits of a county containing twenty thousand people? It may be that the defendant is a gross trespasser, holding with force your very home, into which he has slipped in your absence; he may have seized your slaves with a strong hand, and still holds them in lawless defiance of the clearest right. He may have assaulted and disabled your person, whose only estate was your labor, and that labor the support of a wife and children; he may have murderously slain the husband and father of a helpless wife and mant orphans, and damages be sought for the outrage; he may have slandered a poor and virtuous female. Yet against the cries of justice for any and all these wrongs, this act has shut up the Courts, in order to screen a debtor from paying his just debts! Can virtue, honor, religion, or true courage long dwell in a land where private rights are so scorned, and personal security so utterly abandoned? If a man die possessed of a competent living for his wife and children, the executor or administrator is sworn to sell the property on a credit, and to take the bid of him who gives the best price; and he is driven to a twelve month Superior Court as his only chance to get the money. This act covers the studied attempt of the buyer to evade his just obligation, and leaves the widow and orphans without bread. Is it a wonder with any man of sense, that with such temptations and encouragement to delay payment, every man should put away his money, and button his pocket against every application for loans? The banks will answer this question .-Within a few months, the deposits of one of the banks in this State have increased from \$500,000 to \$1,300,000. Such will be the answer of all the banks. More money within a few months past has been issued and sent forth, than has been for many years before, and yet it returns as rapidly as it went out. The stay law has stagnated all circulation in

Section third provides-"That all actions brought in the said Superior Courts of law and equity the defendants shall not be compelled to plead thereto for twelve months from the return term."

get what you can, and keep what you get."

It is certain that the extended time for pleading was not given to defend, but to delay the right; not the better to administer justice, but to evade it by openly preventing the very forms adopted by all civilized people to enforce it. For nearly a century, legislation every where has been engaged in freeing justice from the quibbles of pleading. This act resorts to the condemned quibble for the mere act resorts to the condemned quibble for the mere purpose of delay. Without reckoning the chances of one continuance, or the death of a party, the speediest course of a law-suit will be as follows:—Writ issued in November 1861, will be returned to Oct. '62, and will be pleaded to in Oct. '63; if reached on the docket will be tried in Oct. '64, and the money paid in Oct '65—unless there is an appeal to the Supreme Court held in June '65, when the money will be made in June '66. This is equal to a credit of five years, and is given expressly to produce this long delay, by a legislature who profess to have sat under the control of a supreme and sacred charter of liberty, which forbids the passage of any law impairing the obligation of contracts.—

Now add what is so commonly the case in the history of a law suprementation. tory of a law-suit, one continuance for a crowded docket, one for a pretended or real cause, and one for a death, and the credit is 8 years!!! In addition to all this, section 4 denies trials of all cases pending at the passage of the law, in the Superior Court for one year, although some may have been pending already half a dozen. If under such circumstances, the kindest man should refuse to lend his money at all or the superior denies to lend his money at all, or the usurer demand 20 per cent. or the shaver take off 50 per cent., it will be no

matter of wonder. If the people shall consider this act as a vast stride lowerds the cancellation of debts, (that wicked demagogulum so often attempted in the most corrupt days of the Roman Republic,) there can be no cause for astonishment. If the cash system of trade is brought on the people at once, and at a time, too, when confidence ought to be encouraged by every legitimate mode, can any be so blind as not to perceive who are its authors? The sucas not to perceive who are its authors? The succeeding sections, 4 and 5, in order the more fully to complete the delay on the larger contracts, abolish the civil jurisdiction of the County Courts, and remove all the suits pending therein to the Superior Courts; and after augmenting the number of cases in many counties to 5 or 600, forbid the trial of all causes thus removed, till twelve months thereafter, although the pleadings are perfected and the time for trial shall be ample. And as the finishing touch to the plan for hindering and delaying the trials of causes, the act finally reaches out its hand and lays hold of the poor man's cheap Court-the Justices Court-and delays the trial of a one dollar cause for

And if then tried the defendant may appeal to the Superior Court, which may be a year off. At the Superior Court the defendant is required to plead, and the case will stand over for one year more. So that if a defendant is warranted for the sum due on a witness ticket to a poor man who has been compelled, by fear of a fine of \$40 or the pains of an attachment, to attend and pay his own expenses for travel and board, and his case shall go to the Superior Court for trial, he will, with the best possibl luck, if his case is reached at the first trial Court, get a judgment in the third year, and his money i the fourth, provided the sheriff will do his duty, and the party may not have failed. For, it is a strange enactment of this section, that without an affidavit of merits, any defendant, who will swear to his inability to give security, may without security appeal in the plainest case. Whereas, by a long establish ed practice of the courts, no pauper can even commence a suit without security, unless he swears both to his parperism and the merits of his cause. So that few men-certainly not a poor man-would ever begin a suit for a witness ticket, or for a month's wages. Indeed few men would be surety for a defendant in such a protracted litigation; and it would be easy therefore, for him to make the affidavit of inability to give security, though then perfectly able

to pay the debt. It is plain, then, how the stay law tempts the debtor to defraud the poor and necessitous man out

of his time and money.

But, if there should be no appeal, the witness may expect his judgment in twelve months and a recovery of his ticket to pay his tavern bill in one year more. In most cases, however, it is obvious that the constable who served the warrant would never finish the collection; and whenever finished, a suit on his bond for the money withheld would, being a litigated suit, run through half a dozen

If King John, of England, ever favored such a law as this, well warranted were our sturdy England ancestors, when at the point of the sword, they exacted of the crown a perpetual promise that justice should never be sold—never be denied—

never be delayed. The act after having denied a trial for four, five, or six years of undetermined cases, proceeds in the next place to stay the end of determined cases. It is an old maxim, the foundation indeed of all the value of a court of justice-"interest reipublica, sit finis litium." "It concerns the commonwealth that litigation should be speedily and effectually terminated." But this act resuscitates the expiring controversy and infuses into the dying contest, a new and fresh vigor of life. It commands that the execution shall not be satisfied; that the fruit of long delayed justice which has been duly and solemnly awarded, shall not be received and enjoyed by the injured party. It directs the Sheriff to endorse his levy upon executions and return the same to the court whence issued, and thereupon, it commands the clerk to issue a rend, expones, or alies fi. fa., returnable twelve months thereafter. The debtor, the trespasser on your person or land, the slanderer, and the thief who may have stolen your goods, and been convicted thereof in action of tort, are all huddled together and allowed to enjoy their unjust gains and delay compensation for their wrongs, to the great loss of the injured man, for

Such is the condition of all plaintiffs, however meritorious their demands; and such the privileges of wrong and outrage, however palpable and crying the injuries may be, even if the defandant should be bound to remain in the State and abide the ultimate and long delayed event of the suit.

one year longer.

But the act strikes a hidden and secret blow, the consequences of which are protective of wrong, disastrous to right, and work a perfect revolution in our mode of administering justice. It enacts that no execution of ca. sa. shall issue. Does not this abolish all bail? Of what use is bail? How can the bail bond be forfeited, if the issue of the ca. sa. be prohibited? Did any member of the Legislature contemplate so radical a change of the law as to dispense with bail in any and all actions? I doubt whether any one of them would admit such to be their intent; and yet who of them can tell us the value of bail now? Let us try the question. An insolvent person is sued for violently seizing and carrying away your slaves, or your horses; he has sold them and given bail while he holds the proceeds of sale in his pocket; a judgment after six years is obtained—he has no visible estate on which an execution can be levied, but he has an abundance of invisible estate and is rich in bonds which the Sheriff cannot seize, -what means are left to compel him to apply a cent to the satisfaction of the recovery? If a lawless and insolvent man choose to lay violent hands on your personal estate, and is proceeding with it out of the State, and you resort to the law for redress, of what use will be your writ of capias ad respondendum? If he gives the best bail, his body is exempt from seizure, and so the bail is released. If your debtor, residing in a distant land, shall come hither to remove all his property beyond the jurisdiction of the courts, by what means will you secure your debt if he will defy you? Will you take an attachment? If you do he will replevy by giving bail; and as the bail cannot be required to surrender the body, the replevin bond becomes the merest farce. This provision requires a citizen of this State to surrender his debt, his damages and all compensations for wrong, though contracted or perpetrated within its limits, unless he will follow the wrong doer and his property to his distant home for redress. Such are the necessary effects of one of the many stupendous changes in the administration of justice introduced by the stay law. It is true, that in some States bail is abolished upon certain conditions; but invariably some equivalent security is substituted. This act offers none, It payment of debts and destroyed all commerce exopens wide the door of temptation to fraud and racept for cash; and money is ruled by the adage, pine; it encourages the perpetration of every in-jury to private right, and a defiance of every court in the land. The law, intended to be the just protector of all, is now made too weak to defend any man, or any cause. Did the people demand this mighty change of the Legislature? The effects of the act may be summed in this: It removes the shield of legal protection from the person; it depreciates all contracts; it renders insecure all personal and moveable estate, and invites permanent trespasses on all real property.

Let us take another step in the review of the stay aw. Section twelfth provides-

"That all deeds of trust and mortgages hereafter made, and judgments confessed to secure debts shall be void as to creditors, unless it is expressly declared therein, that the proceeds of sale thereunder shall be appropriated to the payment of all the ebts and liabilities of the trustor or mortgagor,

equally pro rata." It is obvious to every reflecting man, that the nost efficient stay law that can be devised, will lie in a policy which encourages forbearance, while it tolerates and invites, by the best security at hand, all useful and convenient trade. Such were the intent and effect of the stay laws of 1788, c. 5., and 1812; the only laws of this character ever passed in the State of which we have any knowledge. But this act, after unreasonably delaying for many years the fulfilment of contracts and driving money from circulation, and causing a general hoarding by every man who can get it, has even prohibited the credi-tor from securing his debt by a deed in trust or mortgage (though freely offered by the debtor,) and forced the former to sell under execution whenever such sale may be allowed, and constrained the latter to sacrifice his estate by actual sale whenever he may need money to buy food, pay an honest debt, or bury a deceased child. Extraordinary as it may appear, the act, while it allows the owner himself colony, and ever has been and is now the law of England, and perhaps of every State in North America. Upon this necessary legal incident to a levy of personal estate is grafted the long standing law still in full force. (Rev. Code chap. 45, sec. 25, 26.)

to sell it and apply the proceeds as he may please, prohibits him from conveying it in pledge, either to raise mency to pay a flebt, or to secure the price of the very properly bugght and proposed to be pledged as the security for its price.

The following was examples of some of its many unreasonable fruits:

1. If a debtor be under execution, his lands allows or cross may be sold to sat-

cution, his lands, slaves or crops may be sold to sat-isfy the debt, yet he is not allowed to convey it in trust to secure the debt and postpone the sale, "unless it is expressly declared therein, that the proceeds of sale shall be appropriated to the payment of all his debts and liabilities." This provision leaves the creditor no alternative but to sell unless he will subject his debt to the hazard of being paid pro rate with every liability of the debtor, as well those in which he is surely only as those which are his own debts. 2. If a debtor who is such, either as principal or only as surety, wish to purchase a tract of land, a slaye or other propertya poor man, a horse to till his crop for instance cannot even pledge the particular property bought, to secure its price, unless he subjects the property to pay all the liabilities with which he may be charged either as surety or principal. Yea, he cannot secure his own sureties without being compelled to secure at the same time and on equal footing, the debts wherein he is surety himself. 3. If a man would borrow money to pay his taxes, State or Confederate, heavy as as they are, he is unable to do so, because the lender will not trust the slow delays of the stay law for its return, and the debtor can not confess a judgment or make a deed in trust without subjecting himself to be sold out to pay all his liabilities of every sort. No, he cannot even give such a lien on any of his property to pay the sold, and must be sold by the tax gatherer to pay it. 4. If a debtor before the passage of this law shall have made a deed in trust to secure a debt, and the property conveyed shall not, in the depreciation consequent on the times, be sufficient to pay the debt, and there is not enough property besides the estate con: eyed in trust to pay all his other creditors, yet enough to put them pro rata with the debt already secured, and he desires to do so, yet he cannot. For, if he makes a trust or confesses a judgment, all the property conveyed or bound is devoted by the stay law to pay all his debts, including, of course, the debt secured before the passage of the act. So that this debt stands unalterably favored, and while it takes all conveyed in the first trust, shares equally in the second.

Considering what a law-abiding people we have been, one would have supposed that the stay law would have been content with the delay consequent on abolishing the civil jurisdiction of five out of six courts, reducing the time of holding the courts from six weeks to one, and giving but one court a year for the trial and hearing of all cases at law and in equity; and then also, forbidding a debtor or purchaser to give any lien on property to raise a dollar, or to secure the purchase money, unless he would provide also for debts wherein he was only obliged as surety. But not so; the officer of the law is insidiously approached, and the stream of justice is polluted at both ends. The stay law found a long standing statute, a century old, which imposed a penalty on any sheriff who should wilfully fail to execute "process" delivered to him in due time. The stay law, not content with the enactment of its own extraordinary delay of four, five, or six years, repeals the old law, as to every fine incurred since the passage of the stay law of May, and also as to every fine thereafter incurred by rea son of omitting to execute process. Now, the term "process" includes both the beginning writ, which brings a defer dant into court and commences the suit, and the concluding writ of execution which brings the money into court. So that the sheriff is quietly approached and assured that if he neglects to execute either or both, he will be in no danger, except what may befall his conscience in the violation of his official oath. It is probable, (and some have charitably supposed so) that the act was intended to pardon only the penalties which had been incurred, or might be incurred, by sheriffs who may have acted under the supposed validity of the stay law of May. But the language is too explicit to admit of such construction; and the source of the charitable interpretation is to be found only in the enormous outrage offered to justice by the adoption of the true and contrary construction which follows clearly from the words of the statute. The sheriff is now for the first time in a century relieved of all legislative penalty, if he wilfully neglects, out of friendship to a friend or camity to a foe, to serve a writ to bring the defendant to court. So that after one sues, there is no certainty his writ will ever be served; especially if the debtor is the officer's kinsman, or friend, or an influential man. No suitor, therefore, can reasonably calculate at what time after the writ is issued the defendant will be in court. And even when the judgment, after years of delay, may at last be rendered, and the final process of execution shall come to hand, the officer is

informed that he incurs no penalty if he shall refuse to make the money. Or if he makes it and returns satisfaction, and withbolds the money—or if he neglects to make the money, and a suit is brought against him and his sureties, the delayed and sickened plaintiff, (or most likely his executor or administrator,) must tread over again the mazy round of another suit conducted under the machinery of the stay law. And this suit in all probability is destined to end its career in like manner. During all these many years, the suitor is taxed to support a judiciary established peaceably to protect and effectually to defend his

But if it was not the intent of this law to repudiate all past and future contracts by the force of a legal chase around a never-ending circle, and there be left really any law to compel the sheriff to an upright discharge of his duties, it is a most difficult thing to advise the officer how to proceed so as to secure himself, and at the same time give the indulgence intended for the debtor. Thus the act requires the sheriff as also the constable, to levy executions, issuing on judgments rendered before the passage of the law, on property sufficient to discharge the debt and return the levy to the succeeding court, and then that a rend. exponas shall issue returnable twelve months thereafter. To a proper understanding of the operation of this section, it is necessary to bear in mind the nature and effect of a lery. A levy on land is a very different thing from that on personal estate. When land is levied or. the law does not require the officer to enter, take possession and turn out the proprietor, but simply to endorse his levy thereof on the writ. Indeed it would have been superfluous to require more than this, because the land cannot be put out of the way. But very different is the case of a levy on personalty. The law requires of the sheriff to seize and take into his possession and hold adversely against the possession or occupation of the owner and all others all personal estate, which admits of such exclusive possession. Thus the sheriff is required to take into his possession when levied on, slaves, horses, cattle, hogs, sheep, corn, wheat, tobacco, household furniture, and every tangible and moveable thing; and authorizes the officer to take the articles away for safe keeping till the day of sale. This is allowed to be done because the officer is liable for the value of the property levied on from the hour of levy; and if removed out of his reach by his allowing it to stay with the owner, he is responsible for its value to the creditor. And if he negligently allows a stranger to take it away against the consent of the owner, the execution is discharged as to the debtor himself, to the extent of its value. Hence when such property is once levied on, there is no need for any other execution to issue. The sheriff may sell at any time during his life, in or out of office; and if he die, his executor or administrator may sell. The Legislature has commanded the officer to levy and return the execution to the court "without making a sale." This command does not relieve the officer of his duty to take charge of the property levied on. It is as much in his possession and under his absolute control after this stay law as before; and the officer's responsibility is not in the least diminished. Upon his death the property will go to his executor or administrator, now as before. The command, therefore, to return the levy, only prolongs the time of sale and does not change the nature and effect of the levy, nor the legal right of the officer to the property levied on; and by the levy the officer is the legal owner. Such has been our clear law of a levy ever since the settlement of the and ever has been and is now the law of

lowance to officers for keeping and maintaining horses, cattle, hogs, or sheep, and all other property, the keeping of which may be chargeable to them, taken into their custody under legal process; and such allowance may be retained by the officers out of the sales of the property, in preference to the satisfaction of the process under which the property was seized or sold;" and the officer shall return the process for such keeping with the execution "unaccount for such keeping with the execution "under which the property has been seized to the justice or the court to whom the execution is returnable!" Again, it is our express law, (Rev. Code, chap. 45, sec. 2, and chap. 82, sec. 16,) that when any execution shall come to the sheriff or constable, "he shall proceed to levy the same upon the goods and chattels of the defendant in the first instance, if there be any."

The stay law does not change this provision, and therefore the officer is bound to seize in execution the debtor's goods and chattels and other moveable property, if there be any, and let the land alone.-Now let us suppose an ordinary case of execution against a farmer who has no slaves, but stocks and crops of various kinds. The officer is bound to seize the horses, cattle, hogs, or sheep, or the corn, wheat, tobacco, oats and peas of the defendant, and keep them till the court to which the execution is returnable, and endorse the levy and seizure thereof on the execution and return it without making a sale. (Such is the express command of the stay law-Sec. . :) and thereupon the clerk is directed to issue a rend exponas returnable twelve months thereafter. The tend. exponas does not release the property from the control of the officer; and if he indulges twelve months longer, (as seems to be the purpose of the law,) he is obliged to keep the property till the day of sale. In the mean time the grain will be ruined, and the cost of keeping the stock will be greater than its value. The debt of course will remain undischarged, and the debtor will lose his property without paying his debt. Such necessarily will be the result if the officer gives the indulgence seemingly intended by the stay law. But suppose the officer allows the personal estate to remain with the defendant, of what benefit can it be to the debtor if it may not be consumed? Of what benefit can the levy be to the creditor unless it may be sold? It is one of the best settled duties of the officer to sell without delay, as early as he can after giving notice, all such estate as is liable to loss or depreciation in value, because thereby the largest value is obtained both for the debtor and crecitor, and the officer is relieved of his onerous responsibility. A familiar instance of this care and foresight of law is found in the attachment law, chap. 7, sec. 6, which provides for the sale of perishable estate even before the judgment is obtained. If, therefore, the officer may not, in consequence of the stay law, sell before, or at the return court, it is obviously his duty to sell immediately after that court, whether a rend, exponas issue or not. If he do not, and the corn is consumed, or the stock die, or any of the articles be removed beyond his reach, he is liable to the creditor for the full value; and if he holds and keeps the property without sale and there be any loss thereby, he is liable to both. In one way alone then can the officer act both in obedience to the law and with safety to himself; and that is to sell as early as practicable. He will be forced to do so. Now let us see what results: The sale is made so soon as the vend. exponas comes to hand, and the money is held by the officer for the residue of the twelve months, without interest to the creditor. If kept it may depreciate and become worthless: and so the creditor may be ruined by the delay without its being any aid to the debtor. But a sad evil will spring up in the demoralization of the officer by the

temptation to use the money himself. I shall close my comments upon this most extraordinary of all laws known to the history of the State, by noticing the matters excepted from its operation by sections 16 and 19. The former of ich provides that the law shall not "apply to the collection of the State or county revenue." And the latter that it shall not "apply to the collection of interest on any contract already accrued or annually hereafter to accrue."

In regard to the first, it was wisely considered that all the public functionaries should be promptly paid, and the Judges even fully paid, though one half their services were dispensed with; and therefore a creditor's property should be sold to pay his tax, although he was prohibited from collecting by process of law, a dollar that might be due him in order to save that property from sale.

In regard to the second, it was also thoughtfully considered, that inasmuch as one man had laid out his means in lands and slaves and annually got the yields of the earth, and another had lent this very man all his money wherewith to buy his land, he ought to be at liberty to collect, as his means of living, the interest on the money lent. And this was right. Now I say this was thoughtfully considered, but was it thoughtfully considered, and was it right so utterly to neglect and pass by the laboring man's means of living? His land is his labor, his capital the industry of his hands-his means of living the sweat of his face; yet he may carn by hard toil the wages of a day, a week, or a year, and rely on them to feed his wife and children, but now can find in all the statutes of the land not a line of law that helps him to a speedy recovery of his humble dues. The stay law has unfeelingly shut the door of justice in his face; and when he demands his scanty wages of the owner of lands and slaves, or the lender of money, for whom he has labored, he is coldly turned over by the stay law to the delays of a three years' snit before a justice of the peace to get five dollars.

November, 1861. A SPEECH FOR ALL TIME.

Our attention has been called says the Fayetteville Observer to a speech delivered by the Roman Consul Paulus Æmilius, in the year A. M. 3836, a little more than two thousand years ago, which the Historian Rollin has preserved (vol. 4, page 217 of Lippincott's Library edition.) It is so admirably appropriate to the present time, when we have so many generals who stay at home and advise Lee, and Beauregard, and Johnston, as to the best mode for conducting their campaigns, that we are tempted to copy the speech entire. It is not equal in length to a stump or congressional speech of the present day, but is rather superior in quality to most of them. The speaker had just been chosen Consul, with special reference to his taking the command in the existing war with the Macedonians, and the following may be called his "Inaugural Speech." :-

"You seem to me, Romans, to have expressed more joy when Macedonia fell to my lot, than when I was elected consul, or entered upon that office; and to me your joy seemed to be occasioned by the hopes you conceived, that I should put an end, worthy of the grandeur and reputation of the Roman people, to a war, which, in your opinion, has already been of too long continuance. I have reason to be lieve that the same gods, who have occasioned Macedonia to fall to my lot, will also assist me with their protection in conducting and terminating this war successfully; but of this I may venture to assure you, that I shall do my utmost not to fall short of your expectations. The senate has wisely regulated every thing necessary in the expedition I am charged with, and as I am ordered to set out immediately, I shall make no delay; and I know that my collea gue, C. Licinius, out of his great zeal for the public service, will raise and march off the troops appointed for me, with as much ardour and expedition as if they were for himself. I shall take care to remit to you, as well as to the senate, an exact account of all that passes; and you may rely upon the certainty and truth of my letters; but I beg of you, as a great favour, that you will not give credit to, or lay any weight, out of credulity, upon the light reports which are frequently spread abroad without any foundation. I perceive well, that in this war, more than any other, whatever resolution people may form to obviate these rumors, they will not fail to make impression, and inspire I know not what discouragement. There are those who, in company, and even at table, command armies, make disposi tions, and prescribe all the operations of the campaign. They know better than we where we should encamp, and what posts it is necessary for us to seize; at what time, and by what defile, we ought to enter Macedonia; where it is proper to have magazines; from whence, either by sea or land, we are to bring provisions, when we are to fight the enemy, and when lie still. They not only prescribe what is best to do, but for deviating ever so little from their plans, they make it a crime in their consul, and cite him before their tribunal. But know, Romans, the effect of this is very prejudicial to your generals. All have not the resolution and constancy of Fabius, to despise impertinent reports. He could choose rather to suffer the people, upon such unhappy rumors, to invade his authority, than to ruin

affairs, in order to preserve their opinion, and an empty same. I am far from believing, that generals stand in no need of advice; I think, on the contrary, that schooler would conduct every thing alone, upon his own opinion, and without caused, shows more presumption than prudence. But some may ask, how then shall we act reasonably? In not suffering any person to obtrude their advice upon your generals, but such as are, in the first place, versed in the art of war and have learned from experience. in the art of war, and have learned from experience what it is to command; and, in the second, who are upon the spot, who know the enemy, are witnesses n person to all that passes, and share with us in all the dangers. If there be any one who conceives himself capable of assisting me with his counsels in the war you have charged me with, let him not refuse to do the republic that service, but let him go with me into Macedonia; ships, horses, tents, provisions shall all be supplied him at any charge.— But if he will not take so much trouble, and prefers the tranquility of the city to the danger and fatigues of the field, let him not take upon him to hold the helm, and continue idle in the port. The city of itself supplies sufficient matter of discourse on other subjects; but as for these, let him be silent upon them; and know, that we shall pay no regard to any counsels, but such as shall be given us in the camp itself."
The Historian adds the following appropriate re-

marks:-"This discourse of Paulus Amilius, which abounds with reason and good sense, shows that men are the same in all ages of the world. People have a propensity for examining, criticising, and condenning the conduct of generals; and do not observe, that doing so is a manifest contradiction to

reason and justice. V hat can be more absurd and ridiculous, than to see persons, without any knowledge or experience in war, set themselves up for censors of the most able generals, and pronounce with a magisterial air upon their actions? for the most experienced can make no certain judgment without being upon the spot; the least circumstance of time, place, disposition of the troops, secret orders not divulged, being capable of making an abso lute change in the general rules of conduct. But we must not expect to see a failing reformed, which has its source in the curiosity and vanity of human nature; and generals would do wisely, after the example of Paulus Æmilius, to despise these city reports, and crude opinions of idle people, who have nothing else to do, and have generally as little judgment as business."

Rock Me to Sleep. The subjeited poem is one of the most beautiful we have ever seen. We do not envy the to its wild and tender music: We do not envy the heart which does not thrill

Backward, turn backward, oh, time in your flight, ke me a child again, just for to night! Mother, come back from the echoless shore, Take me again to your heart as of vore-Kiss from my forehead the farrows of care, Smooth the few silver threads out of my hair-Over my slumbers your loving watch keep-Rock me to sleep, mother-rock me to sleep!

Backward, flow backward, ch, tide of years! I um so weary of toil and of tears— Toil without recompense—tears all in vain-Take them and give me my childhood again ! Weary of flinging my soul-wealth away-Rock me to sleep, mother-rock me to sleep!

Tired of the hollow, the base, the untrue, Mother, oh mother, my heart calls for you! Many a summer the grass has grown green, B'ossomed and faded—our faces between— Yet with strong yearning and passionate pain, Long I to-night for your presence again! Come from the silence so long and so deep— Rock me to sleep, mother-rock me to sl

Over my beart in days that are flown, No other worship abides and endures, None like a mother can charm away pain From the sick soul and world-weary brain; Slumber's soft ca'm o'er my heavy lids creep Rock me to sleep, mother-rock me to sleep!

Come let your brown hair just lighted with gold, Fall on your shoulders again as of old— Let it fall over my forebend to-night. Shading my faint eyes away from the light-For with its sunny-edged shadow once more, Hap'ly will throng the sweet visions of yore, Lovingly, softly, its bright billows sweep-Rock me to sleep, mother-rock me to sleep!

Mother, derr mother! the years have been long Since I last hushed your fullaby song-Sing then, and unto my soul it shall seem Womanhood's years have been but a dream; Clasp to your arms in a living embrace, With your light lashes just sweeping my face. Never hereafter to wake or to weep-Rock me to sleep, mother—rock me to sleep!

The words were written by Fiorence Percy, and were absequently set to music by an eminent American composer, whose name we do not remember. It is a beautiful ballad, and is winning its way to hosts of admirers. We are glad of the success, for it is but seldom that words and sic are so happily wedded together as in this instance It deserves a place on every piano. - Nashville Banner.

[From the Petersburg Express]

THE NORTH-CAROLINA STATE HOSPITAL-This

building, situated on Perry street, within a few yards of the Southern Railroud, has been nearly, or we may say entirely finished; and we are convinced that it is the most convenient institution of its kind in the South. The building is three stories in height, the two upper being divided in three wards each, and the lower one two wards. The most perfect heating arrangements have been made. and each ward will be made as comfortable as the most pleasant private chamber. And then, too, there is gas extending through the whole hospital, and hot and cold water carried to each floor, connecting with bathing rooms and other places. To the right of the main entrance to the hospital is the private office of the surgeon, while opposite is the apothecary, filled with the most useful and necessary medicines. Adjoining this is a room designed for the accommodation of several students, who, we are informed, will be in attendance to study at the bedside of the sick. Attached to the first floor of the building is a large kitchen, supplied with a cooking range and one or two stoves, from which meals can be supplied to upwards of 300 persons. From the kitchen a dumb waiter ascends and descends, carrying the food for patients to the two upper stories, and bringing back the dishes, plates, &c. An apparatus is also constructed by which patients are conveyed in a suitable car from one floor to another, instead of being carried up and down the stairs by

In the yard there have been built several rooms for the nurses, a laundry and a dead house. Nothing in fact, is wanting in the whole establishment. It is under the management of a skillful Surgeon, and accomplished and attentive assistants, and most experienced nurses will watch over the sick. The hospital is now ready for the reception of patients, and we understand a number will shortly be entered About one dozen, from Col. Ransom's Cavalry, were received yesterday. About 250 or 300 can with ease be accommodated. The greatest credit is due to those who have had the alteration and re-arrangement of this hospital. They have shown a talent and taste worthy of emulation by all who have the construction of such buildings in hand.

The hospital will be under the general manage ment and supervision of the Governor of North-Carolina, and the Surgeon General of the State, Dr. Chas. E. Johnson. The immediate attendants are: PETER E. HINES, Principal Surgeon.

HARVEY L. HINES, Ass't Surgeons. F. M. HENDERSON, Mrs. C. G. Kennedy has been appointed matron to be aided by two assistants.

Hon. W. A. LAKE. - This gentleman, lately killed in a duel a few days ago, had for more than twentyfive years been a member of Christ Church, Episcopalian, in Vicksburg. The vestry passed resolutions expressive of regret at his loss. One of them reads as follows: "That deploring the death of Mr. Lake, and regarding it as a personal calamity that has befallen each one of us, we deem the occasion an appropriate one to express our solemn condemnation of that code of honor to whose false teachings out amented friend fell a sacrifice."

A brother of Gen. D. H. Hill of this State, Capt H. P. Hill of Miss. and a son of Gen. Pettus of Miss, were wounded in the battle of Leesburg.

It is thought that Hon. J. C. Breckinridge will be offered a command in the Confederate Army in Kentucky.

The New York Tribune asserts that the Herald keeps a secession flag stowed away in its office, ready to hang out on the first important reverse of Fed-

PAYING DESTS ... "Men may sophisticate as they please, they can never make it right, and all the bankrupt laws in the universe can never make it right, for them not to pay their debts. There is sin in this neglect as clear and as deserving church discipline, as in stealing or false swearing. He who violates his promise to pay, or withholds the payment of a debt when it is in his power to meet his engagement, ought to be made to feel that in the sight of all honest men he is a swindler. Religion may be a very comfortable cloak under which to hide; but if religion does not make a man 'deal ustly 'it is not worth having."

Mr. Henry Harding of Beaufort County, has nearly succeeded in raising another company. This makes ten companies from that county.

DIED.

At his residence in this City, on the 28th ult, after a short illness, Mr. Robert E. Williams, aged about 38 years. He was a good friend, a kind neighbor, and highly esteemed by all who enjoyed his acquaintance. He leaves a wife and three children, and a large family connexion to mourn their irreparable loss. their irreparable loss.

At his residence in Kinston, Lenoir county, on the 16th At his residence in Kinston, Lenoir county, on the 18th September last, James Jones, Esq., in the 58th year of his age. He was honest and just in all his dealings, a kind neighbor, a sincere friend, and for many years a Magistrate of Lenoir county. The memory of 'the deceased will be long cherished in the hearts of a large circle of relatives and friends, who mourn their irreparable loss. K.

NOTICE.

TAKEN UP AND COMMITTED TO THE JAIL OF Cabarrus county, on the 8th day of September, 1861, a negro bay who says his name is Nep, and that he belongs to a man by the maine of Joseph Vick, in Edgecombe county, N. C. Said boy is about 30 or 35 years of age, quite dark, five feet 10 or 11 inces high, and very sensible. The owner is requested to come and prove the property, pay charges and take him away. J. L. BUNDY, Sh'ff.

Concord, N. C., Oct. 29, 1861.

SEQUESTRATION NOTICE. AVING BEEN APPOINTED BY THE HON. ASA BIGGS, Judge of the District Court of the Confaderate States of America, for the District of North Cardina, the RECKIVER for the Counties of Chatham, Moore, Randolph, and Montgomery, in said State, I hereby notify every Attorney, agent, former partner, or Trustee, or other person holding or controlling within said counties, any lands, tenements, or hereditaments, goods and chattels, rights or credits, or any interest therein, of or for any alien enemy of the Confederate States of America, speedily to inform me of the same, and to render to me an account nform me of the same, and to render to me an accoun thereof, and, so far as practicable, to pay over the same to me, or to place the same in my hands. Any such person wilfully failing to do so, shall be guilty of a high misd.meanor, and upon indictment and conviction, shall be find in a sum not exceeding five thousand dollars, and imprioned not longer than six months, and shall further be lable to be sued by said Confederate States, and subjected to pay double the value of the estate, property or effects of the alien enemy, held by him, or subject to his control. I also notify each and every citizen of the Confederate I also notify each and every cutzen of the Confederate States speedily to give information to me, (as he is required by law to do,) of any and all lands, tenements, and heredit-aments, goods and chattels, rights and credits, within the said counties, and of every right and interest therein held, owned, and possessed or enjoyed by or for any such alien

My office is at Pittsboro', Chatham county, N. C.
JOHN MANNING, JR.

Receiver for the counties aforesaid

SEQUESTRATION NOTICE. HAVING BEEN APPOINTED BY THE HON. ASA BIGGS, Judge of the District Court of the Confederate States of America, for the District of North Caro-lina, the RECEIVER for the Counties of Northampton Chowan, Gates and Hertford, in said State, I hereby notify every Attorney, agent, former partner, or Trustee, or other person holding or controlling, within said Counties, any lands, tenements, or hereditaments, goods and chattels, rights or credita, or any interest therein, of or for any alien enemy of the Confederale States of America, speedily to inform me of the same, and to render to me an account thereof, and, so far as practicable to pay over the same to me, or to place the sarre in my hands. Any such person wilfully failing to do so, shall be guilty of a high misdemeanor, and upon indictment and convict oned not longer than six months, and shall further be liable to be sued by said Confederate States, and subjected to pay double the value of the estate, property or effects of the alien enemy, held by him, or subject to his control.

I also notify each and every citizen of the Confederate States speedily to give information to me, (as he is required by law to do.) of any and all lands, tenements, and hereditaments, goods and chattels, rights and credits, within the said Counties, and of every right and interest therein held,

owned, and possessed or enjoyed by or for any such alien My office is at Jackson, Northampton County. N. C. W. W. PEEBLES, Receiver for the Counties aforcsaid. Oct. 16, 1861.

HEAD QUARTERS N. C. TROOPS, Adjutant General's Office,

RALEIGH, Oct. 18th, 1861. [General Order No. 21.]
The following Order is published for the information and guidance of all concerned:

State of North-Carolina, EXECUTIVE OFFICE, Ruleigh, Oct. 18, 1861. Roleigh, Oct. 18, 1861.)
IEUTENANT COLONEL SPIER WHITAKER, Aic LIEUTENANT COLONEL SPIER WHITAKER, Audic-Camp of the Governor, is assigned to duty in the Adjutant General's Office, as Auditor of Military Accounts. He will enxamine and adjust for settlementall such claims and accounts, under direction of the Adjutant General.

HENRY T. CLARK,

By order of the Commander-in-Chief,
(Signed) J. G. MARTIN, Adjutant General

Head Quarters Department of N. C., OFFICE OF CHIEF COMMISSARY,

BROPOSALS WILL, BE RECEIVED AT THIS OFfice for the delivery of 5,000 barrels of good superfine Flour for the use of the Confederate Troops on the coast of Bidders must state the quantity they can deliver per week or month, the price, and Bailroad Depot at which the Floar will be delivered.

The Flour will be received in either barrels or bags, but the preference given to offers for it in burrels
WM. W. MORRISON,

Major C. S. Army

STATE OF NORTH-CAROLINA-CHATHAM COUNTY.—Court of Pleas and Quarter Sessions, August Term, 1-61.—Joseph Segraves, Adm'r. of Charles Segraves, dec'd, vs. Thomas Boon and wife Cindrilla, and Albert Segraves

In this case it being made to appear to the satisfaction of the Court that the defendants, Thomas Boon and wife Cindrilla, and Albert Segraves, are non-residents of this State, it is ordered that advertisement be made in the Raleigh Standard for six weeks for said defendants, notifying them to appear at the next Term of this Court, to be held for the country of Chathauter. for the county of Chatham, at the Court House in Pitts-boro', on the second Monday of November next, then and there to plead, answer or demur to this petition, otherwise judgment pro confesso will be taken as to them.

In testimony of which I do hereunto sign my name, and affix the seal of office of said Court, at office in Pittsbore',

affix the seal of office of August, 1861.

the 2d Monday of August, 1861.

R. C. COTTON, C. C. C.

By W. F. FOUSHEE, D. C. October 18, 1861. 48-wft.*

S. C. FEMALE COLLEGIATE INSTITUTE, AT BARHAMSVILLE, NEAR COLUMBIA, S. C. THE DUTIES OF THIS INSTITUTE WILL BE REsumed on MONDAY, October 7, ensuing.
The Principal will, as usual, be assisted by an able corps

Circulars, affording particulars, will be forwarded to Treasury NOTES or BONDS of the Confederate States eceived for past and future liabilities for Board and Tuition. ELIAS MARKS, M. D.,

· Principal and Proprie

GEORGE L. WILD,

WARRENTON, N. C.,

RESPECTFULLY OFFERS HIS SERvices to the citizens of Raleigh and vicinity as a Tuner and Repairer of Pianos, wherein ten years experience safely enables him to guarantee satisfaction. All communications directed to Warrenton will receive prompt attention.

Refers to Rev. Aldert Smedes, and Prof. G. F. Hansen, of St. Mary's College, and Mr. W. J. Palmer, of Deaf, Dumb and Blind Asylum, Raleigh, N. C.; E. E. Parham, J. Wilcox and Prof. C. H. Kehr, Warrenton; and J. H. Mills, Jos. H. Gouch and Dr. S. A. Williams, Oxford, N. C. Jan. 15, 1861.

CLARK & TURLINGTON
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WILL GIVE SPECIAL ATTENTION TO ALL
consignments of

Cotton, Naval Stores, Flour, Bacon,
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and other country produce, either for sale or shipment.
My Wharfand Warchouses being conveniently located
for the reception of produce either by Railroad or River,
anables me to make my charges light. Also, regular dealearing. eraid

Lime, Plaster, Cement, Hair, &c.
Refers to H. A. SAVAGE,
Cashier Bank of Cape Fear, Wilmington, N. C.
JOHN DAWSON,
President Wilmington Branch Bank of N. C.
W. H. JONES,
Cashier Baleigh Branch Bank of Cape Fear,
November 13, 1860.