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DAILY DISPATCH.

VOL. XLIX. RICHMOND, VA., FRIDAY MORNING, JUNE 2, 1876. NO. 133.

THE DISPATCH.
TERMS OF ADVERTISING:
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One square, one insertion	$0 75
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Richmond Dispatch.

THE CIRCULATION OF THE DISPATCH IS LARGER THAN THE COMBINED CIRCULATION OF ALL THE OTHER DAILY NEWSPAPERS OF THE CITY.

FRIDAY.....JUNE 2, 1876.

WEATHER REPORT.

PROBABILITIES TO-DAY.—*Washington, June 1.*—For the South Atlantic States, southerly winds, warmer and partly cloudy weather, lower barometer, and possibly light local rains will prevail.

For the Middle States, warmer southeast to southwest winds, lower pressure, and possibly local rains.

THE WEATHER YESTERDAY was clear, warm, and pleasant.

THERMOMETER YESTERDAY: 6 A. M., 57; 9 A. M., 65; 12 M., 77; 3 P. M., 80; 6 P. M., 76; midnight, 67.

LOCAL MATTERS.

LAW LAID DOWN.

Decisions of Chief-Justice Waite.

IMPORTANT CASE IN REGARD TO ACKNOWLEDGING AND RECORDING DEEDS—THE NOTARY NOT BOUND TO BE A DISINTERESTED PARTY—A VIRGINIA CIRCUIT JUDGE QUOTED—THE LIBEL PROCEEDINGS AGAINST MYERS'S DISTILLERY—JUDGE HUGHES OVERRULED—MYERS'S BOOKS TO BE NOT EXCLUDED AS EVIDENCE—THE MAIN QUESTIONS NOT CONSIDERED—A RAILROAD COMPANY'S DEMURRER OVERRULED BY THE CHIEF JUSTICE.

In the United States Circuit Court yesterday Chief-Justice Waite delivered the opinion in the case of the National Bank of Petersburg against William P. Conway, trustee, and others, as follows:

On the 20th July, 1875, the defendants were, and for many years before had been, partners in business as bankers and stock-and note-brokers at Fredericksburg, M. Slaughter & Son, a firm composed of Montgomery Slaughter, the father, and William L. Slaughter, the son, were extensive millers at the same place, and the defendants were accustomed to discount and negotiate their commercial paper, as occasion required in the course of business. The rule of the defendants was to require satisfactory endorsers upon paper discounted by or through them, but upon the representation of M. Slaughter, with whom all transactions for his firm were had, that he did not endorse for others and on that account could not ask others to endorse for him, it was agreed that a deed of trust from him, conveying the property now in controversy, would be accepted as security for the paper of his firm offered for discount or negotiation, in lieu of an endorser. Under this arrangement it was his custom, when offering paper to the defendants, to accompany it with a deed of trust, conveying this property to the defendant, William P. Conway, as security for the benefit of the holder in case it should be discounted. The deed was always delivered to the trustee and retained by him until the payment of the paper, when it was surrendered or cancelled. No reconveyances were ever executed, and, prior to the one now under consideration, none of the deeds so executed were recorded, but the trustee had full power to have this done whenever he or the holder of the paper deemed it necessary.

CHARACTER OF THE TRANSACTIONS.

After this arrangement was made no unendorsed paper of Slaughter & Son was ever discounted by the defendants as a firm for their own account or for others without such a deed. The transactions of the kind, which were numerous, were not unnecessarily published; neither were they concealed. The character of the security was always explained to those interested in the paper or negotiating for its purchase.

The property conveyed belonged to M. Slaughter individually. The firm had no interest in it.

On the 20th of July, 1875, the defendants held three notes made by M. Slaughter & son, payable to their own order, and by them endorsed, as follows:

One for one thousand dollars, dated March 22, 1875, payable six months after date.

One for the same amount, dated May 22, 1875, and also payable six months after date.

And the other for fifteen hundred dollars, dated July 14, 1875, and payable ninety days after date.

It is admitted that all these notes were secured by deeds of trust in the usual form, but which were never recorded.

Slaughter & Son, desiring a further accommodation of two thousand dollars, made their note for that amount in the usual form, dated July 20th, and payable December 20-23, 1875, and offered it to the defendants for discount or negotiation.

THE DEED IN QUESTION.

At the same time M. Slaughter executed to the defendant, Conway, the deed in question to secure this note of two thousand dollars as well as the other three notes then held by the defendant. The deed was acknowledged before the defendant, Garnett, a notary public, and delivered to Conway. The note was delivered to the defendants, by whom it was discounted, and the proceeds placed subject to the check of M. Slaughter & Son on the 21st of July.

The note falling due September 22-25 was paid at maturity; but on the 15th of October, when that for fifteen hundred dollars fell due, Slaughter & Son informed the defendants that they would not be able to meet it, and that they found themselves compelled to suspend payment generally. Conway, immediately upon receiving this information, placed his deed of July 20th on record. Until this time the solvency of the firm had never been doubted. Their suspension was a matter of surprise to all.

THE FIRM ADJUDGED BANKRUPTS.

Within a short time after their suspension Slaughter & Son were adjudged bankrupts upon the petition of the National Bank of Fredericksburg and other creditors. The debt owing the bank was evidenced by two notes of twenty-five hundred dollars each, made by M. Slaughter, and endorsed by W. L. Slaughter and M. Slaughter & Son.

After the adjudication of bankruptcy, Conway advertised the trust property for sale under the powers of the trust on the 22d of November. On the 11th of November, before the appointment of an assignee, the bank filed this bill, in behalf of itself and the other creditors, to enjoin the sale as advertised and to have the deed adjudged invalid, as against the assignee when appointed and those whom he represented. Other creditors afterwards made themselves parties to the suit, as did the assignee when appointed.

THE DECREE AND APPEAL.

The District Court decreed in favor of the complainants in accordance with the prayer of the bill. From that decree this appeal has been taken.

The Supreme Court of the United States decided at its last term, in Sawyer *vs.* Turpin, not yet reported, that if a mortgage to secure a preexisting debt was executed more than four months before the filing of a petition for the adjudication of the mortgagor a bankrupt it would be good as against the assignee in bankruptcy when appointed if recorded before his rights attached, but within the four months. This case arose before the act of June 22, 1874 (18 Stat., Pt. 3, 180), changing the time of the prohibited preference to a period within two months next preceding the filing of the petition, instead of four, as it originally stood. Upon the principle established in that case this deed of trust is not invalid under the provision of section 35 of the bankrupt act as amended and in force at the time of its execution.

THE FAILURE TO RECORD.

The deed was delivered to Conway when it was executed, and held by him as security for the notes it described. The testimony is clear upon this point. The failure to record previous deeds of the same character, their surrender for cancellation without a formal reconveyance after payment of the notes, and their acknowledgment before the defendant Garnett as a notary, are all circumstances proper for consideration when determining what the real character of this transaction was; but, in our opinion, they are not sufficient to overcome the positive testimony of all the parties to the effect that the delivery was complete, that the object on both sides was to secure the debts provided for, and that Conway, the trustee, was fully authorized to cause the record to be made whenever he or his beneficiaries thought it desirable to do so.

The deed was good as between the parties without record, but until recorded it was void against creditors. (Code of Virginia, 1873, page 897, chapter 114.) No deed can be admitted to record until proved or acknowledged in the manner provided for. (Same Code, 905, section 117.) A record without the requisite proof or acknowledgment does not affect creditors.

AS TO ACKOWLEDGMENT.

A deed may be acknowledged by the grantor before a notary public, and, upon the certificate of the notary to that effect in proper form, recorded. The form of the certificate in this case is correct, but it is insisted that because Garnett, the notary, was interested as one of the beneficiaries in the trust he was incompetent in law to receive and certify the acknowledgment. This presents the principal question in the case for our consideration.

The law provides only for the acknowledgment of a deed before *a* notary public. It does not require, in express terms certainly, that he shall be disinterested. A notary public is an officer provided for by statute. He must give bond for the faithful performance of his duties. (Code of Virginia, 1873, page 903, chapter 116.)

It has been frequently decided that an acknowledgment before a grantee named in a deed was of no effect.—Beaman *vs.* Whitney, 20 Maine, 413; Wilson *vs.* Trear, 20 Iowa, 233; Stevens *vs.* Hampton, 46 Missouri, 404; Groesback *vs.* Seely, 13 Michigan, 345. It has also been held that a party interested in a deed cannot take and certify the acknowledgment of a married woman requiring a privy examination.—Withers *vs.* Baird, 7 Watts, 228. The taking of such an acknowledgment is, in some respects, a judicial act, and not ministerial only, but in the case of an ordinary acknowledgment it is purely a ministerial act.—Freeman *vs.* Love, 14 Ohio St., 531; Lynch *vs.* Livingston, 2 Seld., 434. Upon this principle it was decided in Dussuame *vs.* Burnett, 5 Iowa, 95, that an acknowledgment before one not a grantee named in the deed, but interested in the conveyance, was good. The same distinction was recognized in Stevens *vs.* Hampton, before cited.

A VIRGINIA JUDGE QUOTED.

In October last the judge of the Rockbridge Circuit Court of Virginia held, in the case of Lady *vs.* Lady, pending before him, that a grantee named in a deed, though a trustee only, was incompetent to take the acknowledgment of a married woman, the grantor, which required a privy examination. An acknowledgment of that kind, it was said, was of such sanctity as to make it necessary for the officer taking it to be disinterested.

The recording acts are intended for the security of titles and the prevention of frauds. They are to be construed liberally to that end. As the record, when made, is constructive notice to all having the legal right to rely upon it for protection, public policy requires that it shall import as near absolute verity as is consistent with a due regard to the rights of the parties interested. A deed acknowledged before one named as grantee, carries upon its face notice of that fact, or, what is equivalent, notice of circumstances sufficient to put a reasonable man upon inquiry. But when the name of the officer taking the acknowledgment does not appear as grantee, or as otherwise interested, no such notice or presumption accompanies the deed or its record.

WHAT IS REQUIRED TO PERFECT A DEED.

A certificate of acknowledgment is required to perfect a deed for record. The grantor can select such authorized officer for that purpose as he chooses. He has full power to protect himself against frauds by interested parties as certifying officers, for he may refuse to make his acknowledgment before them.

The question we have now before us is not whether as between these parties the certificate can be impeached, but whether it is sufficient in law to authorize the record. It states only facts. The deed was actually acknowledged before a notary public. A recorder receiving it in its present form, and not knowing that the certifying officer was interested in the conveyance, would certainly be justified in putting it on record. The deed itself did not carry notice to him of the supposed disqualification any more than it did to others. It was no part of his duty to detect the secret interest of the certifying officer. If the instrument was apparently sufficient in form he had nothing to do but to receive and record it. All this the grantor knew, or ought to have known.

OBJECT OF THE RECORD.

Every man is held responsible for the necessary consequences of his own voluntary acts. This is a familiar rule, and as old as the principles of common honesty. A grantor acknowledges a deed for the purpose of putting it in a condition for record. The object of the record is to give public notice of what had been done with the property. The public are expected to examine and act upon this evidence. Having voluntarily acknowledged and delivered his deed, the grantor is presumed to have voluntarily consented to its record. He must, therefore, be charged with all the legitimate consequences of such an act. If his deed is found on record, apparently executed according to the forms of law and without any circumstances of suspicion against it, the plainest principles of equity would hold him estopped from setting up an undisclosed interest of the officer before whom he made his acknowledgment, to defeat his conveyance, as against an innocent purchaser relying upon the record as the evidence of his title. But this defence would be open to him if his acknowledgment were actually void. Void acts are as no acts; they bind no one. Voidable acts are good until avoided, and they cannot be avoided as against rights actually vested under them.

WHEN A DEED IS VOIDABLE.

As against the grantee, a deed is as much voidable after record as before. So far as he is concerned, the effect of the record is only to change the burden of proof, to some extent, from him to the grantor. After a record duly made, the law presumes that all has been done which is necessary to give the instrument validity, but this presumption may always be rebutted as against the grantee. And as against third parties, it may be shown that a deed was never signed, sealed, or delivered.

Clearly, therefore, it is against the policy of the recording acts to hold an acknowledgment void because of the secret interest of an officer taking and certifying it. The effort should be to prevent rather than allow hidden defects in the evidence of the public records. If voidable only, it is sufficient to authorize the record if not previously avoided. So, too, as has been seen, it may be avoided at any time after record and before the rights of third parties have attached. This, as it seems to us, furnishes the grantor with all the protection he has the right to demand as against the consequences of his own acts, and at the same time leaves to the recording acts their legitimate power and effect. We conclude, therefore, that the acknowledgment in this case before Garnett was sufficient to authorize the record of the deed to Conway.

ABOUT PROOF OF FRAUD.

The acknowledgment may, however, as between these parties, be avoided for fraud if established. But there is no proof of fraud. On the contrary, all parties agree that the acknowledgment was freely and fairly made in the belief that it was in all respects sufficient to vest the title in the trustee for the purposes specified.

The decree of the District Court annulling the deed is therefore reversed; but inasmuch as the trustee named in the deed is interested in the debt secured by the trust the sale advertised by him should be enjoined, and another trustee appointed to execute the trust in that behalf. A decree may be prepared in accordance with this opinion.

The Case of Myers's Distillery.

The case of the United States against a distillery at Petersburg was decided as follows:

Section 3303 of the Revised Statutes provides that every distiller shall from day to day make, or cause to be made, in a book or books to be kept by him in such form as the Commissioner of internal Revenue may prescribe, certain specified entries recording in detail his transactions at the distillery. Section 3304 then provides that these books "shall always be kept at the distillery, and be always open to the inspection of every revenue officer, * * * and whenever required shall be produced for the inspection of any revenue officer."

On the first day of November, 1875, the collector of internal revenue for the second collection district of Virginia, acting under special authority for that purpose from the commissioner of internal revenue, seized the distillery, which is the subject matter of this action, for a violation of section 3257 of the Revised Statutes, and with it took possession of the books kept upon the premises pursuant to the requirements of section 3303.

THE BOOKS IN EVIDENCE.

At the trial of this suit in the District Court, the United States, to maintain the issue on their part, offered these books in evidence, but the claimants objected to their admissibility, upon the ground that they had been obtained from the distillers by means of a judicial proceeding. This objection was based upon section 860 of the Revised Statutes, which is as follows:

"No pleading of a party, nor any discovery or evidence obtained from any party or witness by means of a judicial proceeding in this or any foreign country, shall be given in evidence, or in any manner used against him or his property or estate, in any court of the United States in any criminal proceeding, or for the enforcement of any penalty or forfeiture: provided, that this section shall not exempt any party or witness from prosecution and punishment for perjury committed in discovering or testifying as aforesaid."

The District Court sustained the objection and excluded the evidence. To this ruling the United States excepted in due form upon the record, and the first question presented for our consideration arises upon that exception.

SUCH BOOKS QUASI RECORD

The books of a distiller, kept in obedience to the requirements of the statute, are, so to speak, *quasi* records. They are intended for use as much by the Government as the distiller. They constitute part of the machinery which the law has provided for the enforcement of the revenue laws. Their object is to furnish the Government with evidence of the daily business of the distillery, and with the means of detecting frauds. They are to be preserved two years for that purpose, and are to be produced for the inspection of the proper Government officials whenever demanded. They are, in a sense, part of the distillery itself, and as much subject to inspection and use for the purpose of securing the payment of the revenue as the building or any part of the fixtures or apparatus. False entries therein, or an omission to make such entries as the law requiries, or a refusal to produce them upon proper demand, will subject the distillery to forfeiture.

THE SEIZURE LEGAL.

The possession of the books in this case was not obtained by means of any judicial proceeding. The seizure was not by virtue of any warrant issued by a court or judicial officer, but upon an order of one of the executive departments of the Government, made in the legitimate exercise of its powers for the enforcement of the laws. The books were taken because found on the premises in the place where the law required they should be kept for the purposes of evidence to be consulted and considered by the Government. They were no more excluded by this statute from use as evidence, on account of the manner in which they were obtained, than were the tubs or other apparatus seized at the same time.

This case is entirely different from that of United States *vs.* Hughes (21 Internal Revenue Rec., '76), decided by Judge Blatchford in the southern district of New York. There the warrant of seizure was issued by a judge and made returnable to the court (14 Statute, 547, sec. 2). The evidence obtained consisted exclusively of private books and papers, which were in no sense whatever public. They were excluded because they had been obtained under a warrant issued in a judicial proceeding by a judge to a marshal, returnable with the papers, &c., to the judge for his judicial action.

RIGHTS OF THE GOVERNMENT.

Here, as has been seen, the books were public books, kept for the purposes of evidence, and intended for use as well by the Government as the distiller. The United States have the right to demand their production without judicial protest for all purposes connected with the revenue liabilities of the distillers or the distilleries.

We think the District Court erred in excluding the testimony, and the judgment must for this reason be reversed. It is unnecessary now to consider any other questions presented by the record, as upon another trial, with additional evidence, the Court may be able to find the facts more specifically and definitely than they appear in the present record.

The case is remanded for a new trial.

Railroad Case.

The Chief Justice overruled the demurrer of defendants in the case of Daniel H. London *vs.* The Washington City, Virginia Midland and Great Southern Railroad Company. The suit of Mr. London is on a ten-thousand-dollar bond issued by the Orange and Alexandria Railroad Company before it was merged into the present organization. The Chief Justice decided that London could maintain his action against the Washington City, Virginia Midland and Great Southern Railroad Company.

PERSONAL.—Mayor Keiley will be in his office from 9 A. M. to 12 M. to-day in order that the members-elect of the Board of Aldermen and Common Council and the justices of the peace may qualify. The general officers qualify in the Hustings Court. The seventh section of the city charter provides that all city officers shall qualify forty days before their term begins. So it is important that the general officers qualify at the June term of the Hustings Court, as they go in office on the 1st of July. The June term commences on Monday next. So it is in the case of the councilmen, aldermen, and magistrates—they go in office on the 1st of July, and must therefore qualify before that time before the Mayor.

EXPRESS TRAIN TO NEW ORLEANS.—From and after Sunday next the Danville Railroad Company will, in addition to their present trains, run a fast express train from Richmond to New Orleans, making the time in thirty-three hours. The trains will leave the city at 5:50 A. M. and 1:10 P. M.

RAILROAD LITIGATION.

The Troubles of General Mahone's Company.

A GRAND ARRAY OF COUNSEL IN THE UNITED STATES COURT—AMENDED BILL OF COMPLAINANTS EXPLAINED—BRIEF DELAY ASKED BY COUNSEL FOR THE DEFENDANT—NECESSITY FOR IMMEDIATE ACTION URGED—QUESTION OF JURISDICTION TO BE ARGUED TO-DAY.

Yesterday was the time appointed for the hearing of the case of the Atlantic, Mississippi and Ohio Railroad Company on the motion of the trustees under the $15,000,000 mortgage for foreclosure and appointment of receiver.

About 11 o'clock Chief-Justice Waite having delivered several opinions in cases formerly argued, left the bench, and Judge Hughes took his place. Judge Bond then told the counsel for the plaintiff that the court was ready to hear them.

The court-room was full. The plaintiffs were represented by Mr. John Collinson, of London, attorney in fact for the consolidated bondholders, and by Messrs. Shipman and McFarland, of the firm of Shipman, Barlow, Larocque & McFarland, and Mr. Choate, of the firm of Evarts, Southmayed, Choate & Co., all of New York, and Henry T. Wickham, Esq., as counsel. The defendant appeared by the president, William Mahone, in person and by Messrs. W. W. Crump, W. W. Gordon, William J. Robertson, J. Alfred Jones, Charles S. Stringfellow, and Thomas S. Bocock, as counsel.

Judge George P. Scarbrough, of Norfolk, and Messrs. E. S. Brown and C. M. Blackford, of Lynchburg, and Mr. Sterling, of Baltimore, and many Richmond lawyers, were present, supposed to represent as counsel divisional bondholders in their respective cities.

THE AMENDED BILL.

Mr. McFarland, for the plaintiffs, said in substance that when the bill was prepared and filed their information was scant, and since then, upon the receipt of fuller information, the bill had been amended by introducing additional facts and figures, compiled from the official reports of the defendant, and by adding a prayer for general relief. That affidavits had also been prepared stating facts gathered from the company's reports which would probably be admitted. These papers were handed to the court.

DELAY ASKED.

Mr. Stringfellow, for the defendant, expressed regret at the necessity which obliged him to ask the Court to postpone the motion for a few days. He said that the necessity was not of their creation. One month ago the defendant was ready and willing to go on upon the bill as it then stood. On the 19th day of May the bill was amended. On the 30th of May the defendant was furnished at night with a copy of the affidavits, which contain some forty or fifty pages of printed matter, covering correspondence of the company during a period of five years, all its reports, and, indeed, the whole history of the company. Yesterday the affidavits were embodied in a second amendment to the bill. The defendant wanted time to answer this new matter. There was in the original bill only one clause tending to impeach the integrity of the administration or to impute misapplication of funds; and this clause was vague and indefinite and not sufficient to require answer. The amendments charge a specific misapplication of funds. The president went to work at once to prepare statements in reply, and was so employed until 2 o'clock at night. That it was physically impossible to go through the calculations required, and there was no time left for counsel to prepare an answer. Indeed, Mr. Jones, one of the counsel, had not had time to read the amendments. The defendant wanted only delay long enough to make necessary examinations and prepare the answer.

THE SURPRISE AND WHERE.

Mr. McFarland said that the motion for delay could be granted only upon the ground of surprise and want of time to prepare an answer. He said that the amendments introduced no fact that was not well known to the defendant, and made no averment which, for the purposes of this motion, required an answer. And he asked counsel to specify the particular fact, which was a surprise.

Mr. Stringfellow said he would do so, and proceeded to state several matters alleged in the affidavits and amendments imputing improprieties in the past management of the company, misapplication of money, and falsification of the terms of the prospectus under which bonds were negotiated, &c., and insisted that it was the right of the company and its president to have an opportunity to refute, correct, or explain the matters thus alleged.

THE PAST MANAGEMENT.

Mr. McFarland insisted that the question of the past management of the road, whether good or bad, was not in issue at this stage of the cause, and he withdrew an affidavit which charged a failure to account for over $100,000 of the bonds. He said the facts alleged in the bill were taken from the company's reports, and showed a strange management of the finances; but the object of this motion was not to redress the past, not to determine now whether the management has been good or bad, whether the present condition of affairs was the result of fault or misfortune, but simply whether the present condition of the company—whatever may have been the cause—is such as to make it necessary and proper for the court to take possession of its property in order that the rights of all parties may be protected. Let by-gones be by-gones, he said, for the purposes of this motion. We ask only what is the present condition of the property, and what does that condition require? There is no controversy about the floating debt; none about the amount this insolvent company owes us; none about the status of the prior funded debt called divisional bonds, or the amount of interest to be paid upon them on the 1st of July next, within thirty days from now, about $180,000; and none about the fact that the very existence of our consolidated bonds of a million and a half depends upon the finding some means to meet the liabilities of the company in respect of these prior liens. In January next about about a half-million of these underlying bonds will fall due and must be provided for. It was vital to the rights of the plaintiffs to have a receiver at once that the elder liens may be taken care of and then ours.

MR. JONES'S APPEAL.

Mr. James Alfred Jones said that as Mr. Stringfellow had referred to him it was proper for him to say that with all diligence he had not been able to this moment to examine the last pleadings and get the gravamen of the charges contained in them. He was only told by his associates that they essentially changed the issues presented by the first bill. They asked not until the 1st of July, but only two or three days' delay—time indispensable to enable them to answer the allegation; that the court would wish to know as much as possible before doing so solemn a thing as to take this great property—a road 400 or 500 miles long—out of the hands of its owners. There was no suggestion of any injury to result from the delay of a few days. It was hard for the plaintiffs to oppose this poor privilege—this slight indulgence. They only wanted an opportunity to show their hand, that the Court may be informed not only of the present condition of the company, but also of the course of its past management. He appealed to the Court to grant their reasonable request.

Mr. McFarland made, in reply to Mr. Jones, a few remarks of the same tenor as before.

DECISION OF THE COURT.

The judges on the bench spent a few moments in consultation, when Judge Bond said, as was understood substantially: "The first question is, whether this court has jurisdiction to appoint a receiver in this case. This question will depend upon the allegations in the bill and answer, without reference to the affidavits. Upon this question the court will hear you gentlemen to-morrow morning at 10 o'clock."

To which hour the court adjourned.

OUR HEROIC DEAD.

The Beautiful Rite of Decoration.

RICHMOND PAYS HER ANNUAL FLORAL TRIBUTES—AN AFFECTING SCENE—EMBLEMS OF MOURNING IN THE CITIES OF THE LIVING AND THE DEAD—GENERAL SUSPENSION OF BUSINESS—LARGE CONCOURSE OF PEOPLE AT HOLLYWOOD—HON. B. JOHNSON BARBOUR'S MEMORIAL ADDRESS AT JOHN R. THOMPSON'S GRAVE—THE MILITARY PARADE, &c., &c.

All nature seemed to smile and was clad in its richest garb on yesterday. The ladies of the Hollywood Memorial Association could not possibly have anticipated a more delightful day at this season of the year for their annual labor of love.

From early morn till closing eve pedestrians and vehicles of every description could be seen on the way to that beautiful city of the dead—Hollywood—to pay tribute to the host of honored Confederate heroes who sleep their last sleep within its enclosure. The street-cars, Garber's omnibuses, and the canal-boat lines were crowded until after 3 o'clock. Prior to that hour the greater portion of

VISITORS TO HOLLYWOOD

consisted of the ladies of the Association, who had charge of the graded soldiers' sections; Southern Cross Brotherhood, whose special care was Gettysburg Hill; and persons who owned private sections. The first-named organizations assembled at an early hour in the morning, and carried quantities of flowers and *immortelles* wrought in varied and beautiful shapes to the grounds, so that the soldiers' graves might be strewn with flowers before the crowd assembled.

Business having been very generally suspended, at 4 o'clock

THE FIRST REGIMENT,

with well-filled ranks, marched from the City Hall on Broad street, headed by Kessnich's band, to the cemetery, and at the time they entered the crowd was greatest.

The appeals of the ladies of the Association for flowers were amply rewarded, and at no time since the war did Hollywood present a lovelier sight, and the crowd was probably never larger than on yesterday.

As the regiment entered the cemetery with arms reversed the band played a funeral dirge. On Gettysburg Hill they were halted, stacked arms, and were allowed to stroll through the grounds. All of

THE SOLDIERS' GRAVES

appeared to have been visited and strewn with flowers. Indeed, ere long the entire space in which the soldiers are buried will be a perfect flower-garden. The plants, shrubs, and trees that have been judiciously planted are flourishing satisfactorily. Over the massive granite monument the ivy and y le are growing prettily. Along

THE MAIN AVENUE

going towards the western portion of the grounds the most striking sections were those containing the vaults of John W. Davies and William T. King. The front of the first named vault was beautifully draped with gray moss. The walkway from the section-gate to the vault was covered with moss, and at short intervals a star and a cross of flowers were laid. Above the door was hung a cross and anchor wrought together.

The latter section was also prettily hung with gray moss, and flowers were tastefully strewn around. Immediately above the door of the vault was an exquisite white cross.

The section of W. A. Wyatt, in which is the grave of Private Alonzo Fignor, of Company I, First Virginia regiment, received marked attention on account of its

HANDSOME DECORATIONS.

The graves of Major N. A. and Private W. R. Sturdivant were marked by a pennan draped in mourning at the head of each grave. The graves were also prettily strewn with flowers. The sections containing the remains of Lieutenant-General A. P. Hill and General J. E. B. Stuart were extensively visited, and the graves of each strewn with floral offerings. At the head of General Hill's grave was a massive and beautiful gray moss cross, the base of which was of green moss. At the grave of General Hill a pair of sabres crossed, wrought in evergreen and flowers, elicited much attention. The grave of Captain Fred. Carter, of the R. L. I. Blues, was

COVERED WITH IMMORTELLES,

while his monument was tastefully festooned with moss. The section of Colonel James R. Branch was also appropriately decorated. A grave in the section of Mr. William Ira Smith, and that of the late Dr. R. S. J. Peebles, were prettily and handsomely decorated. Many other soldiers' graves, as well as those of private citizens, were richly and profusely adorned with flowers. One of the most touching offerings of the day was that of an aged mother, who lingered long at the grave of her darling boy, an officer who gave up his life for the "lost cause" in one of the battles before Petersburg. The hands of loving friends had literally covered the grave with tokens of remembrance.

Hon. Mr. Barbour's Memorial Address.

About sunset a large number of persons gathered around the monument of Virginia's poet, John R. Thompson. His grave and monument were strikingly strewn with beautiful flowers, immortelles, and evergreens. It was hardly necessary to call the vast assemblage to order, such was the quiet observed, but the formal order was gone through with, and then Rev. Joshua Peterkin, of St. James church, was introduced and made an appropriate prayer. At the conclusion of prayer Mr. B. Johnson Barbour was introduced, and delivered the following beautiful and scholarly memorial address over the grave of his friend:

In that noblest of all biographies, the "Life of Sir Walter Scott," by Lockhart, it is mentioned that the day on which the funeral of the great bard and author occurred was dark and lowering, and I chanced to hear from the lips of G. P. R. James, the novelist, who was present on the occasion referred to, that as the procession left Abbotsford for Drybough Abbey, a dark cloud, rising from the west and filling half the vault of heaven with its blackness, seemed like a vast pall to advance with the procession and hang over the crumbling ruins whilst the last rites were paid to the remains of the Great Wizard of the North. This scene was in strange, and I must say sublime, coincidence with Scott's own conceptions. It was an exact fulfilment of those touching words with which the fifth canto of the "Lay of the Last Minstrel" opens:

"Call it not vain—they do not err
Who say that when the Poet dies
Mute Nature mourns her worshipper,
And celebrates his obsequies."

If this were

THE CONGENIAL RESPONSE

of the stormy or fitful sky of "Caledonia stern and wild" to the invocation of her faithful son—if dark and weeping clouds were meet for the obsequies of the Poet of the North—it was not less touchingly appropriate that in her changeful sympathy Nature should have "celebrated the obsequies" of her southern son with "gladness in the sky and with verdure all around"; and if the wishes of that dear friend, whose memory fills our thoughts at this hour, could have been consulted, I feel well assured that no more perfect accord and harmony could have been vouchsafed than when, on that brilliant May-day three years agone we brought all that was mortal of JOHN R. THOMPSON, and having deposited it in this lonely spot turned back with slow and sorrowing step, recalling and repeating his own memorable words for "lamented Latané," saying that we

"Left him with his fame, his country, and his God."

I well understand, my friends, that this is not the proper time or place for that full memorial which the genius and virtues of JOHN R. THOMPSON demand and must receive to-day. As we dedicate this simple and yet beautiful and appropriate monument to his memory it is enough to recall rapidly the leading and moulding incidents of his life, and pay

THE LOVING TRIBUTE

clearly due to a spirit so bright and pure as his.

JOHN THOMPSON was born in October, 1823, and after a thorough preparatory education in the best schools of his native city—Richmond—spent several years at the University of Virginia. After an intermission of two years he returned to that institution, where he graduated in law, and cheated himself for a short period with the vain imagination that he would devote himself to the plodding profession; but he soon found that this would be but an endless war with every thought and impulse of his nature, and I have but little doubt that in analogy with Pope's Clerk,

"Who pens a stanza when he should engross,"

that if the fly-leaves of Mr. THOMPSON'S law-books were carefully examined they would disclose more rhapsodies than references, and more citations of Cupid than of Coke. Accordingly, he felt that he must exactly reverse Blackstone's course, and say "Farewell" to the law, and hail! to the "Muse." And it was well that Mr. THOMPSON recognized so speedily the true bent of his nature and followed so readily the congenial course of his heart and intellect. For we almost say without exaggeration that Literature marked him for her own from birth. I have often heard from the lips of his honored parents an account of his

INSASTIATE APPETITE FOR BOOKS

from youth upwards, frequently neglecting those sports so cheering and seductive to his companions to some new volume which had fallen into his hands, and always exhibiting a wonderful retention of the salient points of everything he read.

This change of profession was signalized by the assumption of the editorial control of the *Southern Literary Messenger*, and it is to our lasting shame as a people that this periodical did not become a great and permanent success. Alas! that it should be said, and yet it is obviously and mournfully true, that as a people we too long worshiped politics as our only and all-exacting Muse! Unreasonable and unjust in our criticisms it would seem that our people expected that one single brain was to furnish forth each month some sixty pages of infinite variety of reading matter, careful critiques, pleasant stories, ode, epic elegy, and all to titillate and tempt the appetite already jaded, and made more and more morbid by feeding upon those political feasts where he who "peppers the highest is surest to please." It is stated, truthfully, as I believe, that Professor Wilson (or Christopher North, as he is more familiarly and affectionately known) and Lockhart once entered into

A GENEROUS RIVALRY,

attested by some trifling wager, as to the extent and versatility of their respective intellectual powers, as they should be demonstrated by each in turn bringing out a No. of *Blackwood's Magazine*, every article of which—grave, gay, lively, and severe—was to be the product of the writer's own brain. I have never been fortunate enough to learn with any certainty which were these curious exhibitions of mental variety. Nor do I suppose that either of these writers was sufficiently pleased with the product of their pens to make another similar effort; and yet, as intimated already, this substantially was the hard lot thrown by our people upon the young editor of the *Southern Literary Messenger* in declining to aid him as they should have done both by constant contributions and by such generous pecuniary aid as would have enabled the editor to enlist the best talent of the whole country. Shame, I say again, to us; but honor, all honor, to that devoted, enlightened, patriotic man who, weak and delicate in body, but healthy and robust in spirit, struggled on through sixteen weary years in this unequal and thankless contest, ever striving to build up the

LIBERATION OF THE SOUTH,

but speaking (with slight exception) to apathetic ears. During this period, however, he had what Mrs. Kemble would call "A Year of Consolation." About 1854 he went to Europe, and I am sure there must be many among my hearers who recall with exquisite pleasure the Notes of Travel he sent back. Hackneyed as the theme is, and usually so suggestive of Murray's Guide-Book as the fountain of inspiration, under Mr. Thompson's glowing touch it woke a new life and developed unexpected beauties. I think I may safely say that no one who ever visited Europe saw more, remembered more vividly, or described more accurately and pleasantly the striking sights of England and the Continent. Another delightful feature of this "Year of Consolation" was the pleasant acquaintance (soon ripening into friendship) which his refinement, bright-eyed observation, and scholarly culture won for him with many of the foremost men of letters in England and elsewhere. Renewing a slight acquaintance made with Dickens when in this country he met for the first time Bulwer, who greeted the then unknown young *literateur* with a kindness and cordiality not usual to that self-sustaining writer. Mr. Thompson had the good fortune to visit England's greatest historian, and I am happy to see that.

THE "HOUR WITH MACAULAY"

spent in his bachelor chambers in "The Albany," a paper full of charming strokes of description and of the characteristic conversation of that mental millionaire, has recently been reproduced by one of the largest publishing-houses in Philadelphia in bringing out a new edition of Macaulay's works. In Florence Mr. Thompson naturally made the acquaintance of the Brownings, and was always a welcome guest at "Casa-Guida"; and I well remember the fact that when Mr. Thompson pointed out to Mrs. Browning that the musical line in Poe's "Raven," where the "sound" is, indeed, "an echo to the sense,"

"The silken, sad, uncertain rustling of each purple curtain"

had obviously been *suggested* by a line in "Aurora Leigh," the true poetess at once exclaimed, with all the grace of her sex, "I deem it an honor, never to be forgotten, that any words of mine should be emballmed in that immortal poem." Returning to England, Mr. Thompson's acquaintance with Carlyle and Tennyson soon warmed into hearty friendship, whilst "dear old Thackeray," with

UNSTINTED GRATITUDE

for the kind offices which Mr. Thompson had rendered him when on his lecture tour in the United States, at once arranged "free-quarters" at his house in Onslow-Square for his young friend, and never tired of endless rambles from Highgate to Hounsditch, with pleasant interludes of a "night at Evans" or a cosy dinner at the "Star and Garter" at "Richmond-on-the-Hill."

On his return to America he collected his sketches and interweaving them with more detailed narrative produced a volume which was already in the hands of the binders when the cruel conflagration came, which, including the establishment of his publishers, Derby & Jackson, reduced him to the one single volume sent on for final revision. He was wont to tell in humorously-feeling style how the sad and startling news came to him in Washington *just* as he was about to mount the rostrum for the delivery of a lecture at the Smithsonian Institution, and how ghostly his jokes and how dreary his witticisms as delivered in the glare of that fatal conflagration. The single rescued volume of "Across the Atlantic" was elegantly bound, and sometimes in pleasant mood he would hold it up and exclaim to his friends with well-assumed gravity that

SUCH A BOOK

should fetch as high a price as the Mazarine Bible or Christopher Valdafar's famous edition of the *Decameron*, for the substantial reason that beyond all cavil of *bibliopole* or *bibliophile* it was one of the few *unique* books to be found in the world.

Once more at home he resumed active editorial control of the *Messenger*, but found time to contribute some charming *vers-de-societé* to Harper's and and other magazines. He also delivered through the chief southern cities a series of lectures. Those best remembered are "European Journalism," a detailed and wonderfully interesting account of the "inner life" of such commanding papers as the London *Times*, *Telegreph*, *Standard*, and *News*, and the "Life and Genius of Edgar A. Poe," a production for which Mr. Thompson was fully and painfully prepared by an intimate acquaintance with that

BRILLIANT BUT UNFORTUNATE MAN.

In 1860 Mr. Thompson felt himself obliged to resign the conduct of the *Messenger* to assume control of the *Southern Field and Fireside*, published at Augusta, Ga. It was during his sojourn at Augusta that he prepared an ode for the