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January 20, 1854.—1y.

ORIGINAL POETRY.

[For the McArthur Democrat.]

MAN'S FREE AGENCY,
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Come men and women, black and white,
The rich and poor, rough and polite;
The old and young, the bond and free,
I know you're fond of Fashion's Bee.

Religion now the fashion is—
You all can get it when you please;
I'll tell you when it was found out
This fashion was so easy got.

You know it was in old times said,
When Adam and his Eve was made,
A preacher came and found them blind,
And talked unto them very kind.

Yea hath God said, ye shall not eat
Of that tree which of all's most sweet;
If you eat it, God well doth know,
As God's you'll good from evil know.

Eve saw it—pleasant to the eyes,
And much conduced to make one wise—
Then she took and ate of the tree,
And gave to Adam, then both did see.

The preacher said they should not die,
Old fashion'd folks said he did lie;
But what of that, they are but few
To others fond of fashions new.

That God did say, we don't deny,
The day man eats, the same shall die;
That none believes but that base few,
The preacher knows and told what's true.

Would any man of common sense
Say man his power had lost from thence;
They then did live and see you know,
Was wise, could do, and so can you.

We know there are some old "hard heads"
Say truth declares that men are dead,
That only was put there to fright
Bad folks that steal and swear and fight.

Preachers can now, as well as then,
Deny the truth, who dare who can;
Religion get for other's too,—
Under the sun there's nothing new.

What was, is now, as it was then,
And will be until time shall end;
So if we can the needful get,
We'll have the world converted yet.

Again those iron jackets say,
That for the world Christ did not pray;
But only those his father gave
Out of the world them he would save.

And then it was with us amen,
And say we are not born again;
That none but blinded Ishmelites
Would so like dragons angels fight.

Those cursed miel as we do hate,
They prophesy our dreadful fate;
Be not dismayed the time draws near
When fine and legot they shall share.

Such hide-bound fools if they had eyes
Might see their doctrine was dispised;
By all the good new fashion'd saints
It's every where spoken against.

The old preacher planed for us all right,
How we should preach and prosolite;
No use for us to spend our breath
With these offscourings of the earth.

You might as well urge sloth or snail,
Or reason with whirl wind or hail,
As those "hard heads" and "iron sides,"
They only know Christ's crucified.

We can revivals make at will,
Our churches with good Christians fill;
We preach then as times doth suit,
Our plans most fully execute.

We preach the devil, death and hell,
And many frightful stories tell,
And scare them with hard stamps and frowns,
Then leave the pulpit and come down.

Now brethren begin to pray!
Some walk this and some that way.
Watch well each head you see hang down;
Spy them most sharp that wears a gown.

If you see one her head doth nod,
If it's to laugh or sleep, no odds,
Under her bonnet smiling peep
And try your best to make her weep.

Ask if religion she would get,
If she says yes, then draw the net:
If you shall have; arise, go hence,
And set upon the mourners bench;

Or to the altar quick repair,
Next down, and hang your head when there;
Be sure to often wipe your eyes,
No odds if they be wet or dry.

God only asks of you your best,
If all you can't he'll do the rest;
It's all the same if you but try,
As if you could not help but cry.

Then to the pet, one sly must trot,
To ask if she's religion got:
Dear creature has it not come yet?
I guess not—I can't quite come it.

Now something queer creeps on my back,
And I feel good—think you it's that?
I think it is, but tho' it's not
You surely shall have it if you shout.

Then up she springs and out she roars,
Then down she'll spread upon the floor!
Now brethren shout glory! Amen!
Another soul is born again.

Soon others will begin to come,
Some frantic—others to have fun.
Glory! they now are coming more;
Amen, they now flock in by score.

Then hallejah all will sound,
And fire from heaven we'll call down.
Down we'll the devil's kingdom tear,
And bring the great milennium near.

Come Lord, more power, now amen,
And each one play "catch who can."
Lest many fall from grace, some will,
These new revivals we oft must drill.

One says I see a hardened wretch,
I'll go and try him too to fetch.
Will you with us to heaven go?
The fellow bluntly answers—no!

Then you shall surely go to hell,
With apes and with hobgoblins dwell;
You are now standing on the brink,
And soon amongst the damned will sink!

And now is the accepted time,
Another you shall never find;
If you refuse this offered grace,
With fiends in hell you'll find your place.

Yet impudently he replies,
"I care not for your threats and lies!"
You're a hard case—I'll leave you now—
You're scarce worth saving anyhow.

So some we coax, and some we scare,
And others we convert by prayer;
But some like this hard case I had,
Have not good sense, and can't be scared.

We now have proved by what we've said,
That men alone by works are saved;
The preacher told the truth we see,
And we his faithful servants be.

Now we'll march round Jerusalem,
Call volunteers, come good heart, come;
We then dismiss with kiss and squeeze;
Glory! Amen, to times like these.

SARAH.

[From the Quincy (Ill.) Herald.]

Was George Washington a Know Nothing!

One of the most prominent, and yet most ridiculous claims to public favor set up by the new order of proscriptive zealots known as know nothings, is that George Washington, the Father of his country, was in feeling and spirit and principle a know nothing—that he was an enemy of religious liberty and hostile to the emigration of foreigners who come here to support, uphold and defend republican institutions. As an evidence that Washington was hostile to the adopted citizens, the papers in the interest of this illiberal order quote and keep standing at the head of their columns, an order given out by him to his under officers on the eve of the battle of Yorktown. These know-nothings tell us that Gen. Washington said on that occasion, to his subordinate officer, "Put none but Americans on guard to-night!" Now, perhaps he said that, and then again, perhaps he didn't. History furnishes no evidence that he ever used those words. But suppose he did. He didn't tell them to put none but *native* Americans on guard! He didn't tell them to put no man on guard who was not born in this country! He didn't tell them that if they overtook a true-hearted *American citizen*, who happened to have been born in Ireland or Germany, they shouldn't put him on guard! That Washington did not intend to exclude adopted citizens from the responsible service of guard duty that night, by the remark attributed to him, is proved clearly by the fact that only a year or so afterwards he defined unequivocally what he understood to be an American, by signing and approving a naturalization law, under the provisions of which any foreigner might become an *American*, and enjoy all the rights enjoyed by any other American, after a residence of two years in the country. It is perfectly clear, therefore that Washington, if he ever made use of the expression, did not mean thereby that a Tory should be put on guard simply because he was born in this country, and that those who happened to have been born elsewhere, should not be put on guard although they had served nearly seven years in the cause of American liberty, upheld and vindicated the honor and rights of the American flag in a hundred battles, and by their devotion to the American cause, upon all occasions and under all circumstances shown themselves to be as true hearted and patriotic Americans as any of those who happened to have been born in this country. When Washington spoke of Americans, he meant precisely what we mean now a days when we speak of Americans,—he meant, simply, men who had American hearts in them, and men whose attachment and devotion to the cause of American liberty was undoubted, whether they were born in this country or elsewhere. But there is no occasion or necessity for argument to ascertain Washington's position upon the question of religious liberty and the rights of foreigners.—He has left a daguerreotype of his whole mind upon these subjects upon the records of the country. To those records we turn. We take up the life of Washington, and turn to page 197, and we there find him giving utterance to the following sentiments, in an address to the Catholics, delivered by him in March, 1790:—

"As mankind become more liberal, they will be more apt to allow, that *all those who conduct themselves as worthy members of the community, are equally entitled to the protection of civil government.* I hope ever to see America among the foremost nations in examples of justice and liberality.—And I presume that your fellow citizens will not forget the patriotic part which you took in the accomplishment of their revolution, and the establishment of their government—or the important assistance which they received from a nation in which the Roman Catholic faith is professed."

We find here no hostility on the part of Washington to the Catholics. On the contrary, he acknowledges "the patriotic part" which they "took in the revolution." Again, on another occasion, Washington said:

"The Irish volunteers merit the warmest thanks of America for their patriotism; and I hope their countrymen who have so long struggled for liberty, will be hospitably and cordially received here."

Ah, but, say the know nothings, Washington does not say here that he would allow foreign born citizens to vote and hold office! Sure enough!—he doesn't say so in the above extract, but he says it in beautiful language in the following:

"The bosom of America is open to receive, not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and of all religions, whom we shall *welcome to a participation in all rights and privileges.*"

America was not only 'open to *receive*' the "oppressed and persecuted of all nations," said Washington, but after we have received them, he adds, "WE SHALL WELCOME THEM TO A PARTICIPATION IN ALL RIGHTS AND PRIVILEGES"—among which, of course, are included the 'right' to vote, and the 'privilege' of holding office. We delight to quote from Washington, for he always talked like a man with a head on him and a heart in him, and like a true hearted American patriot and statesman should talk. Take from his writings, then, another extract, in which his opposition to the illiberal and proscriptive doctrines of the know nothings may be clearly seen:

"The citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy—a policy worthy of imitation. All possess alike liberty of concience and immunities of citizettship. It is now no more that toleration is spoken as if it were by the indulgence of one class of people that another enjoyed the exercise of their inherent natural right, for, happily the government of the United States which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection, should demean themselves as good citizens in giving it on all occasions their effectual support."

With all these noble and patriotic and truly American sentiments upon record, is it not absolutely ridiculous in the know nothings to pretend that Washington, if he were now living, would sanction their odious, anti-American and proscriptive dogmas? He repudiated their dogmas while he lived, and lest the influence of his great name and his patriotic service should be perverted in after time by demagogues and by the foes of liberal institutions to the prejudice of religious liberty and a liberal policy toward adopted citizens, he wrote down his convictions and has left them upon record—greatly to the discomfiture of the know nothing bigots. But, lest we should make this article unnecessarily tedious, we will close it with but one more extract from Washington. To show the exalted estimate he placed upon religious toleration, in the benefits of which he would restrict no religious denomination or society whatever, we give below a letter addressed by him, soon after he became President, to a General Committee of a Church in Virginia:

"Gentlemen, I request that you will accept my best acknowledgements for your congratulation on my appointment to the first office in the nation; and the kind manner in which you mention my past conduct equally claims the expression of my gratitude.

After we had, by the smiles of Divine Providence on our exertions, obtained the object for which we contended, I retired at the conclusion of the war, with an idea that my country could have no further occasion for my services, and with the intention of never entering again into public life; but, when the exigencies of my country seemed to require me once more to engage in public affairs, an honest conviction of duty superseded my former resolutions, and became my apology for deviating from the happy plan which I had adopted. If I could have entertained the slightest apprehensions, that the constitution framed in the convention where I had the honor to preside might possibly ENDANGER THE RELIGIOUS RIGHTS OF ANY ECCLESIASTICAL SOCIETY, CERTAINLY I WOULD NEVER HAVE PLACED MY SIGNATURE TO IT; and if I could now conceive that the general government might ever be so administered as to render the liberty of conscience insecure, I beg you will be persuaded that no one would be more zealous than myself to establish effectual barriers against the horrors of spiritual tyranny and every species of religious persecution, for you doubtless remember I have often expressed my sentiments that every man, conducting himself as a citizen, and being accountable to God alone for his religious opinions, ought to be protected in worshipping the Deity according to the dictates of his own conscience.

"While I recolect with satisfaction that the religious society of which you are members have been throughout America uniformly and almost unanimously the firm friends to civil liberty and the persevering promoters of our glorious revolution, I cannot hesitate to believe that they will be the faithful supporters of a free yet efficient general government. Under this pleasing expectation, I rejoice to assure them that they may rely upon my best wishes and endeavors to advance their prosperity. In the meantime be assured, gentlemen, that I entertain a proper sense of your fervent supplications to God for my temporal and eternal happiness.

"I am, gentlemen,
your most obedient servant,
"GEORGE WASHINGTON"

Important Decision of Judge McLean in the Case of the United States Marshal.

Below we give entire the decision of Judge McLean, of Supreme Court at Chambers, in the case of the U. S. Marshal, attached for comtempt of Court by Judge Parker, of the Common Pleas, and brought before Judge McLean under writ of *habeas corpus:*

The United States, Southern District of Ohio—Before Judge McLean.—*Ex parte* H. H. Robinson. Counsel for the motion to discharge, Mr. Pugh; against the discharge, Messrs Chase, Walker and Jolliffe. A petition and affidavit of Hiram H. Robinson, Marshal of the United States for the above district, stating that he was imprisoned under the order of the Hon. Judge Parker, one of the Judges of the Court of Common Pleas for the county of Hamilton, for the performance of his duty as Marshal, under process issued by a Commissioner of the United States and praying for a writ of *habeas corpus* was presented, which being granted; the Sheriff in obedience to the command of the writ, brought the petitioner into Court, with the following return:

"April 3, 1855, for return and answer to the *habeas corpus*, the Sheriff of Hamilton County says that by virtue of an order of the Court of Common Pleas and in pursuance of the command of said order, he arrested the within named H. H. Robinson, and committed him to jail, as commanded; and that he now holds him in custody by virtue of said order."

It appears, from the facts of the case, that on the 30th of March last an affidavit of Lewis G. Van Slyke was made to Judge Parker, representing himself to be the guardian of Rosetta Armstead, and that said Rosetta was then held in illegal imprisonment by Hiram H. Robinson, United States Marshal, under a certain pretended warrant issued by John L. Pendery, claiming to sit as a Commissioner of the Circuit Court of the United States for the Southern District of Ohio from which said imprisonment said Rosetta was discharged by order of the Honorable Court on Thursday, the 29th day of March current, in violation of which said order of this Court, and immediately after the said minor was placed in the custody of the affiant, the said Hiram H. Robinson again seized the said minor under the same pretended warrant of said Pendery, and now holds her in illegal imprisonment, &c. Upon which affidavit a writ of *habeas corpus* was issued. To this writ the Marshal made the following return:

"The answer of Hiram H Robinson, Marshal of the Southern District of Ohio says that on the 20th day of March, 1855, he was and ever since has been Marshal as aforesaid, duly appointed and qualified; that on said day a warrant was delivered to him by John L. Pendery, Commissioner of the United States, appointed by the Circuit Court of the United States, which commanded him him to arrest Rosetta, a fugitive from labor, &c., and that on the 24th of the same month he produced the said Rosetta before the Commissioner, as commanded, and thereupon the hearing of the claim, made by ——Dennison, specified in said warrant, was regularly commenced.

"That the hearing of the claim has been adjourned from day to day and from time to time, before the said Commissioner, and that the determination thereof yet remains to be made.

"That on the 30th of March aforesaid and before the delivery to the respondent of this writ, the Commissioner adjourned the trial and determination of the claim until Tuesday morning, the 3d day of April, at 10 o'clock A. M.., and that the Commissioner did then direct the respondent, as Marshal, to produce the body of the said Rosetta before him on the day and at the hour stated, to abide his determination as Commissioner in the premises.

"This respondent, therefore, respectfully denies the right and jurisdiction of Common Pleas of Hamilton county to compel him to produce the body of the said Rosetta before it, under the circumstances stated."

"It is admitted that before the warrant of the Commissioner was issued the colored girl Rosetta was taken by a *habeas corpus* at Columbus, in Ohio, while passing through the State with the agent of her master, before a Judge of Probate, who decided that she was free, and at the same time appointed Van Slyke her guardian. The seventh section of the act of Congress of the 2d March, 1833, provides, "that either of the Justices of the Supreme Court, or a Judge of any District Court of the United States, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases of a prisoner or prisoners, in jail or confinement, where he or they shall be committed or confined on or by any authority or law, for any act done or omitted to be done, in pursuance of a law of the United States, or any order, process or decree of any judge or court thereof," &c.

It is contended that the case under consideration is not within this statute. The Marshal omitted to do the act ordered to be done by the Honorable Judge Parker, because it would be in express violation of his duty, under an act of Congress. This is literally within the act. But it is alleged the Commissioners has no authority to act judicially, as he was not appointed as judges are required to be appointed by the Constitution.

The second section of the second article of the Constitution provides, "that Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments."

By the Fugitive Act of 1850, the Commissioners appointed by the Circuit Courts of the United States have concurrent jurisdiction with the Judges of the Circuit and District Courts of the United States, &c.

These Commissioners were appointed under the act of 1842; and under that act they had power to issue warrants to arrest persons who had committed offences under the law of the United States and, on a hearing, commit them, hold them to bail to answer, or to discharge them, as in their judgment the law required.

The nature of the duties of the Commissioners under the act of 1850 are not in principle, different from those which they previously discharged. The inquiry of a Commissioner or a Judge under the Fugitive Act is not strictly whether the person is free, but whether he owes service to the claimant. In its results, this inquiry may involve the liberty of the fugitive; but the principle applies to an apprentice as well as to a slave.

It must be admitted that this inquiry is some what in the nature of judicial power; but the same remark applies to the accounting departments of the Government. They investigate claims, and decide on the evidence. The examiners in the Patent Office determine on the merits and novelty of inventions.—This becomes a judicial duty in every suit between conflicting patents.

It is impracticable, in carrying on the machinery of government, to prescribe precise limits to the exercise of executive and judicial powers. Congress acts, in nature of judicial power, in deciding upon claims. The Supreme Court has had the acts of these Commissioners before it, and has always treated them as having authority under the law.

Two grounds are urged by counsel as sustaining the jurisdiction of the State Judge.

1. That before the fugitive was arrested by the Marshal she was declared to be free by the Probate Judge.

2. That the warrant was defective in not stating that the girl escaped from the State in which she was held as a slave.

It must be admitted that the authorities are not uniform on the point whether the decision on a *habeas copus* is final. This may be said of the authorities in this country and in England. I have been myself inclined to think such a decision should be considered final, where there was clearly jurisdiction and a full and fair hearing; but that it might not be so considered when any of these requisites were wanting, or when new and important evidence could be obtained. Some years since, I was consulted by a Commissioner on the propriety, after a hearing of giving time to obtain new evidence. Several unimpeached witnesses swore positively to the identity of the fugitive. I advised that time sho'd be given, and eventually it was satisfactorily shown that the first witnesses were mistaken, and that the fugitive was living in Canada. This discharged him from custody.

It would be difficult to find any provision in the act of 1850 under which a State Judge can exercise jurisdiction.—The act is special and stringent. Officers are named in the statute whose duty it is to act when cases are brought before them. There is no reference to State authorities I believe, either directly or indirectly. There is no law in Ohio which authorizes State Judges to act. It is true that the act of 1793 did authorize State Magistrates to exercise jurisdiction under it, and that act has only been repealed so far as repugnant provisions are contained in the act of 1850.

But it is not necessary to the decision of the case in hand to hold that the decision of the Probate Judge was not final; nor is it necessary to show that the warrent had no defects. It may be admitted that the first decision on the *habeas corpus* was a bar to inquiry before the Commissioner, and that the warrent was defective, but can a State Judge take jurisdiction on these grounds? It is the exercise of an appellate power, which is not given by the laws of the United States or the laws of the State. Suppose these objections had been made before the Commissioners, he could have considered them. In regard to the warrant, he could have amended it, if necessary. But it would not have been necessary. The fugitive being in the custody of the Marshal, with the consent and at the request of the master, she was lawfully held for the purpose of inquiry. And as to the decision of the Probate Court, whether, it constituted a bar to the proceedings, it was a matter for the decision of the Commissioner.

I think these grounds are unprecedented in judicial proceedings, except, perhaps, in the decision of the Supreme Court in Wisconsin. That Court sat as a Court of Errors on the proceedings of the District Court of the United States. That case, I observed, received high commendation in the argument before the State Judge; but as it may come before the Supreme Court for revision, it is not fit that I should speak of it in regard to the federal powers. I will, however, refer to the revised statutes of Wisconsin, page 730, sec. 38, which authorizes the prisons of the State to be