THE DEMOCRAT.

E. A. BRATTON, Editor.

McARTHUR:

THURSDAY: : : : : : MAY 9, 1861

What power has the President over the Militia of the States!

The above is a very important question just now to the citizens of the United States, and one, on which we have thought considerable of late. Every man who is jealous of his constitutional rights and liberties, must have had this question suggested to his mind in view of the extraordinary power that the President now wields. It is well settled in the mind of every American citizen, that if any man civil or military, assumes a power not delegated to him by the constitution or laws of our country, that he becomes that moment a usurper, and if he be a military man, he at once becomes a military despot. We wish to give President Lincoln thus far credit, according to the lights we have, the President in calling out the militia of the States has performed one of the most momentous acts, that he could exercise in this Government, and in order to justify it, he must have some authority for so deing. He has none in the constiution, not a sylable, but the constitution throws all this power in Congrrss; Let us see then if congress has acted in the premises. The President by his proclamation, says he derives all this power from the act of Feb., 28, 1795: and this is the only act that will justify the President. This statute says, that:

'Whenever the laws of the United States shall be opposed, or the execution thereof obstructed *in any State* by *combinations* too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals, &c., it shall be lawful for the President of the United States to call forth the militia of *such State*, or of any other State or States, as may be necessary to suppress such *combinations*, and to cause the laws to be duly executed; and the use of the militia so to be called forth may be continued, if necessary, until the expiration of of thirty days after the commencement of the then next session of Congress.'

Again this law says that, 'whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called fourth, the President *shall forthwith by proclamation*, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time.'

Now we must say that the President so long as he holds the present states of our military, he has acted within the scope of his power, because by the constitution he is the representative, of the Government of the District of Columbia, and if he feared insurrection or rebellion in the District, he was the proper person, in the language of this law, to judge if the *'combinations'* were *too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshalls &c.*

This gives him power to march across Maryland and Virginia. But when we come to apply this law, to the States that have rebelled, as named by the President in his proclamation. how stands the case? These States have their judicial powers, and they are exercising them in their own way. They have their own mashalls, and they are performing their duties according to the new order of things; according to their own laws. Their judiciary nor marshalls, have not called upon the President, to assist with the militia of the States to suppress combinations too powerful for them to manage, as is contemplated by this law of '95. Now had Gov. Houston as we earnestly hoped he would, have called on the President. He would then have had power to have moved the militia to Texas, across any State, by this law, he could have put down rebellion in Texas; we think this is clear.

Gov. Hicks of Maryland could call on the President, and he would be compelled to render assistance there.

A celebrated lawyer on this subject, says as a Unionn man that; 'It is impossible to read this statute without seeing that it plainly contemplates the use of the military power *in aid* of 'the powers vested in the marshals, and in aid of the 'ordinary course of judicial proceedings.' It presupposes the continued existence of the government of the particular States under the Constitution, and of the federal government with its constitutional apparatus, within the territory of the State. *It looks to the action of the* President through the authorities of the States, as, indeed, Mr. Lincoln is now acting everywhere except in those imaginary 'States' (of the Union) where these 'insurgents' and these 'combinations' are commanded 'to disperse and retire peaceably to their respective abodes within twenty days from this date.' If this 'command' were literally obeyed, what would remain? To what 'respective abode' is the political body, *de facto*, to 'retire?' And when it has so retired, what political body takes its place?

The *State government* cannot be rehabilitated by any agency of the *Federal government*; and the Federal government, by the terms of the *Constitution* itself, depends for its existence upon the indispensable predicate of an existing State government in the particular locality.'

How can the President then without authority march an army to South Carolina, when no combination exists against their State authorities, and where, if, their present government, which is in rebellion, retires in accordance to the command of the President, leaves the state without any government. Was such a case contemplated by the framers of this law of '95? Is it applicable to the present emergency? These questions we cannot answer in the affirmative without, taking upon us, an usurpation of power. Hence we conclude that Lincoln will not act offensive so far as the South are concerned, until Congress shall meet and pass some law, conferring on him the necessary power.

Jackson Standard turned Infidel.

The above Idiotic Sheet not content with its abolition ravings, has positively turned into infidelity; in a late issue it says. 'We have heard prayers for peace, and prayers for the Union, and prayers for compromise. We regard all this as impious mockery.'

Can any man, who professes to be a follower of the meek and peace adoring Savior of mankind, countenance and support such a reckless unchristian and uncharitable hyppocrite, as this editor is; he even goes further and recommends that anarchy and mobism shall govern us as a people, he says, 'War has its necessities as well as peace. Necesity knows no *law*.' Who has declared war? certainly not Lincoln, has this scape goat of the Standard resolved that we are in war, dont the President say he is only enforcing the laws; does your necessities know no law, that you thus recommend and teach mobism?—Hadn't you better migrate to Baltimore where you could practice your helish doctrines with impunity.

Again this cowardly scullion, who would glory in seeing the peace, good order, and unity of the people of our loyal States of this Union, broken, and all our rights trampled under foot, and that too without law, but by a mob, under the name of Home Guards. Does this Idiot not know, that if it had not been for the Democrats who he would thus mob, that his fathers home and fireside would not have been protected in days gone by, shame on you to thus even intimate, an excoriation on the party, that protected you when you were yet in your *breech cloths*, but hear how this thankless, scion of Aanarchy talks of us.—We publish it to show our friends what a low, mean, and lying-braggart, a man may become.

Tory Newspapers.—The tory newspapers in the free States, are being compelled by popular indignation, to hoist the American flag. The volunteers who leave their business, their families, and all the endearments of home, to defend their country, appear determined to leave no traitors in their absence. The New York Herald was very suddenly converted a few days ago, and is now a good Union paper. The Ohio Statesman and Cincinnati Enquirer also turned tail very suddenly last week.

The following papers in this region were tory in their last issue:—Iron Valley Express, McArthur Democrat, Chilicothe Advertiser, Piketon Union and Portsmouth Patriot. We do not know how many of these have been converted within the past week. We shall soon see, however. 'Home Gards' are better than the 'mourner's bench' for quick conversions.

We will bet big, that a large majority of the volunteers, from our diggings would vote to put the author of the above in a Straight Jacket. You had better tell our Democratic Volunteers that they are Tories, if you come across them.

Drowned.—Rebecca Redd, aged six years, daughter of John and Sarah Redd, was on the bank of Frys mildam, on last Saturday, and whilst reaching over for some flowers; slipped into the Dam and was drowned before assistance was rendered. We sympathise with the bereaved parents.

Assassination—Wm. McBride shoots Judge Davis Green and Hiram Lewis, then kills himself.

We receive the astounding intelligence of the attempted assassination of Judge Green of Marietta, with solicitude for his speedy recovery. We have known Judge Green since a boy, and could not conceive of his giving cause to justify any man in such rashness. He has ever been kind and courteous in his intercourse with his fellow men, and a gentleman. We copy from the Marietta Republican of 3d inst.

'On Wednesday evening, the 1st inst., our city was thrown into a great state of excitement by the report that Wm. McBride had shot Judge Green while passing his house. People collected by hundreds in a few minutes and found the report true. Judge Green was employed some time ago as McBride's attorney in his suit with his partners in the Harmar Mills, and also defended him when arrested on a charge of burning Cram's Mill. He recently got a judgment against him for several hundred dollars, attorney's fees, and was selling out his store.—McBride has been very bitter in his denunciation of Judge Green of late, and has frequently asserted that Green and himself both had but a short time to live.

As the Judge walked passed Mc Bride's house on Wednesday evening, McBride discharged a musket, loaded with shot, from a second story window. About forty of the shot struck Green on the back but fortunately none of them penetrated deep enough to prove fatal, though Green at the time supposed he had received a mortal wound. He was carried into the residence of Rev. Mr. Wicks, and his wounds dressed by the Doctors, after which he was able to walk home.

In the meantime, the City Marshal and his assistants, and a large body of people surrounded McBride's house to arrest him. After some threats to kill any one who molested him, and while the officers were forcing an entrance in the rear of the house, Mc Bride left the window, when Hiram Lewis, fired into the window. He at once discharged his musket at Lewis, severely wounding him in the shoulder and back, and then, throwing himself upon the bed, he shot himself three times with a revolver, causing his immediate death.

Call for more Troops.—We cannot see why it is that so many lies will be published by our cotemporaries; it shows gross ignorance of the powers of our officials. President Lincoln cannot call out a volunteer force of 42,000 for three years service. He must first ask congress for this force, and they must pass a law before he can call out the militia; and even in the present call or a greater call under the same law, he has no power to engage men longer than 30 days after the next session of congress.

Assessors take Notice.—We again call the attention of our Assessors, to the fact that it is their duty to take an enumeration of all the White male citizens between the age of 18 and 45 years, as an enrollment of the militia. See law in another column, passed at the present session of the Legislature. In 1859 the Legislature very foolishly repealed this very act. Why is it, our people cannot let our laws alone, that have been adopted from the experience of ages, is more than we can divine.

Town Ordinance.—Our city fathers it seems are determined to heap up the agonies on the people. For particulars see ordinances in this paper. It is a pity that we cannot learn by experience; don't our council know that they cannot legislate a law of the State off the Statute books?

New School Books.—We thank Mr. E. B. Pearce, Agent for Riley & Bowles, for copies of Goodrich's series of School Readers. This is without doubt the best series of School Books now in Ohio. Our Union School and Hamden school has adopted these Books, they will not regret it. Directors and Teachers in the country, we request to call on us and see the books. We know you cannot be better pleased, and the prices are lower than McGuffey's.

Important Correspondence.—Secretary Seward has answered Gov. Hicks of Maryland, in the right way. Read it on the first page of to-days paper. This corresponds with the view we took of the power of the President over the military forces now called out. The whole matter is in the hands of Lieut. General Scott, who will only hold the force for the defense of our capital. This is all power the President can exercise, and of course there will be no movement of Troops on the South until after Congress meets on the 4th of July.—This time, we hope will be the means of sober second thoughts working with the people, so that they will demand of the next Congress that measures be adopted to settle our difficulties.

Graham's Magazine.—This work as usual is on our table for May, and one of our most welcome visitors.—Those who have not, should immediately subscribe.

Our State Matters.—Legislation is running mad at Columbus. Thousands are being foolishly squandered, and immense amounts of money is going into the pockets of the chosen few, for all of which, the people will have to toil hard for years, in order to be able to pay their Taxes, or else sold out to meet the demands. We wish to see millions spent if necessary, to maintain our Flag and Constitution. But all this can be done we believe for one half the money already expended, if it was judiciously appropriate.

Latest News.

WEDNESDAY'S MAIL.

The Confederate States Congress has declarad that War exists by act of Lincoln, and have passed an act, to grant letters of Marque on our Commerce. It is said that over 300,000 letters have been receive by Jeff. Davis, ask ing these letters of marque, if this is true it will keep our War vessels to guard them all.

Gen. Runyan Quartermaster-General of Ohio has resigned, and it is said the Adjt. Gen., has been superseded by Gov. Dennison.

The people of Kentucky have voted almost to a man for Union upon the Crittenden compromise, if she get don't it she leaves the U. S. Gov. McGoffin has ordered election for Congressmen on 23rd inst., to our Congress.

Tennessee has passed an ordinance of secession and alliance with the South and votes on it June 8th. She also raises 55 000 volunteers and appropriates $5,000,000 to arm and defend the State.

Arkansas has passed an ordinance, 69 to 1 in her Legislature.

The Virginia delegates have been sworn in the Confederate States.

LAWS OF OHIO.

PUBLISHED BY AUTHORITY.

AN ACT

To enroll the Militia of the State.

Section 1. Be it enacted by the General Assembly of the State of Ohio, That the county auditors of the several counties of this state shall instruct the assessors of the several townships, and wards of cities, to perform all the duties required of them by this act.

That it shall be the duty of the township assessors of the several townships, and the assessors of the several wards of the several cities, to prepare a list of all persons subject to military duty, in their respected wards, townships or districts, save and except members of uniform volunteer companies, at the time of making the annual assessment of the property, in the year 1861, and thereafter at each time of taking the census of white male inhabitants, as provided by law, which list should be deposited in the auditors office of the proper county; and it shall be the duty of such auditor annually, on or before the first day of November, to return an accurate of such records of enrollment to the adjutant general of the state, to be by him filed in his office, and an abstract of the aggregate number of persons so returned, shall be forwarded by the adjutant general of the state to the war department at Washington city, on or before the first day of January of each year. And if any assessor shall neglect, or from any cause omit to perform his duties, the other assessors, or either of them of the city town or ward, shall perform such duties. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and every master or mistress of any dwelling house shall, upon the application of any assessor, give information of the names of all persons residing or lodging in such house liable to be enrolled, and all other information concerning such persons as such assessor may demand, If any person of whom information is required by any assessors, in order to enable him to comply with the provisions of this act, shall refuse to give such information, or shall give false information, he shall forfeit and pay not more than ten dollars for each offense. Any person who shall refuse to give his own name, and proper information, when applied to by any assessor, or shall give false name or information, shall forfeit and pay a like sum: such penalties recovered in any court of competent jurisdiction, in the name of tha state of Ohio; and it is hereby made the duty of the assessor to report the names of all persons who may incur any penalty in this section prescribed, to the commandant of the brigade in which they reside. All moneys collected under the provisions of this act, shall be paid to the county treasurer, and go to the military fund of said county.

Sec. 2. That besides the active militia, there may be organized from the militia of the state, enrolled under the last many future enrollment, a militia of the reserve, as follows, viz: whenever forty or more members of the enrolled militia shall forward to the adjutant-general their enlistment-roll, similar in general features to that for the organization of the active militia, except it may be for a period not less than one year, he shall make record of the same, and cause the brigadier general of the brigade wherein said enrolled militia are citizens, to order an election for officers of said companies, and said election shall take place as provided for election for officers of the active militia, except that said company may elect their own judges and clerk of election; and immediately upon said election, and its returns to the adjutant-general, commissions shall issue to the officers elect, as of the militia of the reserve; and whenever the public service requires a larger force than the active militia, said militia of the reserve shall be the portion of the enrolled militia first called into such service.

Sec. 3. When called into service said militia of the reserve shall be attached to such battallions or regiments as the commander in-chief shall direct, and upon being so attached and uniformed shall be commissioned as active militia, and they shall rank as such therefrom; Provided, that among different companies of said militia of reserve so called into service, their relative rank shall be determined by the date of their first enlistment.

Sec. 4. That the transfer of companies into active militia shall be by order of the commander in chief to the brigadier general of a given brigade, directing what companies within his brigade limits shall be so transferred, whereupon said companies shall become parts of given regiments or battalions, the same as if originally enlisted as active militia.

Sec. 5. The officers of said militia of the reserve, and the active militia hereafter commissioned, shall consist of the following, viz. for infantry and cavalry, of one captain and two lieutenants, and for artillery, one captain and one lieutenant.

Sec. 6. That division courts shall be held during the month of October of each year, for the assessment of fines and other cause, upon the basis prescribed for the brigade courts now authorized by law, and with like powers, two weeks notice being first given of the holding of said court; and in cases where no encampment has been held, there shall also be a brigade court called upon like notice, during the month of October, the same as in cases provided for by law where an encampment has first been held.

Sec. 7. It shall be the duty of the adjutant-general to furnish the auditor of each county of this state with a blank form for the returns required by this act.

Sec. 8. That this act shall take effect from its passage.

RICHARD C. PARSONS,
Speaker of the House of Representatives.
ROBERT C. KIRK,
President of the Senate.

Passed April 12, 1861.

Office of the Secretary of State, Columbus, Ohio, May 7, 1861.

I certify that the foregoing acts are true copies from the Original Rolls on file in this office.

A. P. RUSSELL,
Secretary of State.

Auditor's Office, Vinton County, May 7, 1861.

I certify that the foregoing laws are correctly copied from the copy certified to by the Secretary of State.

NELSON RICHMOND,
Auditor of Vinton County, Ohio.

Ordinances of the Town of McArthur.

An ordinance to prohibit the Sale of intoxicating liquors, Wine, ale and strong beer within the corporate limits of the Village of McArthur.

Section 1. Be it ordained by the Council of the incorporated Village of McArthur, in the County of Vinton and State of Ohio, That from and after the legal publication of this ordinance, it shall be unlawful for any person to vend or sell any spirituous or intoxicating liquors, wine, ale or strong beer in less quantities than one barrel within the corporate limits of said Village.

Sec. 2 Every person violating the provision of the first section of this ordinance shall, upon conviction thereof, for the first offence be fined in any sum not less than five dollars and not exceeding twenty dollars; and for the second or any subsequent offence, be fined in any sum not less than twenty dollars and not more than fifty dollars, and be imprisoned in the jail of said county not exceeding twenty days, Provided the imprisonment part may by the Mayor or Court before whom any person may by found guilty, at their discretion be omitted.

Sec. 3. All places where any intoxicating or spirituous liquors or drinks prohibited by the first section of this ordinance are sold, contrary to the provisions of the same, shall be taken, held and delared to be common nuisances; and all places of public resort of whatever description where any of the articles so prohibited as aforesaid, shall be sold, shall be shut up abated as public nuisances upon the second conviction of the owner or occupier of said tenament or place of public resort, of his or her having violated the provisions of the first section of this ordinance.

Sec. 4. It is hereby made the duty of the Mayor or court before whom any person may be thus a second time convicted, to inquire especially as to the building, structure, or tenement used or occupied by the Defendant where said intoxicating and other liquors are sold in violation of this ordinance; and after noting the fact of the parties second conviction, and a pertinent description of the building, tenement or structure by him or her thus occupied and used as a place of public resort, said Mayor or court having jurisdiction shall declare such building, tenement or structure a common nuisance, and issue an order commanding the Marshal or other officers to whom said order may be directed, to shut up and abate said nuisance.

Sec. 5. It is hereby made the duty of the Marshal or other officers to whom such order may be delivered, to go to the place designated in said order, and in a peaceable and quiet manner, to demand the possession of said tenement, building or structure, and if refused, to exercise such controll as may be necessary to shut up and abate said nuisance; said officer may then call the necessary assistance and use the necessary force in order to the due and proper execution of said order, which said order shall be executed within three days from its delivery to said officer, and be returned within thirty days from its date, or sooner if required by the Court issuing the same.

Sec. 6. All buildings, structures or tenements thus declared to be nuisances and shut up under an order as herein provided for, shall remain closed, and the owner or occupier shall be prohibited from the use and occupation of the same for the term of three months, unless he or she shall sooner give a bond, payable to the State of Ohio for the Village of McArthur, in the sum of five hundred dollars, conditioned that neither intoxicating liquors, wine, ale or strong beer shall be sold therein contrary to the provisions of this ordinance, with security to the acceptance of the Mayor of said Village; which bond shall be deposited with the Mayor of said village, and suit thereon when forfeited, may be brought before any court having jurisdiction.

Sec. 7. The provisions of the first section of this ordinance shall not extend to the sale of wine manufactured of the pure juice of the grape cultivated in the State of Ohio, nor to sales of intoxicating liquors when sold for medical or pharmacutical purposes, and prescribed by a Physician or Druggist.

Sec. 8. The giving away of any of the liquors prohibited by the first section of this ordinance, or other shifts and devices to avoid the provisions of the same, shall be deemed a selling within the meaning of this ordinance.

Sec. 9. All sales of intoxicating or spirituous liquors, wine, ale or strong beer contrary to the provisions of this ordinance, made by any agent, clerk or employee, shall be taken and to be a sale made by the principal, and he or she be held liable to the provisions of this ordinance.

Sec. 10. All suits under the provisions of this ordinance shall be conducted in the name of the State of Ohio, all fines and penalties be paid into the treasury of said village of McArthur; and in all costs where the defendant fails or refuses to return out sufficient goods and chattles to satisfy the fine assessed against him or her, under the provisions of this ordinance, his or her body may be taken on execution and committed to the jail of said County, to remain until said fine and cost is fully paid.

Sec. 11. In all prosecutions under the provisions of this ordinance, the accused may at any time before Mayor or other court having jurisdiction, demand a trial by a Jury, which demand shall be noted on the docket of said Mayor or court before whom said party shall be arraigned, and said court shall proceed to hear and determine said cause the same as if said demand had not been made; Provided, however, that in case said Mayor or court shall find the defendant guilty of the charge as alleged said court shall require said defendant to enter into a recognizance in not less than fifty and not more than five hundred dollars for his or her appearance before the Court of Common Pleas within and for the County of Vinton, on the first day of the next term thereof, to answer said charge and abide the judgment and order of the Court thereon and not depart without leave. Then and in case of the execution of said recognizance with security to the acceptance of said court the execution of the sentence and order of said court shall stand suspended until the trial of said cause in the Court of Common Pleas, as in all cases of crime and misdemeanor.

Sec. 12. This ordinance to be in force from and after its legal publication.

Attest. L. G. BROWN, Mayor.
E. A. Hulbert, Recorder.
Passed May 4th, 1861.

AN ORDINANCE.

Creating the office of Weigh Master and regulating the use of the scales in the Village of McArthur, County of Vinton, and State of Ohio.

Section 1. Be it ordained by the Council of the Village of McArthur, That in all cases of a sale of hay, corn, oats, stone coal and all other articles commonly sold by weight or measure and transported and delivered in wagons, carts, drays or other vehicles within the corporate limits of said village, when the buyer, and seller cannot agree as to the weight or measure of the said article the same shall at the instance of either party be weighed upon the scales owned and controlled by the corporate authorities of said village the expenses of which shall in all cases unless otherwise agreed upon between the parties by paid by the seller.

Sec. 2. It is hereby made the duty of the Council of said village at their first meeting after the taking effect of this ordinance to appoint a Weigh Master for said village who shall hold his office until the next annual election of officers for said village and until his successor is appointed and qualified, and it shall be the duty of said Council annually thereafter at their first meeting after the annual election to appoint such Weigh master who shall hold his office for the term of one year and until his successor is appointed and qualified.

Sec. 3, Said Weigh Master before entering upon the duties of his said office shall take oath faithfully and impartially to discharge the duties of said office and shall give bond in the sum of two hundred dollars, with security to the acceptance of said council, which bond shall be made payable to the State of Ohio for the use of the village of McArthur and conditioned for the faithful discharge of his duty as such Weigh Master, and the payment of all moneys that may come into his hands in accordance with the ordinances of said village.

Sec. 4. Said Weigh Master shall have the care and exclusive control of the scales belonging to said village, shall keep the same in good repair, attend to the weighing of all hay, grain, coal, stock or other articles required to be weighed, and he is hereby authorized to demand and receive of the seller in case of a sale of any article which he may be required to weigh and in all other cases of the person requesting the use of said scales the sum of ten cents for each and every or article that may be seperately weighed for which services the weigh master shall be entitled to receive and retain one half of the amount by him received being the proceeds arising from the use of said scales.

Sec. 5. The Weigh Master first appointed under this ordinance shall at the first meeting of said council in July, October, and January and April settle with said council and pay over all moneys due from him to said village being proceeds of said scales at which times said council shall allow said Weigh Master for all sums necessarily expended in keeping said scales in order, and each and evary Weigh Master appointed after the year 1861 shall in like manner on the 1st Mondays of April, July, October and January settle with said council and pay over all moneys due from them to said village.

Sec. 6. This ordinance shall take effect and be in force from and after its legal publication.

Attest. L. G. BROWN, Mayor.
E. A. Hulbert, Recorder.
Passed May 4th, 1861.

Saddle and Harness Factory

H. P. Ambrose,

2nd Door West of the Court House.

McARTHUR, OHIO.

WOULD respectfully inform the citizens of Vinton Co., that he keeps constantly on hand, and will make to order, SADDLES, HARNESS, BRIDLES and COLLARS of every style, at the

LOWEST CASH PRICES.

He has a good assortment of Carriage, Buggy, Drovers and Riding Whips for sale low. Repairing of Saddles and Harness done at the shortest notice. May 9, 1861—1y.

Tan Bark Wanted.

THE highest price will be paid for Tan Bark, at H. P. Ambrose's Saddle and Harness Factory; be sure and call before you sell elsewhere. H. P. AMBROSE.

May 9, 1861—5w.

Notice.

ALL persons are hereby notified not to credit my wife Mary Ann Reeves on my account as I will not pay any debts of her contracting; She having left my bed and board without just cause. SAMUEL REEVES.

May 9, 1861—4w.

Vol. VII. Vol. VII.

DAILY, TRI-WEEKLY & WEEKLY

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