

FAVORABLE SIGNS FROM N. YORK.

It will be seen by the following extracts from New York papers that the war is beginning to teach some of the Northern people a little common sense.

The New York Herald (Republican) is terribly exercised at the idea that the Bankers are unwilling to advance funds to sustain Lincoln. That paper says:

"Under the auspices of bankers in Lombard street, a combination of bankers and capitalists has been formed in New York for the express purpose of aiding and abetting the Southern insurrection, by withholding from the Administration the means of carrying on the war. We distinctly charge that moneyed gentlemen whose names are in our possession, which we shall disclose whenever the interests of the public demand it, have arrived at an understanding with each other to subscribe to no more loans, and endeavor to injure the national credit, for their own selfish purposes, to the extent of their power. They are principally in the cotton and foreign exchange interest, and are of English, French and German, as well as of American origin.

They affect horror at the enormous expenditure which will be involved in the suppression of rebellion, and declare that the banks of this city, over which they may exercise paramount control, shall not yield another dollar, if further loans are put into the market. They are principally sustained and urged on, in the course they have resolved on, by London and Manchester houses, who desire that the independence of the Confederate States should be acknowledged as speedily as possible, in order that the English market may be supplied with cotton, without the risk that would attend the violation of the blockade, and a consequent war with this country. We believe that the alliance thus formed is so powerful that Mr. Chase would find it impossible to combat with it, and that he will find he is leaning upon a broken reed, if he places any future dependence upon Wall street."

The subjoined paragraphs are from the conclusion of an editorial article in the New York Journal of Commerce, of the 21st. There are errors in it, which will be readily detected by the reader—one is the intimation of a possible revolution in the South; nevertheless, the article will be read with interest:

"We have said, and we now repeat, that the North has been deceived and misled into this war by the Northern Republican press; and since the war began they have been as constantly deceived and misled in every particular relating to the force, the ability and the courage of the foe. This deception has led to fatal results already. It is now leading us to destruction. The suppression of truths which show the strength and resources of the South, the misrepresentation of their financial and commissariat resources, the false reports of disaffection, desertion, sickness, &c., have characterized the editorial and news columns of the papers alluded to, and have misled the minds of men at the North, that the error could only be corrected by some such lesson as was received at Great Bethel, which may thus, perhaps, be productive of good on the whole.

It is beginning to dawn on men's minds that this contest is not an affair of a day, or a month or a year. If the end is to be the conquering of the Southern armies and people, that end is probably very far distant. Let no man promise himself that the battle of Manassas Junction, now apparently near, will be decisive of the war. If we are beaten at that point, is there any Northern man who proposes to give up the contest? If the South are beaten, is there any probability that Southerners will yield the contest any more than we would? They are Americans, blood of our blood, our brothers, cousins, friends—and they reason, think and feel just as we should under similar circumstances. There is, therefore, little hope of an end of the war by a decisive battle or a short campaign.

Another possible end of the war is one that may now be talked of freely, though a few weeks since it was impossible to mention it. We lately published a very mild letter from a St. Louis correspondent, suggesting a possible peace by compromise. The Hartford Times copied it, and the Hartford Courant burst like a thunder cloud on the Times, charging it with treason, and flatly pronouncing it to be treason in any one to propose a compromise before we had finished the war! But we are living in cooler times.

Another possible end of the war is the occurrence of another revolution in the South. It may be that the States which went mad for secession a few months ago, may change. In other words, there may be a strong Union party there some day. If we are to believe the Republican papers, the South has actually a majority of Union men who are held down by mobs. We don't believe any such thing. We don't believe there are ten Union men in South Carolina. There were many such in all the seceded States. But the attempt at coercion by arms has carried them nearly all over for the present. Is there a sane American who believes that any amount of physical force will ever prevail to make Union men out of Americans who don't choose to be such? Can you starve them into it? Is there the remotest hope that a long war will make friends out of enemies? So long as the North stands where it stood six months ago, and says to the South, "you must yield, back down from all this, and give it up; we will not give you any excuse, any plea, any argument by which to move your doubting friends, you must give up at once—so long as the North maintains this ground, just so long the war will continue."

The Daily News (conservative) of the 19th says:

"Some of the Republican Abolition journals show symptoms of recovery from their war fever. They seem to be preparing to throw off the hideous nightmare under which they have so long labored with distorted vision and distempered brain. The Times of Saturday is loud in lamentation of the loss of life that must attend a vigorous campaign, and suggests a scheme of peaceable warfare operations, which seems twin brother to masterly inactivity. The Times would have our soldiers avoid the frowning battery and the dangerous redoubt, and is philanthropically opposed to that branch of the profession of arms which calls upon the hero to seek 'the bubble reputation even at the cannon's mouth.' He would have the Commander-in-Chief of the Federal forces confine his warfare demonstrations to the stomachs of the enemy, and by strategically cutting off supplies, and interrupting communications, starving the seeders back into the Union." Bah!

GENUINE YANKEES.—A letter from Virginia states that the Yankees in Old Point have been working the negroes which they caught or enticed away from their owners, so hard—as is always the case with Yankees—that they could not stand it, but endeavored to escape to their masters, when six of them were overtaken and shot! This we suppose is what the Tribune meant by "spiking" the negroes, so as to render them useless to their owners. The hypocritical monsters!

VIEWS OF SENATOR CRITTENDEN.

The Hon. John J. Crittenden made a speech at Lexington, Ky., last week, thus defining his position as a candidate for Congress:

"The first great object which he ardently desired was, that this war should be put an end to; that the longer it continued, and the more devastating it became, the more difficult would be its solution; and to the end of pacification and the restoration of the kindly feelings which once prevailed among the happy and prosperous people of a common government would his whole energies be devoted, if it should be the pleasure of the people to confer on him the responsible trust of representing them. To a war of subjugation he was opposed; and while he was satisfied that the Government did nothing more than its duty in the preparation it had made to defend the National Capital, yet he would be prepared, at any moment, to lend a helping hand to arrest the further progress of this unnatural conflict. Mr. Lincoln, he declared, was not the President of his selection, and he was neither responsible for nor prepared to sustain the policy of that functionary. Lincoln, however, was not the Government, although charged, for the time, with its administrative functions; and, while he repudiated all allegiance to him or his creed, he was, as he had always professed to be, loyal to the Constitution of his country, under which the nation had been so prosperous, the people so free and happy, and the blessings of which are priceless and innumerable.

Mr. Crittenden declared that, in his judgment, every means should be resorted to to restore the blessings of peace, to preserve the Union, and to hand down, unimpaired, the noble institutions which have come down to us hallowed by the sanction of our revolutionary fathers. To that end he declared first that the Southern States should be restored to the Union, and that the Union should be maintained, when it is a fair statement of the grievances under which they labor; that, when presented, the Congress of the United States should promptly grant a full measure of redress for these grievances; and that, if Congress should not do so, he would not vote one dollar to the prosecution of the war. In the next place, if the South should fail to present their grievances with a view to adjustment, then that the North should promptly concede such assurances of redress and security as were just to the South; and that besides these all other possible means should be employed that would have the effect of maintaining the Union, preserving the Government, and putting a period to the unnatural war in which the country is involved. In the event that all the means employed for this patriotic and noble purpose should fail, and the war should still rage on, then he was of the opinion that Kentucky, posing herself upon her proud position of neutrality, should summon all her judgment and reason, and, discarding all passion and prejudice, should decide for herself what position she should assume. He declared that sufficient unto the day is the evil thereof; and that while he was not now, under the continually shifting scenes of the political drama, prepared to say what position Kentucky should occupy in the contingency mentioned, he would be prepared as a native and loyal son of Kentucky, to follow her destiny, be it what it might."

Mr. Crittenden has been elected to the House of Representatives. The only way he can bring about peace now, is to use his influence to have the Southern Confederacy recognized as an independent Government. His propositions, while they might have been accepted by the South before the adjournment of the last Congress, will not prove satisfactory now and will not arrest the war. The withdrawal of northern soldiers from southern soil, and the recognition of the Southern Confederacy, alone will stay hostilities.

EUROPE AND THE SOUTH.

An agent passed through this city last night with important official dispatches to the Government at Richmond, and reports all favorable to the Southern cause in Europe. The Southern ports will be opened on the 1st of September, victory or no victory. Propositions have been received for an advance on the cotton crop controlled by the Confederate Government to the amount of \$200,000,000.

On the route from New York to this city the distinguished agent in question had a fair opportunity of conversing with and observing the movements of the Yankees, and gleaned many interesting particulars some of which we present as being indisputably correct. Col. Wallace, commanding an Indiana Regiment, has been entirely cut off in Cumberland, Md.—supposed to be all killed or taken prisoners, on the 19th. The excitement at Indianapolis, in consequence of this probable bloody defeat, was almost indescribable, the regiment having been formed in that city. Two regiments of Indiana troops passed through Indianapolis on the 19th, for Marietta, Ohio, and 200 horse guards from Cairo, on the 20th. Six additional regiments have been called for from Indiana, making 24 regiments. Great dissatisfaction is exhibited by many citizens in that State, in consequence of nearly all the commissions being given to Black Republicans. Out of 30 appointments, 28 have been Black Republicans.—*Nashville Gazette*, 23d.

ARRIVAL OF PRISONERS.—A guard of Confederate soldiers arrived from West Point, on the York River Railroad, with six prisoners, one war and one spy—the latter, as we learned, being a deserter from a North Carolina Regiment, (a native of Pennsylvania,) who had been detected not only in an attempt to leave his comrades, but with plans of the country and the various fortifications he had seen, on his person. The parties were ordered to jail.—*Richmond Dispatch*.

The Dispatch of the 25th further says that the *Deserter* from the North Carolina Regiment was examined yesterday and sent back home, where he will get his deserts no doubt. As previously intimated, the fellow is a Pennsylvanian by birth, and was taken at Yorktown while trying to make his way to Fortress Monroe. He had in his possession drawings of Williamsburg and Yorktown, and plans of Col. Magruder's fortifications. When he started to the Old North State yesterday, he was securely ironed. Who is he?

"WHO'S ALARMED?"—A Baltimore paper declares that a number of sealed cars passed through that city from Washington a few days since, which were filled with Government archives, and removed to Philadelphia by order of the Administration.

Philadelphia is by no means a safe place of deposit. We can inform old Scott and his friend Lincoln that when Gen. Beauregard and his army of 120,000 do take up the line of march, they will surely stop this side of Boston. Philadelphia has long since been included in the Southern Programme.

RUFUS BARRINGER, Esq.—This gentleman is Captain of a fine cavalry company, organized in Cabarrus. They will rendezvous at Asheville.

AFFAIRS IN MISSOURI.

We give the following statements from the Richmond papers of the fight between the Missouri State troops and the federalists under Gen. Lyon, but we are inclined to think that they are erroneous. At any rate, late advices show that Gen. Lyon was not captured, though his forces may have been considerably injured:

Mr. T. S. Davis, who reached this city yesterday afternoon, direct from St. Louis, furnishes the subjoined statement, which he says was supposed to be true at the time he left. It confirms us in the belief that the Black Republican controllers of the Western telegraph have wilfully misrepresented the fact:

RICHMOND, VA., June 26, 1861.

I left St. Louis on Wednesday evening last, the 19th inst. We had received authentic news from the battle fought at Booneville on the morning of the 17th inst. Gen. Lyons, in command of 5,000 Federal troops left St. Louis on the 16th inst., for Jefferson city; arrived on the 16th; took possession quietly without any resistance, where he left 2,000 of his troops under command of Col. Boernstein, and (Gen. Lyon) continued on to Booneville, 40 or 50 miles beyond Jefferson city. When arriving near Booneville, Gen. Price, in command of the 1,500 State troops at that place, made a partial retreat, taking 1,000 of them, by which he succeeded in deceiving Lyon and his men on land, save a few hundred on the land. Gen. Price had masked batteries in a small skirt of woods, from which he opened a brisk cannonade immediately after Gen. Lyon drew his men up in a line of battle, which resulted in the repulse of the Federal troops with a loss of 300 killed and 700 taken prisoners. Gen. Lyon himself was captured, and six pieces of cannon, and 800 stand of arms. The steamer *Latan*, with the few hundred who were left on board, was shot to pieces and sunk into the river, the remainder, about 1,000 or 2,000, retreated towards Jefferson city. All their boats were captured. Boernstein, who was in command at Jefferson city, immediately after their defeat telegraphed to F. P. Blair, Jr., who had command in St. Louis, to send up all the forces he could possibly spare. Upon the receipt of the dispatch he sent up 3,000 troops from St. Louis the evening before I left.

Upon the receipt of the news from Booneville, the Secessionists in St. Louis turned out about 3,000 to 4,000 in number, greatly elated, and cheered for Jeff. Davis, Beauregard and Gov. Jackson. They expected to make an attack upon the Dutch that night, who were under command of Blair at the Arsenal; and supposed to be about 3,000 in number.

The battle of Kansas city took place on Monday morning, the 17th. Thirteen hundred Federal troops made an attack upon about the same number of State troops, under command of Capt. Kelly. After a desperate fight the Federals were repulsed, leaving 200 killed on the field of battle, 130 taken prisoners, and four pieces of cannon, &c. Loss of State troops, 45 killed and wounded.

I passed through Cairo on the night of the 19th; met with no difficulty, further than the inspection of my baggage.

T. S. DAVIS.

ANOTHER ACCOUNT.

A dispatch from Louisville, June 22, says the latest newspaper account is from the Missouri State Journal, extra, of June 20th, as follows:

An eye witness of the fight at Booneville, on Monday last, at 8 A. M., about six miles below that town, gives us the subjoined facts:

Major-General Price was ill on Sunday, and issued an order for the retirement of the State troops toward Arkansas. He, himself, left for his home, at Brunswick. The forces under General Lyon landed near Rocheport, on the South side of the Missouri river, and marched thence toward Booneville. A few companies of State troops met them about six miles below Booneville, company B, Blair's Regiment being the party receiving the fire. About ten of said company were killed and wounded, as the result of that fire. The company firing then retreated. Several other State companies at this point of time, kept firing from different directions on Lyon's forces. Gen. Lyon then planted his cannon, and fired about twenty rounds on the State troops using grape and ball. None of the State troops were killed by this cannonading, so far as known. But those who were seeking the State troops to join in the fight, were made prisoners to the number of fifteen or twenty, and three are known to be killed. These prisoners were taken, and the three men killed after a retreat was ordered by the officers commanding the State troops.

The State troops retired in good order; not more than three hundred engaged in the skirmish. Some ten of the Federal troops were killed, and as many from twenty to thirty wounded, some mortally.

Col. Marmaduke commanded the State troops, and Gov. Jackson was in person on the ground. No cannon were captured by the Federal troops; all have been saved, except some pieces which were thrown into the river, these having been placed in position on the river, four miles this side of Booneville.

Gen. Parsons, with some fifteen pieces of ordnance, was advancing to meet the State troops at the time they were retreating. All these were saved. No word of disbanding the State troops was ever heard of; nor of the flight of Gov. Jackson, who, on the contrary, coolly remained two hours after the retreat of the State troops. Gov. Jackson is now with his men; the order to retreat was given on Sunday, purely as a strategic movement; while some of the boys determined to have the fun of making the invaders smell burning powder anyhow; and the attack was made with the distinct purpose of retreating immediately afterward. It was currently reported at Booneville that General Lyon remarked, if the fire of the State troops had continued, he must have ordered a retreat. The Federal forces stood their ground and returned the fire, but the State troops were covered by a woodland, and fired from different directions on Lyon's forces. Lyon has no possession of Booneville, and has issued a proclamation. The State troops are concentrating at a point fifteen or twenty miles West of Booneville, and are organizing and preparing fully for the conflict.

Ben. McCulloch, it is stated, is now advancing between Springfield and Tipton, with 10,000 men and 20,000 extra stand of arms.

WAR EFFECTS.—The Richmond Examiner quotes from a N. Y. paper of the 17th, the doings of the Stock Board, which show, that instead of the long list of a hundred or more different kinds of stocks usually sold every day, there were but eight sold on that day. Among them were North Carolina bonds at 49; Virginia at 40; Missouri at 37; and Tennessee at 34.

It must be hard times indeed in New York.

Cotton was selling at 14 to 14 1/2. Flour at 4 50 to 6 25. Corn at various prices from 30 1/2 to 60 cents.

YORKTOWN.—The Confederate troops have been largely reinforced. There are now at least 10,000 men at Yorktown and they are prepared for any force that the enemy may bring against them.

FROM THE INDIAN TERRITORY.

Mr. John M. Peel, recently returned from Fort Ouachita, in the Indian Territory, furnishes the Southern press with the following interesting information:

Fort Ouachita, and all the other Forts in the Territory, were evacuated by the Federal forces before the arrival of the Texas troops under Col. Young. The company to which Mr. Peel belonged, the Deadshot Rangers, from Jefferson, Texas, captured fourteen wagons belonging to Emory's command, which had been left behind. A company from Kansas country also captured several wagons. Emory finding the Texans in close pursuit of him, threw away guns, ammunition, and Government stores into the Ouachita river, first destroying the guns by breaking the locks and taking them to pieces. The enemy left at Fort Ouachita a large quantity of clothing, some provisions and one field-piece. At Fort Arbuckle, also, they abandoned various Government stores and supplies, most of which were stolen and carried away by the Indians before the Texans got there.

After taking possession of Fort Arbuckle, it was garrisoned by a company of Choctaw and Chickasaw Indians, under Capt. McKinney. Fort Ouachita was garrisoned by the Deadshot Rangers, under Capt. Mayberry.

The Indians had ordered off all the Yankee missionaries in the country. The Indians also took up two Abolitionists from Northern Texas, one of whom was a preacher, and hung them. The forts are all to be garrisoned in twenty days, in accordance with a treaty made with the Keressee Indians.

Mr. Peel further states, in illustration of the spirit of the Texas troops, that within forty-eight hours after the news came across the Texas border that the Kansas bandit, Montgomery, was coming down, there were 20,000 men under arms who started immediately to meet him. He says that, instead of there being any Abolitionists in Northern Texas, the people are unanimous for fighting, and all classes, including preachers, were eager for the fray.

LATE FROM THE SEAT OF WAR.—A letter written at Warrenton, Va., at 5 o'clock yesterday morning, received in this city the same day on the arrival of the Central cars, states that the Abolition and Confederate forces between Alexandria and Manassas Junction were within two miles of each other, and that the beating of the enemy's drums could be distinctly heard in our camp. The writer was of the opinion that a collision was inevitable at a very early day.—*Richmond Dispatch* of the 27th.

GEN. MAGRUDER TO BUTLER.—Gen. Butler sent word to Gen. Magruder he hoped the war would be conducted on principles of civilized warfare. Gen. M. replied, I have buried your dead and taken care of your wounded in sight of the houses of widows and orphans whom you have driven forth, & whose property you have destroyed.

From the Raleigh Standard.

SOUTHERN LITERATURE.—Our energetic Superintendent of Common Schools, Rev. C. H. Wiley, has invited a consultation of teachers and others to convene in Raleigh on the 9th of July, for the purpose of initiating some plan for getting up school text books and possibly other literature from Southern poets and Southern presses. We like the suggestion.

FIFTH REGIMENT.—We learn that the following officers have been elected for this regiment: Wm. E. Cannady, of Granville, Colonel; Capt. Ihrie, of the Chatham Guards, Lieutenant Colonel. Lieut. Col. Lee, of the First Regiment, was elected Colonel of this, but declined.

SICKNESS.—We are pained to learn that a number of our soldiers in the Third Regiment near Suffolk, are afflicted with measles. It is, however, of a light form. The 1st, 2d and 4th Regiments, we believe, have but little sickness.

THE SLAUGHTER AT GREAT BETHEL.—From various accounts, we are inclined to believe that the destruction of the enemy was much greater at this battle than was commonly supposed. We should not be surprised, if the truth ever comes fully to light, that the invaders lost at least a thousand in killed and wounded.—*Richmond Dispatch*.

MORE SECESSION.—It is reported that the Southern counties of Kentucky mean to secede and join their fortunes with the Confederate States; and that as soon as the declaration is made, Gen. Pillow, with a large force, will move to their support from his headquarters at Union City, a few miles from the Kentucky line.

FLAG OF NORTH CAROLINA.—The Flag agreed upon for this State is an exceedingly beautiful one. The colors are a red field with a single star in the centre. On the upper extreme is the inscription, "May 20, 1775," and at the lower, May 20, 1861. There are two bars, one of blue and the other of white.—*Raleigh Register*.

FIRST OF THE SEASON.—Col. I. A. Dumas, of Richmond county, has sent us three cotton blooms—the first of the season.—*Fayetteville Presbyterian*.

There appears to be little doubt that Queen Victoria, if not insured, is at least laboring under a "mortal malady." The truth is, that this affection is hereditary, and has been threatened before. The present reigning family of England have married cousins so persistently, that a different state of things could hardly be expected.

MARYLAND.—A resolution has been passed by the Legislature demanding the return of the arms of the State militia, taken away by the Governor.

THE STAR-SPANGLED BANNER.—We see very much in Northern prints, says the Montgomery Advertiser, about the flag of the Union. The speeches of Northern orators are full of allusions to the stately banner, and the people are appealed to by all the sacred memories which cluster about that banner, 30 stand by and defend it to the last. Ignorant people are deluded with the idea that the flag is the same as that which floated over the battle fields of the Revolution, and their remembrance of the many glorious victories achieved under its folds is called upon to arouse their patriotism. This upsurge about the sacredness of the flag is all gammon. There is no peculiar interest attaching to the Star-Spangled Banner. It is not the flag under which our fathers fought the battles of the Revolution; neither is it the same as the one that floated over the field of battle in the war of 1812. The present flag of the United States was adopted in 1818—less than fifty years ago—from a design by Capt. Samuel C. Reid. There was nothing in its adoption to render it sacred in the eyes of any one, and there has been nothing in its history since to make it so. This professed devotion to the flag of the Union is pure bunkum.

PREPARE TO SAVE HAY.—The hay crop of the Confederate States must not be lost sight of. Let the tall grass of our fields be gathered and packed into bales next fall. Our Government will buy it, and may not be able to get it elsewhere. Hay is almost indispensable to an army, and should be neatly baled.

FROM THE RALEIGH STANDARD.

DECISION OF THE SUPREME COURT.

We have been favored by the Reporter of the decisions of the Supreme Court with the following decision of the Chief Justice, assisted by his associates, which, as it concerns the public service, we give entire.

It is marked with the usual ability and clearness of his honor, and the result will certainly be hailed with satisfaction by all the friends of the service:

IN THE MATTER OF HAMILTON C. GRAHAM—HABEAS CORPUS.

A soldier who is under arrest and in confinement for a violation of orders, cannot procure his discharge by means of a writ of *habeas corpus* on the allegation that he was an infant at the time of enlistment. Nor can he or his guardian raise that question before civil authorities, while he is in custody and amenable for trial before a military tribunal.

Whether a minor of the age of twenty years who has enlisted under the provisions of an act entitled "an act to raise 10,000 State troops" and has taken and subscribed the oath prescribed for enlistment, is entitled to his discharge on the ground of his non-age and that he enlisted without the consent of his guardian is a question which will be decided by the court in the case of Hamilton C. Graham and his guardian E. H. Hayes.

The petitioners alleged that the said H. C. Graham, in May 1861, was enlisted as a private soldier by Major Stephen D. Ramsey into the company called the Ellis Light Infantry; that he was then an orphan without father or mother and but twenty years of age, and that such enlistment was made without the consent of his guardian, and that the said orphan had an estate in the hands of his guardian which was sufficient to support him without resorting to such service, and that the said H. C. Graham was discharged by the said S. D. Ramsey against his will at the encampment of the said military company near the City of Raleigh.

The prayer is that the said H. C. Graham should be brought before his honor the Chief Justice by the said S. D. Ramsey with the cause of his detention. Major Ramsey was called upon to answer the said H. C. Graham, and made return as to the cause of his detention, that the said Graham had enlisted for war into the company of artillery under his command, and had taken and subscribed an oath (set forth as part of the return) and on the 15th of May then current was placed by him as the company officer in reference to the guard house for a violation of orders, and was then in such custody and awaiting a trial by a court martial for said offense.

The matter was argued by E. G. Haywood for the petitioners and the Attorney General for Maj. Ramsey. Peasons, C. J. Upon the return of the writ, I requested Judges Battle and Manly to assist me, and after hearing arguments on both sides and giving to the subject full consideration, they concur with me in the opinion that the petitioners, Graham, is not entitled to his discharge.

It is admitted that Graham voluntarily enlisted as a private soldier on the 24th of May last, and the oath was taken and subscribed by him according to the terms required by law. The application is put on the ground that he was at the time under the age of twenty-one, and enlisted without the consent of his guardian.

The return meets the application, *in limine*, by the fact that on the 15th instant, "Graham by the order of the commanding officer was put in the guard house, for a positive violation of orders, to await his trial before a court martial, where he has remained until brought here in obedience to the writ."

To meet this preliminary objection, two positions were relied on:—1st. The statute gives authority to raise by enlistment, ten thousand "men," Graham was not a man, being under the age of twenty-one years; consequently, the recruiting officer had no power to make a contract of enlistment with him and the contract is void and of no effect.

If the agent acting for one of the parties, exceeds his power, the consequence contended for would follow; for instance, if a woman was enlisted; but I do not adopt this very restricted construction of the statute. The word "men" must be understood in reference to the purpose for which it is used, and obviously the purpose was not to indicate the sort of persons, but to fix the number in the sense of "ten thousand soldiers or troops." So I think there was no defect of power on the part of the recruiting officer and the contract cannot be treated as a nullity.

2d. By a general rule of law contracts made with one under the age of twenty-one years, may be avoided by him; the exceptions are contracts for necessities—of marriage and apprenticeship, on the ground that benefit to the infant, and there is no special benefit to an infant, arising out of a contract to enlist as a soldier to authorize the court to take it out of the general rule and make it an exception in the absence of some legislative provision to the contrary to be met with in the acts of Congress of the United States.

This position may be admitted for the sake of the argument, and it does not meet the objection; for the contract not being void, but merely avoidable, had the legal effect of establishing the relation of officer and soldier, which existed at the time Graham was guilty of disobedience of orders, consequently his act was unlawful and his arrest and imprisonment lawful, and he cannot avoid the consequences by going behind his legal act and claiming that the relation of his enlistment until he has been discharged by the court martial. This is clear; otherwise there would be no difference between a void and a voidable contract; whereas the latter has legal effect, and continues until it is avoided, and in this instance, the contract had the legal effect of putting Graham in the relation of a private soldier and making him amenable as such to military law, and that having attached to him, he must be discharged by it before he can be allowed to raise the question before the civil authorities as to his legal act and claiming that the relation of his enlistment until he has been discharged by the court martial. 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