

# Hillsborough Recorder

THE CONSTITUTION AND THE LAWS—THE GUARDIANS OF OUR LIBERTY

Vol. XLV.

HILLSBOROUGH, N. C., DECEMBER 21, 1864.

No. 2276.

## CORRESPONDENCE.

House of Commons, Dec. 6, 1864.

S. F. Phillips, Esq.:

DEAR SIR:—Your friends are anxious to see the substance of your speech to-day in print, and the wholesome truths it contained disseminated among the people.

Please furnish us with a full report of it as early a day as your convenience will allow.

Very respectfully,

Your obedient servants,

D. M. CARTER,

A. C. COWLES,

EUGENE GRISSOM,

THOS. A. ALLISON,

R. S. DONNELL,

DAN'L. G. FOWLE,

M. McGEHEE.

House of Commons, 6th Dec., 1864.

Col. Carter and others.

GENTLEMEN:—I will comply with your request within a day or two.

Thanking you for the compliment you have paid me, and wishing the speech were more worthy of it.

I am, very truly,

Your friend and servant,

S. F. PHILLIPS.

SPEECH OF S. F. PHILLIPS, ESQ.  
OF ORANGE.

In the House of Commons of North Carolina, Tuesday, December 6th, 1864, on the subject of Impressments.

MR. SPEAKER:—Recent occurrences in the county of Orange have suggested to me the propriety of introducing the resolutions which have just been read. I do not mean to say that Orange has suffered more from the action of agents for impressments than the other counties of the State, but the re-occurance of that action among my constituents rendered it proper that I should call the attention of the Legislature to it.

The preamble to these resolutions asserts truths which no intelligent gentleman upon this floor, whether lawyer or not, will deny. I shall not trouble the House with an argument upon them. The first of the resolutions which follow, makes allegations which, if true, are palpable violations of the rights asserted in the preamble. The only question which arises upon that resolution is as to its truth. And, upon this question, I might perhaps make a witness of every gentleman upon this floor. For I can hardly doubt that every one here has been so far personally cognizant of facts going to establish this point that he might be called as a witness to establish it before a court and jury.

Within the last two weeks an agent of the Confederate States has impressed in the county of Orange 160 horses and mules at an average price, as I was informed by an officer of the government engaged in the transaction, of about \$700 each. I inquired of the same gentleman what was the average market value of the animals thus taken, and was answered "at least \$2,100 each." It appears, then, that by this single operation, the Confederate States' government has forcibly seized for its own use, more than \$300,000 worth of property; and left in the hands of its owners little scraps of brown paper, promising to pay at some indefinite period about \$100,000! In simple language, it is a transaction by which that government has possessed itself of \$200,000 worth of property without paying a single dollar of equivalent! It has, by its agents, acting under a regularly organized system, robbed certain persons whom those agents have selected within the county referred to, of \$200,000. The county which I have the honor, in part, to represent in this House, makes up a Senatorial district, and contains about one-fifth of the property in the State. Denying these impressment agents the justice in their visits to the various sections of the State, the House will see that they have in the item of horses and mules robbed the State of some \$10,000,000 worth of property. I mean to say that in the name and under the machinery of the Confederate government, they have overawed

certain citizens of North Carolina into delivering to that government property worth \$15,000,000, at a nominal price of \$5,000,000. This action comes fully up to my conception of the idea contained in the word robbery.

If the action which has recently taken place in Orange county were the consequence of the presumption of a subordinate agent of the government, it were more easily tolerated than now. Or if it arose from the occasionally irregular working of the machinery of that government it might be better borne. That it is part of the settled policy of the Confederate States, and the regular and intended effect of certain acts of Congress is that which gives this action its peculiar unpleasantness, and makes it the more imperative for this Legislature to utter its remonstrance and protest. When wrong is done under the color of law, it becomes most dangerous.

I hold in my hand a pamphlet containing the "General Orders" issued to the army from Richmond, from which it appears that this subject of impressment has occupied the attention of the government for several years. As early as the month of June, 1862, an order was issued regulating this subject. Some months afterwards it appears by another order that great complaints had been made to the government in relation to it. The complaints compelled Congress, about the month of April, 1863, to pass an act upon the subject, a great part of which is still in force. That act provides that where officers impress property that is in the hands of its producer, two referees (with liberty to select an umpire) shall be chosen by the officer and the owner respectively, and they shall settle the price to be paid; where the property is not in the hands of the producer, but of a man who holds it for sale, the price to be paid by government shall be regulated by the schedule prices fixed by the Commissioners appointed for making the schedule. This difference between the producer and the other classes was maintained, however, for but a few days, as another act, passed before the 1st of May, 1863, provided that in all cases of impressment the impressing officer might endorse upon the award of the referees his disapproval, whereupon an appeal would lie to the Commissioners upon schedule prices. As these persons had already appraised property of the sort in dispute, it is clear that the practical operation of these laws in either case is to give the owner only schedule prices. For instance, in the case of a horse, the owner may always be sure that if he choose to make ever so much opposition it will result in his getting only the price of one or another of the classes under the schedule. A paper now in hand, being a warning to a gentleman in Orange that the government agent wished to buy a horse, makes this evident, for the proposal made by him is expressly to buy it at schedule prices, the penalty being an impressment. Of course such an officer would never approve an award by referees giving a greater price. He would appeal until he brought it where it was certain that none but schedule prices would be given. So well, indeed, is this understood, that, as I was informed, the referees at Hillsborough confined themselves to assigning the horses to one or another of the classes in the last schedule. And, as might well have been anticipated, in the whole assembly of irritated and outraged citizens, no one took an appeal.

In discussing this matter I am not to be cheated with words. I press through them into the substance of this transaction; and I gather the intention of government from the uniform action of its agents through a period of years, and after its attention has confessedly again and again been called to the subject. What was done in my own county in November, 1864, has been done (and often in a much more galling manner,) in other counties and other States, in the Spring and Fall of 1862—in the Spring and Fall of 1863, and in the Spring and Fall of 1864; and that which has been cited in regard to horses, has been done time and

again in regard to wheat, corn, cattle and many other articles of property. I am not then to be abused by having pointed to my attention that the act of Congress provides in terms for a "just compensation." I reply that the act, after using these smooth words, inaugurates a system of proceedings which never has given the citizens that compensation of which it speaks. It of purpose keeps the word of promise to the ear, and breaks it to the hope. Throughout the whole State, and so far as I am informed throughout the whole country, its operation has been uniform. It cannot be that such uniformity of action among many different persons who have no opportunity for consultation, has not been dictated by the common source of their appointment—I mean the government. Mr. Memminger and Mr. Trenholm, who have tried one wild experiment after another upon the currency, make use of these commissioners of schedule prices in the course of these experiments; and the instructions under which they act are to depress prices to a standard in accordance with some flighty notion these gentlemen entertain as to the value of Confederate Treasury notes. They are making their experiments at the expense of those persons whose property they impress. Upon what show of propriety is this done? If the currency have depreciated because it is too abundant, experiments to raise its value should be tried at the general expense of the whole country. The method by which those experiments are to be made is taxation. No constitutional principle can be more axiomatic than this. The constitution prohibits all such trifling with private rights under the head of impressments, by stipulating on behalf of the citizens for a "just compensation." What an outrage, then, upon that constitution, is it for the Confederate Government to suggest to its commissioners as part of their duty in fixing impressment prices, to consult other influences than the general market value of an article! What a mixture of absurdity and grievous oppression is it to make private persons whose property is taken by government, contribute far above their proportion towards establishing a state of things, the benefits of which belong to the public in general! Our indignation would rise all the higher did we fully appreciate the fancifulness and the eccentricity displayed in those experiments. The variety of their plans, and the solemn censure which one philosopher passes upon the unsuccessful experiments of his predecessor, carry the memory back to the age of the alchemists, and their marvellous endeavors to transmute the baser metals into gold. But it is not necessary in this argument to insist upon that—it is most plain that even if these experiments resulted in success, they should be made at the expense of the whole community.

I am not understood as denying to the government the right to seize private property whenever needed for its use. It has a perfect right to do so. The point upon which I have insisted is that it must pay just compensation therefor. It must pay for such property, all that a private person would have to pay for it. The government has only one advantage in such matter over the citizen who wishes to buy. It can compel a sale. But it cannot force upon the owner a less price than his neighbors would have given, had he been disposed to sell.

I insist that the Confederate States cannot practice taxation under the name of impressment. This they have been doing repeatedly; and thereby have broken their constitutional obligations not only upon the subject of a just compensation, but also upon that which appertains taxation. In the case which I have referred to in Orange county, if the government had levied a tax upon the owners of the property taken to the amount of \$224,000, they could have sold the property that was impressed, paid the tax and upon that retained in their pockets in cash the amount of money for which they have now a government promise to pay whenever the Secretary of the

Treasury shall think it a good financial expedient to issue the notes required for the purpose. Looking, then, through words to things, we have before us a most unconstitutional and flagrantly oppressive tax levied upon certain people in the county of Orange—an unconstitutional and flagrantly oppressive law! which has been levied time and again in regard to various articles of property upon citizens throughout most of the counties of the State.

It is not proper that the representatives of the people shall view these things in silence. After more than two years have passed since the inauguration of the system, surely it is not too soon for the Legislature of North Carolina to express its opinion of it in plain and vigorous language. This matter of the security of private property from the touch of government is a point of honor in the peculiar civil liberty which we inherit from our ancestors in England and upon this continent. Far back in English history, and from the very beginning of our own history, this has been considered a point of vital importance. We shall be recreant to our great public privileges, if we do not brand the assault which is now making upon this, their very point of honor, in that free language which it is our right and duty to employ. John Hampden resisted the whole power of the English government in the case of Ship Money, when the assessment was only a matter of twenty shillings, and at that less than his ratable share of the tax, supposing that it were legal. For that he has become immortal with us. In this State the government has as yet met with no lawful resistance of these demands. This acquiescence is not upon the score of patriotism, for the people are indignant at the oppression. I know in my own county of gentlemen of most approved patriotism, whose eyes flashed fire at the thought of what had been done. It is idle to talk of a free people loving a government which robs them of their property. The Confederate government has only to persist in this course towards Southern men, and it will surely lose every vestige of their affection. They would be unworthy of their lineage and of their education if it were otherwise. They must forget many of the martyrs of their former liberty; they must become cold to many of the most touching incidents in the history of their race, before they cease instinctively to turn upon any organization of power that trifles with their private property.

As to the character of the remedy possessed by the people in cases of unconstitutional impressments by government directly for itself, I observe some difference of opinion between two of the ablest lawyers this continent has produced. Chancellor Kent regards it as the right and the duty of the citizen to enjoin the government; Chief Justice Rufin regards such injunction impracticable, and says that the duty of Congress to give just compensation for property impressed is of that class of powers which the judiciary cannot enforce, but which must be "left" to the understanding and conscience of Congress. I submit to the House that whichever opinion shall be considered law, the Legislature is imperatively called upon for action, at least like that presented by the resolutions.

If it be that a person whose property has been impressed has this remedy of injunction, let us consider how significant a thing it is that in the midst of a spirited people, indignant at a notorious violation of their rights—a repeated violation in substantial respects—no one has been found to apply for this remedy! To what shall we attribute this inaction? I know of but one explanation; and that is, despair of successfully contending with the government, or the apprehension that if they succeed they may draw down upon themselves the malice of the myriad of officials that swarm in this land, and whose wrath would produce effects greatly overbalancing their gain by the litigation. For the rest, they remember that they have appealed to the Confederate government time and again without