

THE DAILY JOURNAL.

PULFON & PRICE, Proprietors.

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Terms of Subscription: Daily Paper, one year, in advance, \$10 00; six months, 5 00; three months, 3 00; one month, 1 00.

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THE SKYES MURDER CASE.

ARGUMENT OF ADAM EMPIE, ESQ., IN DEFENSE OF THE PRISONERS.

Mr. President, and Gentlemen of the Commission: The position of the Advocate is always one of difficulty and embarrassment, but it is peculiarly perplexing when...

And not in the recesses of the quiet closet, in search of deep philosophy and legal lore, and who, although judges, are not jurists, and can have but little knowledge of the practice of Courts, the rules of evidence upon which human life depends, and the manner in which the law is administered...

Now, what are the grounds upon which this jurisdiction is assumed and cognizance claimed of this case? If it rests upon any authority, it is to be found in the act of Congress, approved July 17, 1862, which created a military court for the trial of persons who belong to the land and naval forces of the United States...

bosom the seeds of liberty to untold millions. And now, I ask, does the jurisdiction taken by this commission in this case at bar violate this Constitution? The 5th amendment to the Constitution declares that no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury...

But to proceed, I shall now examine whether this jurisdiction can be maintained under the proclamation of the President of September 24th, 1862. That proclamation is in these words: "WHEREAS, it has become necessary to call into service not only volunteers, but also portions of the militia of the States by a draft, in order to suppress the insurrection existing in the United States; and disloyal persons are endeavoring to hinder the said militia from discharging their duty in various ways to the insurrection; Now, therefore, be it ordered, that during the existing insurrection, and as a necessary means for suppressing the same, all rebel and insurgent sympathizers and abettors, within the United States, and all persons who are aiding and abetting, resisting militia drafts, or guilty of any illegal practice, affording aid and comfort to rebels against the authority of the United States, shall be subject to martial law, and liable to trial and punishment by courts-martial, or by the sentence of a court-martial or military commission."

It is in this proclamation that the President declares that he is exercising the powers of Congress, and that he is acting in conformity with the laws and usages of war. He declares that he is exercising the powers of Congress, and that he is acting in conformity with the laws and usages of war. He declares that he is exercising the powers of Congress, and that he is acting in conformity with the laws and usages of war.

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Hon. James Speed, the Attorney General of the United States, in a case of the association of the President of the United States, Abraham Lincoln, in the proclamation and upon Congress of the military under which such a tribunal, in peace or war, can be established. It is most respectfully contended that there is not, and that any court, whether the same be created by Congress, or by the military authorities, has no jurisdiction over the people of the United States, and no power to create a court, or to exercise the powers of Congress, the Judiciary, and the President. Article 1st declares that all legislative powers herein granted shall be vested in Congress. Article 2d, "The executive power in this country shall be vested in the President."

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that this jurisdiction is not created by the proclamation of the President of September 24th, 1862. Let us enquire if there is any other power conferred by the Constitution upon Congress of the military under which such a tribunal, in peace or war, can be established. It is most respectfully contended that there is not, and that any court, whether the same be created by Congress, or by the military authorities, has no jurisdiction over the people of the United States, and no power to create a court, or to exercise the powers of Congress, the Judiciary, and the President.

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tuted. It is the soldier, not the civilian, that is amenable to the tribunals. The law of nations confers upon the military under the laws and usages of war regarding the civilian, is the right to make them prisoners, either to prevent them from taking up arms against them, or to effect some negotiation by which peace may be secured. Says Vattel, in the Law of Nations, pp. 120 and 21: "In a just war is carried on by regular and civilized people, the inhabitants of towns and villages do not concern themselves in it, and have nothing to fear from the enemy's arms. If the inhabitants submit to him who is master of the country, they live as safe as if they were friends; they even continue in possession of what belongs to them. But if these enemies thus subdued or disarmed, who, from the principles of humanity are to be spared, belonging to the opposite party may lawfully be secured and made prisoners, either that they may be put to death, or that they may be sold to the enemy, or that the enemy may be weakened or lashed by their being put into any power some person or child for whom the sovereign may have affection, the deliverance of these valuable pledges may induce him to equitable conditions of peace."

There the assassins introduced themselves into the heart and capital of the country, within the fortifications and encampment of the army; some of them were in disguise; others were in military uniform; they were in the ranks of the rebel government, and acted according to the rules of war; their object was assassination, and their victim the heart and soul—the life and head of the army. Mrs. Burratt was a conspirator—an aider and abettor of the assassin. Her crime was clearly committed by them for political purposes, and for the supposed effect it would have in ending the war or facilitating the independence of the so-called Confederate States. It was done with no personal motive against the President; it was done with no personal malice against the President; it was done with no personal malice against the man; and it was as the representative of the government that they sacrificed him. These facts clearly brought the case within the rule recognized by all writers upon International Law, and it is not lawful or in accordance with the laws and usages of war to punish the assassin not only because assassinations of this character was an offence against the law of nations, but because the parties guilty of it were spies and secret emissaries and in the service and pay of the rebel government, and as such were amenable to the laws and usages of war.

The party killed was a rebel Confederate. He was not a Union man and the other Confederates. He was not a Union man and the other Confederates. He was not a Union man and the other Confederates. He was not a Union man and the other Confederates.

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