

THE DAILY JOURNAL.

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WILMINGTON, N. C. WEDNESDAY, JUNE 19, 1867. GOVERNMENT IN THE SOUTH. RELATIONS OF THE CIVIL AND MILITARY AUTHORITIES.

both, and must obey both, in their respective jurisdictions. There is, then, an imperative necessity to define as clearly as possible the line which separates the two jurisdictions...

Now as to the civil authority, recognized by the provisional civil government, it covered every department of civil jurisdiction in each of these States. It had all the characteristics and powers of a State government, legislative, judicial, and executive...

There is no provision, either in the constitution, or in the laws, by which the military authority is to be transferred to the civil authority, or to the courts or tribunals for the trial of civil cases...

We see, first of all, that each of these States is "made subject to the military authority of the United States"—not to the military authority altogether, but with this express limitation, "as hereinafter prescribed."

What sort of protection is here meant? What violations of the rights of person or property are here intended to be given? These questions arise at once.

It appears that some of the military commanders have understood this grant of power as all-comprehensive, conferring on them the power to remove all officers and judges, officers of the State, and to appoint other officers in their places...

It is true as to the Governor, is equally true as to all other officers, Executive and Judicial. If they are removed from office, they are removed from the hands of those who hold their appointments from him and subject to his power of removal...

There can be no doubt as to the rule of construction according to which we must interpret the grant of power. The rule of construction to be applied to such a grant of power is thus stated in Duerres on Statutes page 652: "A statute creating a new jurisdiction ought to be construed strictly."

Guided by this rule, and in the light of other rules of construction familiar to all persons conversant with the law, we teach as that in giving construction to single clauses we must look to the context and to the whole law; that general clauses are to be controlled by particular clauses...

To consider, then, in the first place, the terms of the grant. It is a power to protect all persons in their rights of person and property. It is not a power to create new rights, but only to protect those which exist and are established by the laws under which these people live...

This construction is made more apparent when we look at the immediate context, and see in what mode and by what agency this protection is to be secured. This duty or power of protection is to be performed by the suppression of insurrection, disorder, and violence, and by the punishment, either by the agency of the State courts or by military commissioners...

States at its late terms, for leave to file a bill against the President of the United States to enjoin him against executing the very acts of Congress now under consideration...

In the same district the Judge of one of the criminal courts of the State has been annually dealt with. The act of Congress does give authority to the military commander, in cases of necessity, to transfer the jurisdiction of a criminal court to a military tribunal...

I see no relief for the condemned against the sentence if it is in accordance with the law. It is not the court whose sentence of death must be first approved by the commander and finally by the President, for that is allowed only in cases of insurrection, rebellion, or insurrection...

I find no authority anywhere in this act for the removal by the military commander of the proper officers of a State, either executive or judicial, or the appointment of persons to their places. Nothing short of express grant of power would justify the removal of the appointments of such an officer...

I repeat it, that nothing short of an absolute necessity can give any commander a military authority to call into exercise such a power. It is a power, the exercise of which may involve every other consideration of the commander's responsibilities...

Questions have arisen whether, under this power, the military commander can take cognizance of offences committed before the passage of the act, and whether they can try and punish for offences made crimes or offenses by Federal or State law...

But, as to the measure of punishment, I regret to be obliged to say that it is left altogether to the military commander, with only this limitation, that the punishment to be inflicted shall not be cruel or unusual. The military commission may try the accused in the measure of punishment, even to the penalty of death...

As to crimes or offenses against the laws of the United States, the military authority can take no cognizance of them, and the military commander of the regular administration of justice by the appropriate Federal courts...

THE BOARD OF REGISTRATION. The board, having the custody of the list of registered voters in the district for which it is constituted, must see that the name of the person offering to vote is found on the registration list...

EDUCATIONAL. MRS. RANSOM'S FEMALE SEMINARY. WILMINGTON, N. C. THE SECOND TERM OF THIS INSTITUTION opens on the 3d of February and closes on the 28th of June next.

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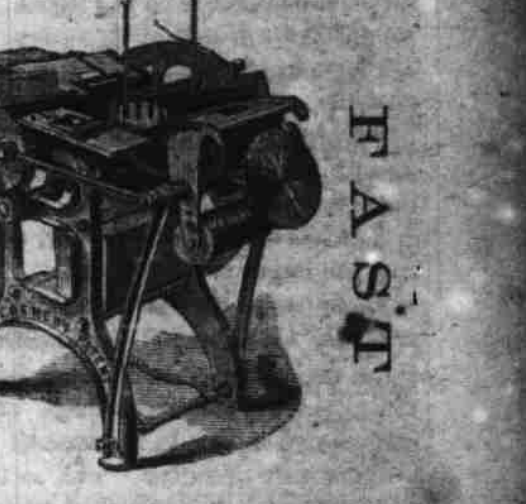
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