RALEIGH. N. C.

EDNESDAY MORNING, JULY 10, 1861.

DEAT'S OF GOVERNOR ELLIS. On Monday a telegraphic despatch com-

in August, 1860.

charge of a de achment of the Ellis Light a parade ground. Artillery, Capt. Manly, and detachments of During our brief sojourn in Petersburg, ble to forward the orders by land and they were

C. B. Root, W. R. Richardson, C. B. Harri-Eder night hideous." son, R. S. Tucker and Wm. M. Boylan.

The remainder of Governor ELLIS'-term of office-eighteen months-will be filled by the Hon. Henry T. Clarke, Speaker of the Senate, who, we presume, will promptly repair to the seat of government.

ANOTHER CAPTURE MADE BY THE

We are indebted to Capt. J. C. Lamb, of the Roanoke Guards, who, with his company, is stationed at Hatteras, for the gratifying information that the steamer Winslow, Lieut. Seawell commanding, (Commander Crossan being temporarily absent on a visit to his family,) captured off Hatterss on the 3d inst. the schooner Herbert Manton, of Barnstable, Mass., leaded with 175 hogsheads and 45 tierces of sugar, and 70 flogsheads of molasses. The value of this cargo is estimated at not less than \$30,000. This is the third capture made by the steamer Winslow in th course of the short time she has been sta-

consisted of 150 barrels of molasses, instead siment of Volunteers. of 150 hogsheads, as it should have been.

liatteras will call the attention of the enemy aland, with the rank of Major. posed condition. A large man-of-war would at Cape Hatteras. Should not more men and rifled cannon be promptly sent to that

TWONT DO.

The extreme Union and submission men, who have discontinued the Register because of its advocacy of the interests, rights and honor of the South, will find that their displeasure passes us by as the idle wind. We shall pursue our course, if it takes from us

LINCOLN'S POW-WOW.

ington. We have neither space, time, nor to remark that his call for 400,000 men and issued, though we do not suppose any Bank yet not quite an impassable one, for, under the \$400,000,000, will make him realize the fact would sell property at this time. that "calling spirits from the vasty deep" is one thing, and their "coming" is another, and quite a different thing.

This fine Regiment, which has been organ—which we publish in another column, that the all things, they most desire—feed them well and people—in the security it gives to life, liberty, it is fine Regiment, which has been organ—which we publish in another column, that the all things, they most desire—feed them well and people—in the security it gives to life, liberty, and in the paternal attachment which ized and thoroughly equipped under its gal—Stay Law passed at the late Special Session fown. It recognizes no fidelity to the Constitution country, and in the paternal attachment which lant commander, Col. Charles F. Fisher, ar—of the Legislature, has been pronounced by —no obligation to maintain the Union; and the citizens of the several States bear to one an—lant commander, Col. Charles F. Fisher, ar—of the Legislature, has been pronounced by while very many who have favored it are doubt—other as members of one political family, mutually while very many who have favored it are doubt—other as members of one political family, mutually in effect.

In the pine grove near the Insane Asylum.

SHORT TRIP TO THE "COCKADE

On Thursday morning we left Raleigh for Petersburg, hoping to meet there a friend were disappointed in the principal object of our visit to Petersburg, as our friend's com-

Our time, nevertheless, was most agreeamanicated to this city the melancholy intel-bly spent with such of our friends as had not sence of the death of Governor John W. left Petersburg for the wars. In this war ELLIS, on Sunday las', at the Red Sulphur Petersburg has most amply vindicated her Springs in Virginia. He had been in feeble claim to the appellation of "the Cockade the death of the heroic Richard Ashby, causcalth for some time past, his disease being of the country," bestowed on her by Mr. Led by wounds received in an engagement as ether asthma or consumption, or a combina- Madison for services rendered during the gloriously memorable for the victors as any tion of both. He left for the Springs about last war with Great Britain. Out of a vottwo weeks since, and as he bore the journey ting population of 1,800, she has sent 1,500 very well, his friends hoped that his valuable men to the war-all well equipped and thorfe would be spired for years to come to his toughly drilled, and has a reserve of three family, and his country. But alas! there companies one of cavalry, one of infantry, opes were destined to disappointment. Gov. Jeomposed of men of thirty and upwards, and ELLIS' death was no doubt hastened by a one of cadets, composed of youths between knowledge of the vast responsibility resting 15 and 21. The cavalry are commanded upon him in this momentous crisis in the af- by Captain Pannill, the Infantry by Captain fairs of his State and his country, and by Potts, and the Cadets by the Rev. Wm. H. the upremitting and arduous labors imposed Platt, who now rejoices in the title of " Capapon him in his position of Chief Magistrate tain Platt," and is said to be a most excelthe State, and Military Commander-in-Ment officer. These companies, although Chief. He leaves a widow and two children, Blooked upon as Home Guards, are roady to and a vast circle of devoted friends to lament take the field elsewhere in an emergency his lose. He died in the 41st year of his age Everything in and about Petersburg savors and in the second term of his gubernatorial of war. The mornings are spent in talking of war, and the afternoons in drilling-all Governor ELLIS was born in that portion the stores being closed at 5 P. M.

Rowan which has since been made David- There are in Petersburg three most excelon county, on the 23d of November, 1820. Blent places for camps of instruction-the Hes early education was conducted by Robt. Fair Grounds, the Cool Spring and Poplar Allison, Esq., at Beatties' Ford, in Lincoln Lawn. All these places abound in the finest county, was continued at Randolph Macon water, and the most ample shade. The Fair College, Va., and finished at the University Grounds we verily believe to be the best of this State, where he graduated in 1841. camping ground in the State. The spot is After this he studied law with Judge Pear-Sperfectly healthy, has springs on it of the son. He entered public life in 1844 as a finest water, and 5,000 men could be well member of the House of Commons from the accommodated at it. Why, then, is not there lief of Sumter without immediate victualling county of Rowan, and continued in the Leg-wa camp of instruction established at a point and the duty of the administration was reduced to islature until the session of 1848, when he having so many attractions, and whence troops It was believed, however, that the abandonmen was elected a Judge of the Superior Court of can be forwarded by Rail to any point of the of Sumter would be utterly ruinous, and that that Law and Equity, which distinguished posi-compass? When we passed the encampment aging the friends of the Union, and emboldening tion he continued to occupy until 1858, when on the hot embankment of the Railroad at Ga-kits enemies, besides siding the Confederates in he was elected to the office of Governor of grysburg, and saw the squads drilling in a hot it would have proven a national destruction this State, a post to which he was re-elected plowed field, we could not help thinking how Even if this course (a withdrawal) was unavoida-August, 1860.

The remains of Governor Ellis are expect- and well watered Fair Grounds at Peters-Blicy of the administration, and preparing the public reach Balanch Watered Fair Grounds at Peters-Blicy of the administration, and preparing the public reach Balanch Watered Fair Grounds at Peters-Blicy of the administration, and preparing the public reach Balanch Watered Fair Grounds at Peters-Blicy of the administration, and preparing the public reach Balanch Watered Fair Grounds at Peters-Blicy of the administration, and preparing the public reach Balanch Watered Fair Grounds at Peters-Blicy of the administration, and preparing the public reach Balanch Watered Fair Grounds at Peters-Blicy of the administration of the public reaches a preparing the public reaches a p ed to reach Raleigh Wednesday (to-day,) in burg, with the grassy plain just opposite for

the Sixth Regiment State Troops, Col. Fish-two were the guest of the Mesers. Jarratt, and received a week before Sumter's fall. The steamer, who left this city on Monday expecting of course had every comfort that heart could er Brooklyn, under President Buchanan's quasimeet the remains in Petersburg and escort wish. It is true that at night we were sub-A meeting of the citizens of Raleigh was had no power to prevent, to wit a comheld at the Court House on Tuesday at 12 bined canine and feline serenade. It seemed an expedition to victual Sumter, the plan to be clock, M., C. B. Root in the Chair and W. to us that every dog and cat in Petersburg K. Richardson and J. J. Iredell Sec retaries, shad congregated in the vicinity of Jarratts', Iplan, and Gov. Pickens was notified of the victuwhich appropriate resolutions were adopted and such barking, yelping, howling and catand touching and eloquent eulogies pronounc-Berwauling, we never heard before, and hope ed by Gov. Bragg, Gen. Brogden, Judge never to hear again. We advise the propri-Sounders, J. W. Thomas and others. The etors of the hotel to procure forthwith a following committee of arrangements for the rifled cannon, and open a battery upon these self-defence. The assailants knew that they were notified of the feeding of hungry men as the only suitable recention of the holy was appointed. suitable reception of the body was appointed : Indeturnal vocalists, whose horrid notes " ren-

TROOPS IN VIRGINIA.

Troops continue to pour into Virginia from the South and West, and there are no doubt ate dissolution of the Union. The Executive un-100,000 soldiers in the State and eager for derstood this. Having said in his inaugural that gagement between Johnson and Patterson is this declaration in good faith, under the circum bourly expected. The report that a battle these Confederates began the conflict. They have on Saturday evening informs us that Senator a Government can maintain the integrity of it Mason arrived in Richmond on that day, di-sterritory against domes.ic foes, or whether indi rectly from Johnson's camp, and reports organized law, can break up the best Government that no battle between Johnson and Patter-Son earth. for every moment. We may, therefore, hope weak to maintain its own existence. No choice sons in the art military, and taught him the difference between cannon balls and bomb shells, and molasses and sugar hogsheads.

MILITARY AFFAIRS.

Colonel Kirkland, recently commanding In our account of the re-captured brig, we the camp of instruction at this place, was made a mistake, in stating that her cargo stast week elected Colonel of the 11th Reg-

Captain H. K. Burgwyn, Jr., of the 4th In connection with the above we may not state troops, has been appointed to the comimproperly remark that these captures at mand of the camp of instruction, vice Kirk-

> Major Burgwyn, immediately on taking command, removed the camp from this city Crabtree Creek, where it is to be hoped the

having to be supplied with money by the the citizens' liberty practically relieved more of Banks, it is the duty of those indebted to these institutions to pay at least a portion of message in full, but we can make room for only their indebtedness to enable them to afford the following extracts. The first extract shuts these institutions to pay at least a portion of the necessary aid to the State. If those in-down on the "armed neutrality" position of Kendebted to the Banks cannot do more, they tucky in the following style: can at least pay the interest on their debts. In the Border States, so called-in fact, the We publish to-day a synopsis of the old Indeed, so absolutely necessary is it that Middle States—there are those who favora policy rail splitting secondrel's message to the debtors to the banks should afford them some parming of those States to prevent the Union for-Rump and beleaguered Congress at Wash-assistance at this time, that, should they fail ces passing one way or the to do so, we may expect suits to be brought inclination to comment upon it, further than by them, judgments obtained and executions

It will be seen from the decision of the SIXTH REGIMENT STATE TROOPS. Supreme Court, now in session in this city,

ENGLISH SHIP ASHORE ON LYNN

HAVEN BEACH. We understand that a few days since a large English ship was stranded on the shore who, with his company, was on his way from of Lynnhaven Bay. Her cargo consisted Warrenton in this State, to join Wise's Le-Rof a very large quantity of coffee, and as she gion, in Western Virginia. We, however, has been beached at a point very convenient to Norfolk, where coffee is very much needed, it is believed that the beaching operation was pany had gone directly through from War-Inot an exceedingly unpleasant one to the Captain. The ship lies only 16 miles from Norfolk, and the cargo could be very easily transported to that city in wagons.

DEATH OF RICHARD ASHBY. The last mail brings us the sad tidings of

LINCOLN'S MESSAGE. WASHINGTON, July 5th, 1861. President Lincoln says that at the beginning of present administration all the laws of the ederal government were found suspended in sev eral of the States, except the postal functions, and e national property except Forts Pickens, Tayr, Jefferson and Fort Sumter seized and put in an offensive position, and other Forts were built and armies organized avowedly hostile to the federal press in these States, which were menaced by a disproportionate amount of arms.

Munitions of war somehow found their way nto the rebellious States, and the accumulating national revenue within the rebel borders was The federal navy was scattered, and fedral army and navy officers had resigned in great

assed by these States, under the title of the Conederates, and they were now applying to foreign ming administration believed it an imperative duty to prevent the threatened dismemberment sice of means was indispensable. The polic hosen was indicated in the inaugural. Aft having exhausted all peaceful measures, before resort to coercion, the government, seeking only wrested, to enforce the collection of the revenue. relying on time, discussion and the ballot box for compatible with the existence of the government. On March 4th, a letter was received from Sum-

their efforts to obtain recognition abroad; in facreinforcement of Fort Pickens. It was impossiarmistice, was refused permission to land troops to reinforce Fort Pickens before the crisis could b

tempt would be made to throw in men, arms, or

The Fort was taken without waiting the ar object; that the Government only wished to maintain nominal possession of the Fort, thus preserving the Union from dissolution, trusting to time discussion and the ballot box for the final adjust-

you can have no conflict without being yourselve the fray with the Yankee vandals. An en-the aggressors, he (Lincoln) took pains to keep had been fought on the 4th inst., turns out forced upon the country the distinctive issue of to be untrue. A dispatch from Petersburg fate of the Union. It involves the question whether

It forces this question: Must the Governmen given the retired grocer some practical les-astruction. The response to the call surpassed the most asnguine expectations. Delaware, alone however, of the slave States, responding. A few slave State regiments have been raised by indi idual enterprise and accepted. The border slav States were not uniform in action. The cours taken by Virginia was the most remarkable and important. The Convention to consider this que tion, was in session when Sumter fell, and, with arge Union majority went over, carried th State out of the Union, made extensive military reparations, seized the Federal property, receive arge bodies of Confederate troops, entered int treaty with the Confederates, sent representative to the Confederate councils, and permitted insur

rectionary movements on the Capital. The Government had no choice left with gard to Virginia, and does so with less regret fro having been called to protect loyal citizens who

Government first called out 75,000 men, ar and made a call for three years troops on a larg measures ventured upon by Government under troops will be more healthy than when in the the pressure of public necessity, trusting to Conssional approval of the course adopted. Soo Waster it was considered a duty to authorize the commanding officers to suspend the habens corpus PAY A PART OF YOUR BANK DEBTS. when the public necessity required it. This we

the guilty than of the innocent Monday night's mail-brought us old Lincoln

This would be disunion completed. Figura tively speaking, it would be the building of an THE STAY LAW DECIDED TO BE UN-them to the insurrectionists, which it could not constitutional.

Let the constitutional. all the trouble off the hands of secession, except only what proceeds from the external blockade. It would do for the Disunionists that which, of

It would seem from the following that the old Ape expects to go into the war on a prodigious

The reports of the Secretaries of the Treasury War and Navy will give the information in de ail deemed necessary and convenient for your deliberation and action, while the Executive and all the Departments will stand ready to supply issions, or to communicate new facts considered m ortant for you to know.

It is now recommended that you give the legal eans for making this contest a short and a de irive one; that you place at the control of the overnment for the work at least 400,000 mes and \$400,000,000. That number of men is about ne-tenth of those of proper ages within the re ons where apparently all are willing to engage : nd the sum is less than the twenty-third part of he money value owned by the men who seen ready to devote the whole.

A debt of six hundred millions of dollars now is less sum per head than was the debt of our Revolution when we came out of that struggle; and greater proportion to what it was then than doe he population. Surely each man has as strong a notive now to preserve our liberties as each had hen to establish them.

In the following the old fool professes to believe that there are still a goodly number he-says a majerity, but in this he knows he is lying-of mer in the Southern States who are yet in favor of go-

It may well be questioned whether there is to lay a majority of the legally qualified voters of any State, except perhaps, South Carolina, in fa-vor of disunion. There is much reason to believe at the Union men are in the majority in many not in every other one of the seceded States The contrary has not been domonstrated in any one of them. It is ventured to affirm this of ever Virginia and Tennessee; for the result of an election held in military camps, where the bayonets are al n one side of the question voted upon, can scarce w be considered as demonstrating popular sentient. At such an election all that large class who are at once for the Union and against coerciwould be coerced to vote against the Union.

THE FEDERAL CONGRESS.

Washington, July 4 .- The Senate met t Messrs. Powell and Breckinridge, from Ker tucky; Polk, of Misscuri; Johnson, of Tenn. and Kennedy and Pearce, of Md., were in their

The credentials of Messrs. Lane and Pomeroy and of Dr. Ewing, for the long term, from Kan sas; Browning from Illinois; and McDougal, from California, were presented.

Copies of the Navy estimate were demand

confirm the acts of President Lincoln. Notice was given of the future introduction bills to employ volunteers-to enforce the laws -to increase the military establishment-for the tter organization of the military-to promohe efficiency and organization of the voluntee orces of the United States, and to call the mili ary force of the United States "the Nationa

Mr. Dickens resigned the Secretaryship of the nate. Adjourned. In the House one hundred and fifteen mem bers answered to the call of their names. Mr. Colfax withdrew his name as a candidate

for Speaker. Mr. Grow's name was placed in nomination There was no choice on the first ballot, and Mr. Blair's name was withdrawn. The second ballot resulted thus :- Grow. 98

Blair, 11, and Crittenden, 12.

WHEELING, July 3 .- The Legislature of Vir rinia organized here yesterday. Lieut. Gov. rost, of Jackson county, was elected Speaker f the House. Gov. Pierpont's message was ent to both houses last night, together with a ocument from Washington officially recognizand the causes leading to the formation of the esent State Government, and recommends an

onging to the State, was seized and brought ere last night, by order of the Governor, from the Exchange Bank, at Weston. It is supposed that ex-Governor Wise, with his Secession force, was heading for Weston to get this money.

NORTH CAROLINA ITEMS.

We take the subjoined from the Charlotte Dem-

RUFUS BARRINGER, Esq -This gentleman Captain of a fine cavalry company, organiz d in barrus. They will rendezvous at Asheville. FLAG FOR THE 1ST REGIMENT .- We learn that he ladies of Fayetteville are preparing a hand-

ome Flag to be presented to the 1st Regt. N. C. SENSIBLE AND LIBERAL.-Five gentlemen Favetteville have contributed \$800 to buy 25 bags

of Coffee for the members of the two Fayetteville APPOINTMENTS .- Major. J. G. Martin, late of the U.S. Army, has been appointed Adjutant General of the North Carolina State troops. Ed

Graham Haywood has been appointed Lieut. Col.

of the 7th Regt. State troops, and W. R. Cox, of Raleigh, Major of the 2d Regiment. ave the most favorable accounts of the Wheat rop. We have not heard a single complaint from any quarter-all appear to be well satisfied this And the weather has been remarkably ivorable for harvesting. During the latter part I last week, we had seasonable rains, which will

reatly push forward corn and all kinds of vege-We should all be very grateful for t neering prospect before us. STATESVILLE RAILBOAD .- This road (or pro perly speaking, the A., Tenn., & O. R. R.) is comted to within 21 miles of Davidson College,-

MECKLINBURG SOLDIERS .- Some 60 or 70 men left this place last week for the purpose of joining the Hornet's Nest Rifles and Charlotte Grays at

Mecklinburg county now has four companie in the field, viz: Capt. Williams', Capt, Ross', Capt. Irwin's and Capt. Miller's cavalry company. Three more, we learn, will soon be ready-Capt Davidson's infantry company, Capt. Brem's artil ery, and the Sharon Riflemen-making seven

enpanies in all. That will do pretty well for

Wilmington, and Rev. P. A. McMartin of llsboro, have abandoned their respective fields of labor and returned to the North. They wer both popular and useful ministers, and it is ource of regret to their many friends in this Stat hat their sympathies were not with the South n the conflict which is now progressing. Whatever may be the issue of the war, it is by no means probable that either will return to his later pastoral charge. Mr. Grier was from Pennsylvania; Mr. McMartin from New Jersey.—N. C.

GEN. JACKSON'S MOTTO.-Those Yankess who are continually repeating the motto of Hickory, "the Union must and shall be preserved," should not forget the words he used on the same occasion

They are follows: "But the Constitution cannot be maintained nor the Union preserved in opposition to public feeling, by the mere exertion of the coercive powers confined to the General Government. The foundations must be laid in the affections of the people—in the security it gives to life, liberty, character and property in every quarter of the country, and in the paternal attachment which

SUPREME COURT OF NORTH CAROLINA.

DECISION ON THE STAY LAW.

JOHN BARNES vs. JOHN T. BARNES, et al. The provision of the Act of Assembly, passed or Ith day of May, 1861, commonly called the "Stay Law," forbidding jury trials, and trials before Justices f the Peace, and the issuing of executions, and sales inder executions and deeds of trust, held to be uncon

This was an action of Debt, tried before Heath, J. t the last Spring Term of Wilson Superior Court. During the pendendy of this case in the Superior Court, the defendants pleaded, since the last continunce, the following act of Assembly:

IN ACT TO PROVIDE AGAINST THE SACRIFICE OF PROP

SECTION 1. Be it enacted by the General Assembly of the State of North Carolina and it is hereby acted by the authority of the same, That no execution of fieri facias or venditioni exponas founded upon a judgment in any suit or action for debts and due on bonds, promissory notes, bills of exnange, covenants for the payment of money, judgents, accounts, and all other contracts for money dehose upon official bonds or in favor of the State, or rainst non-residents, shall be issued from the passag of this act, by any court of record or magistrate, for sale of property, until otherwise provided by law ; or shall there be any sales under deeds of trust of ecrees, unless by the consent of parties interested

intil otherwise provided by law. SEC. 2. Where such executions have issued and are re now in the hands of officers, whether levied or not. he officer having such executions shall return the sam o the magistrate or court from whence they issued without further execution thereof, and executions upon the same judgments shall not issue again until th peration of this act ceases: Provided, That this act a'l not be construed to discharge the lien which has eady been acquired by the taking out such execu-

SEC. 3. There shall be no trials of any cases requirng the intervention of a jury, nor upon warrants be ills of exchange, covenants for the payment of money, adgments, accounts, and all other contra-ts for money mands, or contracts for specific articles.

SEC. 4. This act shall not apply to liabilities upon he part of public officers, either to the State, counties rporation, or individuals; nor to state, county or rporation taxes; nor to debts hereafter contracted or to debts due the State, nor to debts due from not idents, nor to the annual collection of interest rowided, That no note, bill of acceptance, or other ligation, the consideration of which is any debt of ligation at present existing, shall be held or consid

red as a debt hereafter contracted. SEC. 5. The interest which has accrued since th first day of Jaquary, A. D. 1861, or which may hereafter accrue upon any bond or promissory note which was payable before the passage of this act, may be colsted by action of debt or assumsit, before any justic of the peace, if the amount of interest sued for I vithin his jurisdiction, and if not, then in the county or sperior courts; Provided, however, That no warrant r suit shall be brought except for the interest of or rear or more (always making an even Lumber) b ipon such bonl or promissory note began to accrue. SEC. 6. That any person who is about to remove his property out of the State without the consent of his creditors, shall not be entitled to the benefit of the

SEC 7. That all mortgages and deeds in trust for registered or not, and all judgments confessed during he continuance of this act, shall be utterly void and of

SEC. 8. The time during which this law is in for shall not be computed in any case where the statute mitations comes in question Sec. 9. That this act shall be in force from and af-

Read three times and ratified in General Assembly, this 11th day of May, A. D., 1861. And on the cause being called for trial, defendant

ounsel urged the provisions of the said act, as a reason motions for the issuing of executions on judgments in this Court, which are all considered in the opinion of

B. F. Moore, for the plaintiff.

STRONS, for the defendants. PEARSON, C. J.: The plea, since the last conuance, by which the defendants claim the ben efit of what is commonly called the "Stav Law." resents for our decision the question of the con itutionality of an act of the last session of the eneral Assembly-entitled "An Act to provide gainst the sacrifice of property and to suspend occedings in certain cases." The same quesion was raised in every case decided at this rm, where the judgment in the court below is ffirmed, by motions for judgment, and that ex-

cution shall be issued. Whether, in the present condition of ountry, the statute be expedient, is a question f which we have no right to judge. Our province is to give judgment on the question of the constitutional power of the Legislature to pass

In the discharge of this duty, we are relieved. by the fact, that a question of such importance is not now presented for the first time, so as to put pon us the responsibility of making a decisio the strength of our own convictions; for we find that the line has been plainly marked, in fact "blazed out," by many previous adjudi-cations, so that it can be easily followed, and all we have to do, is to make our applications o

well established principles. The right and the duty of this court to give udgment on the constitutional power of the Legislature in making statutes, is established b o many elaborated opinions of this court, and of the Supreme Court of the United States, and f our sister States, as to make a further discusion or citation of authorities a useless attempt at a display of learning; so we assume that ques-

ion to be settled. Our opinion is, that the statute under consid ration, so far as it opposes the right of the plaintiff to a judgment in the court below, or the motions for a judgment in this court and for execution, is void and of no effect, because it is in violation of the Constitution of the United for the purpose, we suppose, of taking a ride on a sand, also, of the Constitution of this State.

Railroad. We understand that hereafter fare 1st. It is patent, by the face of the will be charged. States, and of the Constitution of the Confed

This is settled. Jones vs. Crittenden, 1 Car. Law Rept., 385. In that case the argument is ex hausted, and we only add, "we concur in it." It is suggested that this case is distinguishs le on the ground, that when the statute i uestion was passed, the country was in state of established revolution, or in state of "contemplated revolution," in reference to which the Legislature acted, which revolution as been carried out and consummated by a sub equent ordinance of the Convention, by fore of which all acts done in reference to, and in

anticipation of the revolution, are ratified and

This proposition, however much weight i may be entitled to in a political forum, cannot reason of its generality, be appreciated by egal tribunal, and a mind accustomed to the nvestigation of questions of law, "grasps at it as at a shadow." But to avoid a complication which it was more convenient to put their decisted the year.

of our question, we pass over the legal difficulty ion; that it was to refer to fundamental principles in 10—waswit ion; that which is void cannot be embraced in the Constitution of the several States, was withough not expressed in words so direct and possible of May, when the ordinance of the Constitution of the several states, was withdrawn from the government of the United States, went into affect the statute under consideration was into affect the statute under consideration was the independence of the supreme indicial depart. 20th of May, when the ordinance of the Coninto effect, the statute under consideration w in full force and effect, so far as restrictions by the Constitution of the United States were con cerned, in the same manner and to the same extent as if the State of North Carolina had never been a member of, or in any way con nected with the Government of the United States, so as to bring up the naked question what was the legal effect of the ordinance adopt ng the Constitution of the provisional gover nent of the Confederate States, made on th same day, but some few hours after, the ordinance above referred to. The ordinance afterwards passed by which the permanent Constitution was adopted. Here was a period, say seven hours, during all of which time the State of North Carolina, in reference to her connection either with the United States or with the Con-federate States, was absolutely sovereign, and

or the sake of the argument, was in full force demonstration, that the effect of the ordinance adopting the Constitution of the Confederate States, which in express words provides, "No State shall pass any law impairing the obligaion of contracts," was to abrogate or make void and of no effect, this short-lived statute, on the round that it was inconsistent with and in vioation of the Constitution then adopted.

The position that the words of the Constituon are, "No State shall pass any law," using he words in the future tense, therefore any law, which had already passed, although it impaired he obligation of contracts, was to be allowed continue in operation, is a play upon words and is not worthy of the gravity of the subject. The evil which the Constitution intended to

ruard against at present, was not the act of passig such a law, but the effect incident to the opertions of such a law; and in respect to this hether it was passed before or after the adopon of the Constitution, was immaterial. In llustration, suppose during its unfettered existnce of seven hours, the State had passed a law. naking tobacco a legal tender in the payment of debts. After the adoption of the Constitu on of the Confederate States, would tobacco have still continued to be a legal tender? most ssuredly not, for the time of the passage of the aw was immaterial. If all laws either opposed o the express provisions of the Constitution hen adopted were to continue in operation be-ause they had been passed beforehand—all of he acts of the General Assembly should have peen subjected to rigorous scrutiny before the tate was admitted into the Confederacy. It is a well illustrated principle of constitu-

onal law, that upon the adoption of a new Contitution, or an amendment of the Constitution, any and all laws previously existing, are inse-facto, annulled and become void, so far as they are opposed to and conflict with the new of nended Constitution-on the same reason that statute repeals all statutes previously enacted reconsistent with its provisions, and a will reokes all former wills or an order from head uarters countermands one previously given, so as it conflicts with its meaning and intention nd obvious policy.

2. But, apart from the Constitution of the federate States, we are of opinion that the tatute is in plain violation of the Constitution of the State, on two grounds:

1st. "The declaration of rights," fixes the principle of free government, by affirming in ection 12, "no free man ought to be deprived of his life, liberty, or property, but by the law f the land. It is settled that, by force of this section, the

Legislature has not the power to deprive A of his horse and give it to B, or deprive E of his ffice and give it to C, or D of his debt and give it to F-in other words, the Legislature cannot leprive a citizen of his vested rights of proper-See Hoke vs. Henderson, 4 Dev. 1 and the es there cited. So the question is, can the egislature deprive a citizen of his debt, which a vested right and a part of his estate or proprty in the broad sense in which the word i in the section above cited, including all ights of person and rights of property, either conferring the right on a third person, or by leasing it to the debtor, or by taking from the or his debt according to the course of the courts. therwise provided by law," which is held out by the wording of the statute, does not at all ary the question of power, because the power absolutely, and so far as the creditor is concerned, it makes no difference whether the debt be given to a third person or be released to the ebtor: the violation of the rights of the creditor s the same, and the power that can do the one

2d. The statute is unconstitutional, because iolates the 4th section of the "declaration of ights." The Legislature, Executive and suprem udicial powers of Government ought to be for ver separate and distinct from each other. Suppose the Legislature should pass a statute

that the Governor, in the recess of the General Assembly, shall not embody the militia of the county of Rowan, or shall not embody the miliit of the State, or shall not do any act of his ception of subscriptions, of such portions of their
office, would "the Liegislative and Executive crops, as the patriotic citizens of North Carolina may
nowers of the Government be kept separate and be able to invest in the bonds of the Confederate nowers of the Government be kept separate and distinct from each other ?" Or suppose the Legslature should pass a statute, that the Supreme Court shall not give judgment and issue execuion in the case of Barnes vs. Barnes, or shall not give judgment and issue execution in any actions for debts due on bonds, promissory notes &c., when in the trial of the case, in the court below, the instructions of a jury was required, or shall not give judgment and issue execution in any suit or action, founded either on contract or tort, brought before it by appeal from the Superior Court, would the Legislature and supreme judicial powers of Government be kept separate assertion and exercise of this power on the part of the Legislature destroy the independence of the executive and supreme judicial powers of the Government, and subvert the Government established by the Constitution, by centering all powers in the logislative department, and making a despotism, instead of a free government, where the powers are divided, and given to separate departments, each acting in its ap-

ropriate sphere, as a check on the other? Such, it seems to us, would be the result o he concession of the power assumed by the Legislature in the passage of the statute under cor

This result is not avoided by the fact that th restraint on the Courts, is confined by the sta-tute to action for debts and matters of contract, and that it is not absolute, but merely "until otherwise provided by law"-for it is a question If the Legislature has the power to of power. ose this restraint on the Courts until otherwise provided by law, it has the power to do s vithout the provision to remove the restraint when we have better times, and it shall be easier or men to pay their debis; and if it has the ower to impose this restraint on the Courts in espect to matters of contract, it has the power extend it to matters of tort, and then a man who is stronger than I may take away my negro r my horse, or drive me out of my house, and the laws of my country will give me no redress, because the temple of justice is closed. A power to suspend or to abelish the administration of ustice cannot exist in a free government. Without law and tribunals to administer it,

here can be no government; it is anarchy, which is worse than despotism; and yet the power involved in the passage of the statute ne-cessarily and by logical deduction, leads to that

Upon the whole we are satisfied that without reference to the Constitution of the United States, or to that of the Confederate States, our State Constitution gives ample protection to its citizen against all encreachments on t e part of the laglature upon the rights of property, and the reason why such prominence has been given to that clause of the Constitution of the United States, which prohibits laws impairing the obligation of on expressed in direct and positive terms, upo which it was more convenient to put their decisthe independence of "the supreme judicial depart-ment." Let theseveral motions for judgment and executions be allowed. PER CURIAN Judgment

If there be such a power in the Legislature, w re with all our boasted free institutions, infinitely chind the monarchy of England in respect to the otection of our rights of person and rights of operty. Blacks'ore, the learned commentator or constitution and laws of England, in vol. 1st age 102 says, "a third subordinate right of every Englishman is that of applying to the Courts of justice for the redress of injuries. Since the law n England is the supreme arbitor of every man's life, liberty and property, courts of justice must at a. I times be open to the subject, and the law beduly administered therein. The emphatic words of Magna Charta, are these, 'nulli negatimus and differents rectum vel justitium, and therefore every

the statute in question, by the admission made subject for injury done to him, in terris, in bonis, vel persona, by any other subject, be ha ecclesiastind effect. Is it not clear to the certainty of a cal or temporal, without any exception, may take h's remedy by course of the law, and have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily

SKIRMISH NEAR NEWPORT NEWS.

Askirmish took place on the 4th between a couting party on our side commanded by Lieut, Col. Dreux, of the Louisana Cadets, and a superior rce of Lincoln's mercenaries, in which, we reret to state, Col. Dreux lost his life. A corresondent of the Richmond Dispatch furnishes that cellent paper with the subjoined statement : Colonel Dreux, of Louisiana, left his entrench-

ents at Young's Mill on yesterday afternoon with a company of Cadets, one hundred strong, accompanied by a detachment of the Nottoway cavalry and a small one of howitzers, with only one piece. He advanced to Jones' house, on James iver road, and took position for the night to form an ambuscade. At sunrise this morning his advanced guards reported the enemy advancing in mall detachments. He took position awaiting heir advance, when a fire from en ambuscade of the enemy was opened on his front and re-r, at pierced by the balls of the mercenary foe. His nen, not aware of the disaster, awaited his orders for a charge, when at this moment the horses attached to the howitzer became frightened, and eaking away from their position, disconcerted he infantry and caused the cavalry to fall back, the ground being uneven and exceedingly disadtageous to the movements of the horses. As soon as the death of Colonel Dreux was ascertained, Captain Collins immediately assumed the comnand, and recovered the body. The only serious sults of the affair were the death of Colonel Dreux and the wounding of one of our men accientally by one of his fellow-soldiers. Captain Colins, with the men under his command, fell back, good order. It was impossible, from the thickwooded region in which the enemy were ambuscaded, to tell how many of them were killed and

General Magruder is prepared for any attack hat may be made. The infstuated mercenaries of Lincoln are coming on to their doom. Judicial blindness has fallen upon the souls (gizzards?) of their leaders, and God grant that discomfiture and rout and ruin to their cause may soon be a patent reality to the world's vision.

MATCH FACTORY .- The Charleston Courier

"A subscriber informs us that a match factory will soon be started in or near this city, by German citizen who is fully acquainted with the

rocesses required. "Several others are also contemplating this enterprise, and, to insure success and establish it on a large scale, we propose concert and co-operation, which may be effected if those interested desire, by communicating their names to a confidential address at this office or elsewhere.'

WHEREAS, certain rumors have recently ob in their nature, if not timely counteracted, seriously to impair the character and standing of our fellow citizen, WILLIAM G. BANKS, as a editor the right to have judgment and execution Southern man, in public estimation abroad, be it

Manifestly, if a creditor is deprived of his right. Resolved, That we sincerely sympathize with to have judgment and execution for his debt, he him, under the circumstances; and that as an act is thereby deprived of his right to the debt, of justice to him, we take pleasure in announcing which consists in his right to enforce payment, to the public generally, that after a satisfactory and the ground of hope that this deprivation is investigation of the facts in the case by us, (not, us, but upon his voluntary personal appearance, before us, that we are fully satisfied that he is as true to the South, and to the cause of the South to deprive one of his debt for an indefinite time in the present crisis as any man in the State of the same as the power to deprive him of it North Carolina, or within the bounds of the South ern Confederacy.

> spread upon the minutes of this committee, and that the Editors of the Biblical Recorder, Spirit of the Age, Raleigh Register, and of the Raleigh papers generally, be earnestly requested to publish be same in their respective papers.

By order of the Vigilance Committee, at a reglar meeting held in Clayton, Johnston county, on Wednesday, July the 3rd, 1861. J. F. ELLINGTON, Ch'm'n.

FOR THE DEFENCE OF THE CON-

These bonds have twenty years to run, and bear eight per cent interest, payable semi-annually.

Among the advantages to the country from this arrangement may be stated the following:

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either North or South., 2nd. It obviates any necessity that may arise for a 3rd. It will prove to Europe and the world, not only

The undersigned earnestly requests those to whom exertion to get them filled as soon as possible and re-turned to him at Raleigh, N. C., where he will be glad receive other subscriptions and to give further in-Raleigh, North Carolina.

duty of patriotism by copying the above, or its sub-The New Methodist Church, at Rolesville, will a dedicated on Sunday, the 14th inst. The Sermon

will be presched by Rev. J. W. TUCKER, of this WE ARE AUTHORIZED TO ANor the office of Clerk of the County Court of Wake ounty at the ensuing August election.

We are authorized to announce J. J. FERRELL, as a Candidate for the office of County Court Clerk. Election the first Thursday in August.

WE ARE REQUESTED TO AN-nounce WILLIAM H. MOORE, as a candi-date for the office of Superior Court Clerk, for Wake

nounce J. H. PCOL, as a candidate for the

nounce T. JEFF. UTLEY, as a Candidate for june 29-tf

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