NOTICE.

The subscriber will offer at publicate on the premises, on Saturdy to 28th day of August next, at II

About 120 acres of Land more or less. This land adjoins the farms of William Steuart, and Richard Harwood, of Thomas, Esquires. There is on the premises an excellent ban and a variety of fruit of different kind and twenty acres of good meadow an be easily made. Those inclined to pus chase are invited to view the premise He also, being authorised, will offer on the same day, sixty acres of land non or less, immediately adjoining, the min-cipal part of which may be styled fat rate meadow; there is also on the premises an excellent apple orchard is fine order, and producing fruit of the most choice kind; taking the wholets. gether, a very handsome settlement may be made. There is a sufficienced wood and timber on the premises necessary to the support of the place. Terms made known on the day of

sale, which will be accommodating; an indeputable title will be given.
R. WELCH, of Ben.

This is to give notice,

That the subscribers hath taken out letters testamentary on the personales state of EDWARD HALL, late of Anne Arundel county, deceased. All persons having claims against said estate aren quested to bring them in legally authorticated, and those in any manner in debted to the estate to make immediate

Mary Hall, Henry A. Hall, Executors.

General Orders,

Annapolis, June 28, 1813. THE Officers commanding detachments of the militia, who have been en dered on duty, will proceed to make out Muster Rolls according to law, and re turn them to the accountants of militia that pay rolls may be prepared, and in rangements made for the payment of them as early as possible. The Commissaries, and others who have furnish ed provisions or supplies for the Militia; will prepare their accounts, accompanied with the necessary vouchers, and lodge them with the accountants for adjustment. The officers of companie will immediately divide their companies in ten divisions, agreeably to the hwd the last session, and notify the first me second class to hold themselves in radiness to move at the shortest notice

By order of the Commander in Chief,

J. HUGHES, Having succeeded Gideon While n Agent in Annapolis for the sale of

MICHAEL LEE'S . Family Medicines

So justly celebrated, in all parts of the United States, for twelve years pass has on hand and intends keeping a con-

stant supply of Lee's Anti-Billious Pills, for the prents tion and cure of Billious Ferers, &t Lee's Elixir, for violent colds, cought

&c. Lec's Infallible Agua and Perer Drop Lee's Worm Destroying Lozenge.
Lee's Worm Destroying Lozenge.
Lee's Itch Ointmont, warranted tom
by one application (without Mercury).
Lee's Grand Restorative for nerve

disorders, inward weakness, &c.
Lee's Indian Vegetable Specific, fa Lee's Persian Lotion forctetters and

Lee's Essence and Extract of Mustary for the Rheumatism, &c. Lee's Eye-Water.

Lee's Tooth-Ache Drops. Lee's Corn Plaister.

head-aches. Lee's Tooth Powder. To detect counterfeits, observe each article has on the outside wasper the signature of Michael Lep & C. At the places of sale, may be had gratis, pamphlets containing the of cures, whose length prevents then being herewith inserted.

MARYLAND GAZETTE,

AND POLITICAL INTELLIGENCER.

IVOL. LXXI.

ANNAPOLIS, THURSDAY, SEPTEMBER 2, 1813. --

PRINTED AND PUBLISHED

JONAS GREEN, CHURCH-STREET, ANNAPOLIS.

Price-Three Dollars per Annum. FROM THE PEDERAL GAZETTE.

HIGHLY IMPORTANT DECISION Daniel Wells, by Geo. Mackenzie

and John Pocock, by Alexander | Briscoe.

Corpus. John Kennedy.

The petitioners were infants uner the age of 21, but above the age of 18 years, and were apprentices. Having on the 10th day of August, 1813, been arrested by a file of arm-d men acting under the orders of he said John Kennedy, and forcibly arried to camp in the vicinity of his city, and there detained by him: writ of Habeas Corpus, was on aplication of the masters of the aprentices, issued to the said Kenney by his Honour Judge Bland, comhanding him to produce the bodies f the petitioners, with the cause of heir caption and detention, on Wedesday the 11th Aug. at 10 o'clock, M. at the Court House of Baltipore County. In obedience to the rit the defendant (Kennedy) apeared at that time and place with he petitioners in his custody.

In consequence of the want of ertain papers, which necessarily ormed a part of the return to the rit, and on account of the very reat importance of the case, which real importance of the case, which equired that the return should be omplete, the case stood adjourned nil the 12th August, at 10 o'clock, and the petitioners were remanded nil that hour to the custody of the condant (Kennedy.) On Thursby the 12th of August, the petitiners were brought up by the defendnt, who made the following return the writ, which return was sworn in the usual manner.

RETURN. The return of John Kennedy, Capin Commanding a Company in the 7th Regiment of Maryland Militia, the writs of Habeas Carpus to him rected by the Hon. Theodorick and, Associate Judge of the sixth dicial District, commanding him have the bodies of Daniel Wells d John Pocock, before him at ten clock on this day, at the Court ouse, with the day and cause of

eir caption and detention. The said John Kennedy in return said writ saith that the said Wells d Pocock reside in his district, and of legal age to do militia duty. at in virtue of Division Orders m Maj. Gen. Samuel Smith, dated h August, 1813, which are hereed (marked A.) and prayed e taken as part of this return, d of Brigade Orders in pursuance reof of 7th August, which are reto annexed (marked B.) the said n Kennedy was ordered by Lt. Kennedy Long, commanding cer of the 27th Regiment, which ers are hereto annexed (marked to call out his said Kennedy's itia men on a tour of duty for a ek in order to repel a threatened asion of the state, to commence Monday the 9th August. That compliance with the said Orders, the said John Kennedy, did duly fy the said Wells and Pocock, iable as militia men to do the tour of duty, as members of his tia company, and to attend at pany, in order to perform said of duty. That the said Wells Pocock did not attend accordto said notice, whereupon the John Kennedy in virtue of orfrom the commanding officer of 27th Regiment on the 10th day August, sent a guard, and did on laid day take the said Pocock and into custody, in order to comperformance on their part of ald tour of duty-which is the and cause of the said caption and

ention. I the above return, the case was nitted after a few observations by the counsel on behalf of the is mome little discussion also place on the question whether gislature could ever have inthat the rights of masters tor, Mr. Robinson.

should be infringed by compelling or permitting their apprentices to perform militia duty.

His Honour Judge Bland observed, that the militia laws did not exempt persons above the age of 18 years, even though they were apprentices, from militia duty-That true it was the master had a right to the services of his apprentice, which right he derived from the laws of the state; but that there was a period at which the state had also a right to his services, and that right was paramount to that of the mas-

He observed that upon a minute investigation and a careful comparison of all the militia laws, the case was a plain one—it appeared to him to lie in the narrowest limits,

In the act, said his Honour, May, 1813, chap. 11, sec. 1, there is a provision for calling out the miliia by drafts in the manner thereby prescribed, and by the eighth section of the same law a penalty is prescribed for the non-attendance of these drafts. By the 3d sec. of the same law, there is a provision for calling out the militia en masse, or any part thereof, in the cas is of emergency therein mentioned. Thus it is evident that there are two distinct modes of calling out the militia. By the act of Nov. session, 1811 chap. 182, sec. 31, the militia when ordered out either en masse or in part, by draft, or in any manner that may be directed by the proper military officer in the cases of invasion, or of threatened invasion, are to all intents and purposes subject to the rules and regulations of the Articles

The Judge turther observed that it was not for him in his judicial capacity, or for a Court of Justice, to say when such an emergency existed as would require the exercise of the powers vested by the 3d sec. of the act of 1813. The law had vested the military officer with a discretionary power, and subjected him to the controll of the commander in chief. It was simply his duty as a judge to see whether the case before him was fairly within the provisions of that section.

The Judge in conclusion observed that at a crisis such as that contemplated by the law, when the State was actually invaded or threatened with invasion, it could not have been the intention of the Legislature, that an officer was to be delayed until a substitute could be furnished, when, perhaps, the services of every man in the District might be instantly wanted to repel an Invasion. At such a crisis, could any reasonable man suppose, that the Legislature intended that judges and Courts of Justice should be employed in uselessly issuing Writs of Habeas Corpus when the enemy might be at our doors?

The Case before me (said the Judge) is brought by the return not only within the spirit but almost within the letter of the law .-The petitioners are properly in the custody of Capt. Kennedy -he had a right to take them by force. Therefore, let them be remanded to his custody.

[A.]--(COPY.)

GENERAL ORDERS-3d division. 6th Aug. 1813.

The appearance of the enemy near to the port of Baltimore, makes it my duty as major-general and commanding officer to be prepared to meet any attack which may be attempted. Therefore, ordered, That the Brigade be held in readiness, prepared for action, and that one regiment be drawn forth for one week's service, to be relieved weekly by another, to be encamped near the ma-

Major General 3d division. To Brig. Gen. John Stricker, 3d Brigade, M. M. 3d Brigade, M. M.

[B.]---(cofr.)

BRIGADE ORDER.—8d Brigade M. M.
Baltimore, Aug. 7th, 1813.
Ordered, That the 27th regiment, lieut. col. Long, encamp on the height near the Powder Magazine, on Monday morning for a week's seryice-Tents and camp-kettles will be furnished by the state quartermaster, and rations by the contrac-

Col. Long will avail himself of the present occasion, to drill his regiment, which must be commenced at gun-fire and repeated in the evening of each day.

He will make a morning report to the major general at head-quarmuster-rolls will be made out by the captains of their respective companies, to which their oaths will be hereafter required.

By order of Brig. Gen. Stricker. J. CALHOUN, Jr. Brigade-Major 3d Brigade

REGIMENTAL ORDERS. In conformity to brigade orders of this date, you are hereby ordered to notify the men attached to your company to assemble on Monday the ninth inst. at 8 o'clock, A. M. before the theatre, each provided with a blanket and one day's provisions: to be encamped on a week's tour of duty between the Town and Fort.

Punctual attendance in officers and men is at this crisis to be expected, and will be enforced.

By order, JAS. L. DONALDSON,

Adj. 27th Reg't.

Capt. Kennedy.

The following sections of the act of November session 1811, chapter 182, are those referred to by the judge as giving the power to enforce the attendance of the militia: the 17th section applying to drafted militra, and the 31st section to all cases when the militia are ordered into actual service.

17. And be it enacted, That in all cases where a militia-man may be draughted to perform a tour of duty under this act. he shall be considered as a soldier, and liable to all the duties of such, unless he shall furnish a substitute; and the commanding officer of the regiment or extra battation (as the case may be) to which he may belong, shall be the sole judge of the qualifications of said substitute, and may receive or reject him, at his discretion-May 1813, Chap. 10 S c. 8.

31. And be it enacted, That when the whole or any part of the militia of this state shall be ordered into actual service, they shall be subject to the rules and regulations of the articles of war, and be entitled to the same pay and rations as troops in the service of the United States are entitled to receive.

At May session 1813, an attempt was made to repeal so much of the Militia Law as subjected the citizens of this State to the rules and regulations contained in the articles of war when called as militia into actual service, and to subject them only to such rules and regulations as should be enacted by the legislature of this state; and a clause to that effect was added to the Act which provides for the calling out and detaching the militia, and was actually passed by the House of Delegates but was rejected by the Senate.

Extract of a letter from Commodore Chauncey, to the Secretary of the Navy, dated on board the ship General Pike, at Sackett's Harbor, 13th Aug. 1813.

" SIR I arrived here this day with this ship, the Madison, Oneida, Governor Tompkins, Conquest, Ontario, Pert and Lady of the Lake. The Fair American and Asp I left at Niagara. Since I had the honor of addressing you last, I have been much distressed and mortified, distressed at the loss of a part of the force entrusted to my command, and mortified at not being able to bring the enemy to action. The following movements and transactions of the squadron, since the Oth instant, will give you the best idea of the difficulties and mortifications that I had to encounter.

On the 7th, at day light, the enemy's fleet, consisting of two ships, two brigs and two large schooners, were discovered bearing W. N. W. distant about 5 or 6 miles, wind at west. At 5 weighed with the fleet and manœuvred to gain the wind .--At 9, having passed to leeward of the enemy's line, and abreast of his van ship, (the Wolfe) hoisted our colours and fired a few guns to ascertain whether we could reach him with our shot; finding they fell short, to W. S. W. which brought the one- bably that the enemy intended to

I wore and hauled upon a wind on 1 my to windward: tacked and stood the starboard tack; the rear of our schooners then about six miles astern. The enemy wore in succession, and hauted upon a wind on the same tack. but soon finding that we should be able to weather him upon the next tack, he tacked and made all sail to the northward. As soon as our rear vessels could fetch his wake, tacked and made all sail in chase. In the afternoon the wind became very light and towards night quite calm. The schooners used their sweep all the afternoon, in order to close with the enemy, but without success. Late in the afternoon I made the signal of recal, and formed in close order. Wind during the night from the westward and after midnight so squally: kept all hands at quarters and beat to windward, in hopes to gain the wind of the enemy. At 2 A. M. missed two of our schemers —at day light discovered schrs. to be the Hamilton ing ourge. Soon after, spoke the Gov. Tompkins, who informed me that the Hamilton and Scourge both overset and sunk in a heavy squall about 2 o'clock, and, distressing to relate, every soul perished, except sixteen, This fatal accident deprived me at once of the services of two valuable officers, lieut. Winter and sailing master Osgood, and two of my best schooners, mounting together 19 guns. This accident giving to the enemy decidedly the superiority. I thought he would take advantage of it particularly as by a change of wind, he was again brought dead to windward of me. Formed the line upon the larboard tack, and hove to. Soon after 6 A. M. the enemy bore up and set studding sails, apparently with an intention to bring us to action. When he had approached us within about 4 miles, he brought to on starboard tack. I wore & bro't. to on same fack. Finding that the enemy had no intention of bringing us to action, I edged away to gain the land, in order to have the advantage of the land breeze in the afternoon. It soon after feil calm, and I directed the schooners to sweep up and engage the enemy. About noon we got a light breeze from the eastward. I took the Oneida in tow as she sails badly, and stood for the enemy. When the van of our schooners was within 1; or 2 miles of his rear, the wind shifted to the westward, which again brought him to windward, as soon as the breeze struck him, he bore up for the schooners in order to cut them off before they could rejoin me; but with their sweeps, and the breeze soon reaching them also they were

The enemy finding himself foiled hauled his wind and hove to. It the appearance of its continuing so during the night; and as we had been at quarters for nearly 40 hours, and being apprehensive of separating from some of the heavy sailing schooners in the squall, induced me to run in towards Niagara, and anchor out side the bar. Gen. Boyd very handsomely offered any assistance in men that I might require. I received 150 soldiers and distributed them in the different vessels to assist in boarding or repelling boarders as circumstances might require. It blew very heavy in squalls during the night. Soon after daylight discovered the enemy's fleet bearing north; weighed and stood after him. The winds soon became light and variable, and before 12 o'clock quite calm. At 5 fresh breezes from the north, the enemy's fleet bearing north distant about 4 or 5 leagues. Wore the fleet in succession and hauled upon a wind on the larboard tack. At sun-down the enemy bore north-west by north on the starboard tack. The wind hanling to the westward, I stood to the northward all night in order to gain the north shore. At daylight tacked to the westward, the wind having changed to N. N. W. Soon after discovered the enemy's flect, bearing S. W. I took the Asp, and the Madison the Fair American in tow, and made all sail in chase. It was at this time we thought of realizing what we had been so long toiling for; but before 12 o'clock the wind changed

soon in their station.

to the northward; at 3 the wind inclining to the northward, wore to the southward and westward, and made the signal for the fleet to make all sail. At 4, the enemy bore S. S. W: bore up and steered for him. At 5, observed the enemy becalmed under the land, nearing him very fast with a fine breeze from N. N. W. At 6, formed the line of battle within about 4 miles of the enomy. The wind at this time very light. At 7, the wind changed to S. W. and a fresh breeze, which again placed the enemy to windward of me. Tacked and hauled upon a wind on the larboard tack under easy sail, the enemy standing afterus. At 9, when within about two gunshot of our rear, he wore to the southward: I stood to the northward under easy sail-the fleet formed in two lines, a part of the schrs. forming the weather line, with orders to commence the fire upon the enemy as soon as their shot would take effect, and as the enemy reached them to edge down upon the line to leeward. At about half past 10, the enemy tacked and stood after us. At 11, the rear of our line opened his fire upon the enem-y: in about 15 minutes the fire became general from the weather'ine which was returned from the enemy. At half past 11, the weather line bore up and passed to the leeward, except the Growler and Julia, which . . soon after tacked to the southward. which brought the enemy between them and me. Filled the maintopsail, and edged away two points to lead the enemy down, not only to engage him to more advantage, but to lead him from the Growler and Julia. He however, kept his wind until he completely separated those two vessels from the rest of the squadron, exchanged a few shot with this ship as he passed without injury to us, and made sail after our two schrs. Tacked and stood after him. At 12 (midnight) finding that I must either separate from the rest of the squadron or relinquish the nope of saving the two which had separated, I reluctantly gave up the pursuit, rejoined the squadron, then to leeward, and formed the line on the starboard tack. The firing was continued between

our two schrs. and the enemy's fleet until about 1 A. M. when, I presume, they were obliged to surrender to a force so much their superior. Saw nothing more of the enemy that night; soon after daylight discovered them close in with the north shore, with one of our schooners in tow, the other not to be seen. I presume she may have been sunk. The enemy showed no in his attempt upon the schooners, disposition to come down upon us, although to windward and blowing soon after became very squally and the appearance of its continuing so ing very much, I ordered 2 of the dullest to run into Niagara and anchor. The gale increasing very much, and as I could not go into Niagara with this ship, I determined to run to Genessee Bay, as a shelter for the small vessels, and with the expectation of being able to obtain provisions for the squadron, as we were all nearly out. the Madison and Oneida, having not a single day's on board when we arrived opposite Genessee Bay. I found there was every prospect of the gale's continuing, and if it did, I could run to this place and provision the whole squadron with more certainty, and nearly in the same time that I could at Gennessee, admitting that I could obtain provisions at that place. After bringing the breeze as far as Oswego, the wind became light inclining to a calm which has prolonged our passage to this day. I shall provision the squadron for 5 weeks and proceed up the Lake this evening, and when I return again I hope to be able to communicate more agreeable news than this communication contains.

The loss of the Growler and Julia in the manner in which they have been lost, is mortifying in the extreme; and although their commanders disobeyed my positive or-ders, I am willing to believe that it arose from an error of judgment, and excess of zeal to do more than was required of them, thinking pro-