

## SUPREME COURT OF THE UNITED STATES.

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*Ex parte: WILLIAM H. McCARDLE.*

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The appellant, William H. McCardle, filed his petition in the Circuit Court of the United States for the Southern District of Mississippi, on the 11th day of November, 1867, for a writ of *habeas corpus*, to be directed to General Ord, or General Gillem, or both, by whom, or by whose orders, the petitioner alleged he was illegally imprisoned. The writ was issued, and the body of the appellant was produced in court, and full return made, setting forth the cause of imprisonment.

No issue was made upon the facts stated in the return; but the appellant moved for his discharge upon the ground of the insufficiency of the return as matter of law. The Circuit Court held the return sufficient, and remanded McCardle to the custody from which he had been taken by the writ of *habeas corpus*. McCardle then took his appeal from the decision and judgment of the Circuit Court, under the act of Feb. 5, 1867; 14 Stat. at

large, 385. Pending this appeal, and after the cause had been heard and submitted to this Court, Congress, by the act of March 27th, 1868, 15 Stat. at large, 44, provided, Sec. 2 :

“That so much of the act approved February five, eighteen hundred and sixty-seven, entitled ‘An act to amend an act to establish the judicial courts of the United States, approved September twenty-fourth, seventeen hundred and eighty-nine,’ as authorizes an appeal from the judgment of the Circuit Court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be and the same is hereby repealed.”

### I.

It is clear that this Court had no jurisdiction of this proceeding—*an appeal from the Circuit Court*—except under the act of February 5, 1867 ; and so this Court held on the motion to dismiss made by us.

*Ex. parte McCordle, 5 Wallace, 318.*

### II.

The act conferring the jurisdiction having been repealed, the jurisdiction ceased; and the Court had there-

after no authority to pronounce any opinion or render any judgment in this cause.

This proposition is so clear, that no argument can be required to sustain it. No court can do any act in any case, without jurisdiction of the subject matter; and any act attempted to be done under such circumstances is simply *void*. It can make no difference at what period in the progress of a cause, the jurisdiction ceases. After it has ceased no judicial act can be performed.

In *Insurance Co. vs. Ritchie*, 5 *Wallace* 554, the chief justice, delivering the opinion of the Court says: "It is clear, that when the jurisdiction of a cause depends upon the statute, the repeal of the statute takes away the jurisdiction." And in that case, the repealing statute which was passed during the pendency of the cause, was held to deprive the court of all further jurisdiction.

This is the uniform doctrine of this court and of all courts. The causes which were pending in this Court against states, were all dismissed by the amendment of the constitution denying the jurisdiction; and no further proceedings were had in those causes.

*Hollinsworth vs. Virginia*, 3 *Dallas*, 378.

In *Norris v. Crocker*, 15 *How.* 429, this court affirmed and acted upon the same principle; and the exhaustive argument of the present Chief Justice then at the bar, reported in that case, and the numerous authorities there

cited, render any further argument or citation of cases unnecessary.

*Rex. Justices London*, 3 *Burr.* 1456.

*Yeaton v. U. States*, 5 *Cranch*, 281.

*Schooner Rachael, v. U. States*, 6 *Cranch*, 329.

*U. S. vs. Preston*, 3 *Pet.*, 57.

*Com. v. Marshall*, 11 *Pic.* 350.

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