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FOREIGN INTELLIGENCE.

New York, Dec. 9.

We announce to the readers of the Mercantile Advertiser, and the public the important intelligence that hostilities have commenced on the continent of Europe, between the Prussian and the French; and that after nine days successive and successful fighting, in which the Prussians were defeated with dreadful carnage, the Emperor of the French has overtaken his victorious army before the city of Berlin. The duke of Brunswick, Prince Ferdinand of Prussia, the Prince of Hohenlohe, and many other officers of rank are said to be amongst the number of those who to French Phraseology "have bitten the dust."

We are indebted for the detail of these events to the arrival at this port of the ship Elizabeth, captain Boden, in 37 days from Amsterdam, who furnished us with a file of Dutch papers to the latter end of October, and of London papers to the early.

From these papers we have selected from amongst many others, equally interesting, the following very important articles:

Translated for the Mercantile Advertiser.

HAGUE, Oct. 17.

Last night his excellency the Secretary of State received the important intelligence, that hostilities have commenced between the French and Prussians; and that engagements have already taken place between the two armies. Fortunately however, it is result of them has proved favorable to the army of France. Prince Louis Ferdinand, brother of the King of Prussia, who, on one of the three occasions commended in person, is killed; and the further advantages over the enemy on the first occasion, consist in a considerable number of prisoners of war and 34 pieces of cannon.

JENAS, Oct. 15—4 o'clock, A. M.

The battle of Jenas fought yesterday is one of the most remarkable in history.

The Prussians amounted to the number of 150,000; they lost 200 pieces of Cannon and 30 stand of colours, besides 28,000 prisoners of war. The duke of Brunswick and gen. Von Ruchel are killed. Prince Henry of Prussia is badly wounded. A great number of generals, besides many officers of rank are wounded. The loss of the French army is comparatively infinitely less; yet we have in the hospitals of Jenas 1200 wounded, and in those of Naumburg 1500; there is no other general killed than Tauenzien, a man the greatest of brigade, Billy, a brave man. The French army have acquired great glory.

Marshal Davout, who was stationed in the narrow passages of Koelen and before Naumburg, left the enemy no time to carry; it fought the whole day, and threw more than 60,000 men into confusion, which were commanded by Mollendorf, Kaekruth, and the king in person.

The queen of Prussia was pursued by a troop of horse. She was obliged to take shelter in Weimar, and three hours before our advanced posts arrived there, she had fled; she took a road which was full of our troops, and it is therefore very likely that she has been overtaken.

Our troops reached Weimar in the evening, pursuing the rear guard of the enemy on the left flank; on the left marshal Davout pursued them as far as Naumbourg—his head quarters were at Eilkardsburg this morning. It is supposed that the enemy is endeavoring to collect his forces on the side of Franckenhausen in order to reach Magdeburg. The enemy must have suffered a terrible loss, which will not be ascertained until late. Six of their generals are prisoners of war besides a great number of colonels.

JENA, Oct. 13.

The battle of Schlitz, which opened the campaign, and was very unfortunate of the Prussian army, and of Saalfeld, which was fought the following day, have occasioned a great depression of the enemy's spirits. All the Hamburgh letters say, that the same sensations prevailed at Erfurth, where the King and queen, and duke of Brunswick attained; and that they are continually consulting what line of conduct to adopt. But while they consult, the French army advances.

HAMBURG, Oct. 21.

The queen of Prussia arrived at Berlin on the 17th, and on the day following departed again for Stettin; or, according to other accounts, Pasewalk.

The French seem to have taken particular pains to mark the Prussian officers, by which a great number of them were killed, and the confusion which finally resulted from it.

MAGDEBURG, Oct. 11.

The battles which were fought on the 14th, 15th, and 16th inst. near Weimar, Jenas and Vaum-burg, have annihilated the Prussian army; and yesterday the army of reserve, under Prince Eugene of Wirtemberg, was attacked by Marshal Devout, between Lauchstadt and Halle. The French are before Halle, and will probably tomorrow visit our city, which is full of opposed military. Yesterday the kingdom of Hanover, but set out on the 8th inst. and at this moment an adjutant of general Count Tauenzien is passing through this city for Weimar. Orders have been sent to Hamburg to detain all shipping bound from there, to this port.

JENA, Oct. 15.

The battle of Jena has erased the shame so joined by the battle of Rossbach, and than 7 days successful campaign, which has quenched the dissatisfaction very that tormented the court of Prussia.

The position of the army on the 13th inst. was as follows The Duke of Berg and Marshal Davout stood with their corps at Naumburg, battle divisions of their troops at Leipsick and Halle.

The corps of the Prince Ponte Corvo was in its march for Naumburg, and that of Marshal Lannes was posted at Jena with the corps of Augerau was stationed at Kahla, and that under Ney at Roda

The head quarters were at Gera. The French Emperor was on his march for Jena.

The corps of Marshal Soult was in its march from Gera to the a nearer position where the roads from Jena and from Naumburg meet.

The enemy's army was posted as follows—The King of Prussia commenced his operations on the 9th October by advancing his right wing for Frankfort; his centre for Wurtzburg, and his left wing for Bamberg. All the divisions of his army were prepared for the execution of this plan; but the Saxon army, running his left wing, was in a few days posted at Lobenstein, Schiatz, Gera, and Naumburg.

The Prussian army being turned, fixed on the days of the 9, 10, 11, and 12th, to commence the attack and on the 13th the whole army presented itself in order of battle between Capellendorff and Auerstadt to the amount of 90,000 men.

On the 13th at 2 o'clock P. M. the Emperor returned to Jena and, from a small hill occupied by our advanced posts viewed the positions of the enemy who seemed to manoeuvre, for the purpose of forcing on the next day the narrow passes of the Saal. The enemy was in a most decisive resistance on the road leading to Jena and Weimar. Davout was ordered to turn him in flank while the prince Prete Corsa was separated to attack him in the rear.

The emperor collected the whole force of Marshal Lannes on the above hill in order of battle.

The troops of gens. Ney and Soult, marched the whole night. A thick fogg obscured the following day and the emperor ordered the troops to attend the formidable attacks of the Prussian cavalry. The riflemen commenced the action and the fire of musketry was brisk. Good was the position of the enemy who was dislodged from the same at 10 o'clock and the troops formed in order of battle in the vallies.

The enemy only waited for the fog to disperse to commence a general action. A division of 5000 men intended to take the defiles of Hoesen, and to cover Naumberg, but was prevented by Marshal Davout. The two other divisions, 80,000 men in number together, drew up in order of battle in front of the French line.

The fog cleared both armies for the space of two hours, but when it cleared up, the two armies had a view of each other at the distance of a cannon shot.

The enemy's army was numerous & exhibited a handsome body of cavalry; the infantry and artillery were united with exactness and swiftness. Having made an advance on our left wing marshal Augereau was charged to throw him back again, and in less than an hour the attack was general. 250,000 to 300,000 men with 700 pieces of cannon spread death every where before them, and exhibited a very rare spectacle. The emperor always kept a strong body of reserve with him, besides his imperial guard.

At this interesting crisis a division of the French cavalry arrived also, and formed a line of battle in reserve in conjunction with the above. The whole body now advanced, and joining their with the m in body, stop threw the enemy into confusion, the enemy took post again, but was quickly thrown into confusion by a fresh attack from the Duke of Berg, with his heavy horse and dragoons.

The result of the battle was the taking of 30 or 40,000 prisoners, 28 or 30 stand of colors, 300 pieces of cannon, besides magazines and stores.

The enemy is supposed to have lost 25 or 30,000 killed and wounded. General Mollendorf and Prince Henry of Prussia are wounded; the duke of Brunswick and general Ruchel are killed.

Our loss is estimated at 1000 or 1100 dead and 3000 wounded. The duke of Berg has at this moment enclosed Erfurth, which is garrisoned by a corps of the enemy, commanded by Moller-dorf and the prince of Oe...

NUREMBURG, Oct. 18.

A great number of French wounded soldiers have arrived at Ehrenth, and many hospitals are established here.

A letter from Amsterdam, dated the 29th Oct. says "The war with Prussia is at an end, & the French, are at Berlin. In nine days, an army of 150 000 men have been destroyed, and a kingdom taken, I think, great operations are full to be carried on.

From a London paper of Oct. 27.

It with very great concern that we are obliged to check the pleasing expectations that were entertained yesterday of the success of the Prussian army.

The accounts which were circulated in the Sunday papers, and received with such a natural avidity, related merely to the two wings of the respective armies. The engagement which followed between the main body has, we fear, terminated to the advantage of the French.

This intelligence has been communicated in a dispatch from lord Morpeth. He indeed mentions that the action, which took place on the 14th inst. "was most severely contested. The Prussians sustained very great loss. The duke of Brunswick was wounded, and had been taken to Magdeburgh. His Prussian majesty is stated to have had two horses shot under him. These are the only particulars which have reached us.

The following are the circumstances which appear to have led to this general engagement, as extracted from the Hamburgh mail, due on Wednesday, which arrived yesterday morning:

"Hostilities, as it has been before stated, began on the 9th fast but no affair of importance took place until the 10th or 11th, when a very warm action was fought at Saalfeld. Prince Louis Ferdinand, who commanded an advanced corps at the left wing of the Prussian army, was stationed at that town to defend the passage of the Saal. His orders, it is said, were to maintain his position to the last extremity, for the purpose of allowing the prince of Hohenlohe an opportunity of executing a bold movement which he had planned against the right wings of the enemy. Prince Louis bravely performed his duty, defending the bridge during the greater part of the day against a force three times more numerous than his own; he had only 6000 men under his command, & the French were estimated at 20,000. In the end, however, the enemy prevailed, Prince Louis was killed, the passage of the Saal forced, and the Prussians compelled to retreat, with the loss of several men, and many cannon. These are the most authentic particulars which we have been able to collect from the mail respecting the result of the first affair, which was produced by an attempt of the French, to turn the right wing of the Prussians, & destroy the considerable magazines which they had formed at Naumberg.

The enemy, encouraged by this first success, pressed forward with their characteristic impetuosity, which brok on an action, in which it appears that a large proportion of the respective armies was engaged. We cannot, from the accounts brought by the mail, ascertain the day on which this battle was fought, but the result of it is stated to have been decidedly in favor of the Prussians. Upwards of 20,000 French are reported either to have fallen in the field, or to have been made prisoners. The official accounts had not reached Berlin when the post for Hamburgh left that city, but the fact is placed beyond all doubt, by a short note which was received from her Prussian majesty.

During the confusion incidental to so general an affair, attended with such consequences, a small corps of French cavalry, which was separated from the main body, penetrated to Leipsic—and employing a very allowable ruse de guerre, ordered quarter to be provided for several thousand men, and exacted a small contribution from the town.

This was on the 12th; it may be, therefore, presumed, that the action in which the Prince of Hohenlohe was so successful, was fought early on that day. It is probable that a series of actions took place to the 14th, when the general engagement was fought, a result of which has been unfavorable to the Prussians.

Sixty thousand Russians are said to have entered the Prussian territory. If they have advanced as far as Soldin they may prevent the French from following up their successes; if they have only entered South Prussia, we fear they will not reach Saxony in sufficient time to enable the Prussians to maintain possession of that country.

His Prussian majesty addressed a proclamation to his army, on the day on which his manifesto was published. It had all the air and spirit of that admirable composition. Every circumstance, every sentiment which could excite the enthusiasm and increase the ardor of the army, is compressed into this vigorous appeal to its loyalty and heroism.

An Austrian Courier, who arrived yesterday morning from Vienna, met at Bessau a Prussian officer on his way to Berlin, who had left the main body of the army with the intelligence, that after different sieges of ports, in one of which Prince Louis Ferdinand lost his life, Prince Hohenlohe, by a well planned movement, succeeded in cutting off 26,000 men from the main French army, the greater part of which were made prisoners. Preparations were making at Magdeburgh to receive 6000 of them. The affair took place near Jena.

CONGRESS

HOUSE OF REPRESENTATIVES.

THURSDAY, DECEMBER 11.

SPEECH of Mr. CLOPTON, on the amendment proposed by him to the Constitution, on the 8th of December.

MR. CLOPTON—Mr. Speaker—I take this opportunity, when the attention of the House is not occupied on any particular subject, to submit a resolution, the subject matter of which I consider to be of very great importance. Before, however, I introduce to the notice of the House any specific proposition, I would observe, that when the subject shall be discussed (if discussed at all) I apprehend that it may meet with some objection on a general ground, on which most probably objection would be raised against any measure whatsoever of the nature of that which I am about to propose. If the ideas I entertain of its expediency arose merely from my own speculative views of the proposition and the subject with which it is connected, however clearly I might be convinced of their expediency, I might nevertheless distrust the propriety of such conviction; satisfied as I am not to be induced thereby merely of itself to bring forward the proposition; but a conviction scarcely susceptible of any distrust, as I am, which the impression on my mind—a conviction, which has resulted from experience, induces me to offer the proposition; and in doing so I feel much more of duty than of any other impulse.

The proposition, which I have thus deemed it my duty to submit to the consideration of the House, might appear sufficiently expedient in consequence of certain instances adopted in the years ago, but the subsequent circumstances have tended the evidence of its expediency; but recent, very recent circumstances present themselves to my mind an additional proof of that expediency. Sir, in the instances I have alluded to I have to wish for a certain explication of the truth of that maxim, which ascribes to experience a standard the least fallible of any by which human institutions can be tested. It is from experience only that defects are often discovered in the wisest of human contrivances. This unfolds the latent sources of evil, which could not have been traced by the most penetrating foresight. The efforts of genius, however, great, and of patriotism, however pure, cannot always secure the ends they propose. Means apparently infallible are found either to be inadequate to the ends, or to contain within themselves the very instruments by which they are defeated. Imperfections overlooked and believed not to exist, will sometimes, at a time, when then disclosed and glare before us. And, sir, amongst all the institutions of men there are none, perhaps, in which their defects generally be so much envelopped, as in those of a political nature until they are thus disclosed.

I have said that I anticipate some objection upon a ground, on which most probably objection would be raised against any measure whatsoever of the nature of that, which I am about to bring to the consideration of the House. Should this, however, be the principal ground of opposition, if the object of the proposition should be deemed desirable, that ground, I might reasonably presume, will be abandoned as untenable.

I have been led, sir, to conjecture that opposition at the future of that, which I have suggested, might be expected from a recollection of a former one in the year 1798, when the constitution of the United States was under discussion. On that occasion the House was admonished against innovating, as it concluded, and solemnly adjudged to no purpose whatsoever touch the constitution. This was done although the proposed amendment had been so pronounced to the American people, and although eleven successive legislatures had been introduced into the constitution without a view to improve and to fix the public tranquillity. Had the same principle and spirit with our any providing for future alterations, which have so strikingly distinguished opposition in side upon that occasion, been indeed merit serious notice, that a provision wisely and completely guarding against every event of that sort, conspires a part of the constitution. Fortunate provision! Happy Americans who enjoy the benefit of that provision! What when experience points out defects in their great political code without a reason to fear principles, without the smallest danger of those revolutions which shock and confound other nations, with calm and tranquil serenity, may correct whatever needs correction, and ameliorate their system! Far from being dangerous, those defects, if remedied, may be direct what it shall has been found by experience to be really expedient, the introduction of it will be a salutary step, may be the happy means of averting danger in future times, and of removing a source of evil which, were it to continue, might diffuse its venom through the whole *body politic*. Under this impression, and from a belief that a certain part of the constitution requires a mendatory amendment, I offer to the House a resolution, which is the form which has that for its object. The amendment, which is desired, will not, however, introduce any new principle into the constitution, nor any way increase the powers of the federal government, should it be adopted. The object of it is solely to secure an adherence to that fundamental principle which forms its true federal character, and because it is believed that have local claims, I intend that principle—that certain measures, which have been alluded to were the offspring of a power not within the scope of that principle, that entirely without the sphere of the federal authority; because that it is, I intend, that a power was granted on a pretext of construction by a to one clause to the constitution the proposition now intended to be committed, is of such a nature, that on the decision of a Congress with decisive influence such is more difficult in of that clause shall be proposed to the states as shall render it less susceptible of such constructions. The clause, I mean, is the last in the 8th section of the first article of the constitution, given of which the clause is—to make all laws, which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof. The construction, sir, which has been given to this clause in two cases, and leads to say, that it conveys to Congress a right to make any laws whatsoever which they may deem the most proper for carrying into execution the powers enumerated in this section or in any other part of the constitution, whether such laws would have any sort of relation to or connection with any of those enumerated powers or not. Under this construction it is very true, a consecrated sophism act was passed; it was passed, as a measure expedient, necessary and proper for carrying into execution the said enumerated powers with respect of which powers in fact any more connection than with Adam's clothing has with the blue of a million suns.

Such a latitude of construction at that time excited a considerable degree of alarm in the minds of those, who were impressed with a belief of its dangerous tendency. To this point, I could have been more desirable than such a correction of the clause as would have restricted the construction of it to limits merely commensurate with the powers expressly delegated; but that this exalting wave of thing prevailed every ray of hope that any attempt to obtain such correction at that time could be successful. A different state of things existent present, it is, true; and I hope there is no disposition to resort to the system of policy, like that which dictated those measures. Yet it should be remembered there is a tide—there is a flux and a reflux in the affairs of men; and, although the political aspect, which was then gloomy and lowering, has disappeared; and we have perceived in place of it a bright and auspicious prospect, yet no one can ascertain how long will be its continuance. No human foresight can reach to all future days—to all those dazzling beings, to all the insidious faults of aspiring every momentous events, which may take place in the course of a long succession of years yet to come. Indeed, sir, it should not be an enemy to the cause of liberty, were it to say that the back of liberty remains completely at its feet the view of its at inquisitive, the eye pierces its dingy, until each feature will by opinions individuals its contents. What never we presumption of the events of any period before they actually come to pass? What the they more than conjecture? What, more in it mere expectations that certain effects

will be produced by certain causes, which we believe to be truly adapted to the production of such effects? But how often, at the last, these calculations disappointed! Look into the pages of history, which records the transactions and the events of past times, and how frequently is it to be seen that one generation of men had experienced a state of things widely different from what had been expected by the preceding generation, and the very reverse of what the existing state of things in their time had seemed to promise them!

So long as man continues to be what he is, taken in a collective national capacity, revolutions of sentiment may be expected to attend him; and in the administration of his government, one *uniform unvarying* course of procedure is a phenomenon scarcely to be imagined—certainly never yet expected for any great length of time; unless, indeed, it is to be found in the gloomy recesses of despotism. In countries, every where that species of government, or rather that abuse of the government stretches its baleful sway, and by establishing a perpetual system of universal fear, wishes to maintain absolute control over the public sentiment—the despot, who by his will rules every thing, may direct, change, or oblige into uniform course, every thing else: in such an unit unity of plan reduce to be found. In those devoted countries the springs of human action are bound down so closely on all sides, that no round take of them to depart from the ——an uniformity of motion, which simplifies and hushes the whole nation into a state of dead listless quietism and profound apathy; consequently there cannot exist any external cause, by which the tyrant can be induced to vary his course and his measures, lest he should offend his will and humor. Yet even in those unfortunate regions the bandages of oppression are sometimes drawn so severely tight, and attended with such an excessive degree, that they are snapped asunder, and a temporary relief to the wretched subjects. The springs of action for a moment recover a portion of their natural elasticity and expand themselves so far at least, as to produce a revolution in the government. Scarcely even in the extent of revolution produced in those countries.

But in a free country, a country really free, where public opinion cannot be repressed, where public sentiment cannot and should not be controlled, revolutions of that sentiment, as they will happen more or less frequently according to the ruling temper of the nation, influence the government, and occasion changes or alterations in the administration of it without affecting the existence of the government at all.

There is, however, to the American people a peculiar source of consolation in the rational and just principles of the system which they have found wise enough to establish. These principles serve as an elevated and luminous beacon, by sailing to which those, who have direction of the vessel of state, may easily and safely guide it amidst the rocks and shoals with which the bay is now wicked. These principles enlighten the paths that lead to public happiness, and render them infinitely plainer and more easily to be traced, than they are found to be on any other portion of the globe. This gives the great and singular advantage attending our admirable system—that the strictest adherence to its real principles is the easiest and most direct way towards promoting the general interests, happiness and prosperity of the people. It may perhaps be laid down as a correct position, that the duration of *public sentiment* in favor of public measures will generally be commensurate with the time, during which those measures are such as to promote the general interests and happiness of the people. Since, then, of all systems in the world, the American system of government is the best calculated for an easy attainment of these objects, proportionably greater to this than in any other system, in the probability that these objects will be pursued in the administration of it. Hence also in the same proportion is the prospect that public sentiment will be long in favor of the nation here, than under any other government where the public feelings are allowed to express themselves.

But, nevertheless, sir, is there an absolute certainty that the administrators of this system will be always strictly guided by its principles; or that, plain and direct as is the way that leads to public happiness, they will never pursue any other course? Is there an absolute certainty that every measure of every set of men, who may hereafter succeed to the administration, will promote the general welfare in all respects, and be perfectly conformable to those rules of economy which are essential to the prosperity of a government like this; adequately essential to the general happiness of the American people? Can such an inference be clearly and undeniably drawn from correct views of human nature, or from a general experience of the political transactions of mankind? No, sir; although from the principles of this system and from the vitiage of the American people there is far better security for an easy attainment of every desirable object of civil government, rather than any where else; yet this security is not completely infallible, it cannot be expected that no vicissitude in the political affairs of this country—that no revolution of public sentiment will hereafter take place. Already have we experienced an importuny change. Already have we experienced a change amounting to a complete revolution of sentiment, in a great portion of the American people—and to a complete reversal of the prominent measures of administration. I have rejoiced, sir, at the rejoice in this change as a grand acknowledgment of measures. I rejoice in the prospect of things which it has brought about. I have trusted, I have believed, and I hope that it rests on a basis which will render it durable. Yet I have no right to flatter myself that it will always continue to be such. What has once happened may happen again. What has been once done may be done again, and may be expected to be done again whenever the same disposition shall exist in the agents, if the authority remains the same. The construction which has been given to the clause, I have read, in the case alluded to, and under which construction such a latitude of power has been assumed, may be given again to that clause; and the same, or even a greater, latitude of power may be assumed. Powered under such construction, if the clause remains as it is. It is possible that we may feel the lash of another section act, or some thing more terrible in its properties. Indeed, sir, I will there may be a time when appprehensions of this kind may not be very fardistant when we may expect such a reflux, and such a rising—and th hold of political hatred again darkened and menacing.

I hat the clause, I have read, should be liable to such a construction so broad and extensive is, perhaps, not very much to be wondered at when we consider the strong propensity existing in human nature to grasp at unwarrantable power; and when indeed frequent experience manifests that much illiberal and odious measures, which appear expedient, without strictly examining whether such measures are authorised by the constitution or not. There is something fascinating in the possession of power. When we think we have the exercise of it every thing within its reach is legalized according to the *will* of the possessor. This is him the only standard of moral rectitude. In the scale of human actions there is neither right nor wrong, but the will, indefeasible laws of nature and of reason, are confounded with those which these laws admit. These laws, which should be universally obligatory on all in power, and on all out of power and which are the only enlightened great charter of the human race, are by this *arbiter*, this *will*, so construed as to have no binding force at all. The suggestions of this *arbiter* decide the fitness of every act throughout the world. By the suggestions of this and the life of an insect are often placed in the same degree of estimation. By the decisions of this tribunal all principles are confounded, and every thing is rendered lawful to the sovereign. Power is such, or it is to be come, as expedient to display his power and to maintain his dominion, such is the case in despotic governments; and hence, sir, it should be deduced, as an incontrovertible reasoning that where the government intended to be limited in its powers, it is essential clearly to define those powers. Their necessary in governments, the powers of which are designed to be much more general and extensive than those of the federal government of the states. How important, then, is it that the powers of this government, limited as it is in so peculiar a manner, should be marked out with such clearness and precision, that those who administer it in government may not at any times, without manifest and glaring violation of its essential principles, exercise any power not intended to be delegated to them! With a view to this object I wish to submit this proposition, viz. "Resolved, that no other general exclusions, perhaps not sufficiently explicit, contained in the clause which I have read, a power has been exercised, which was never intended to be vested in any department of the government."

In submitting this proposition, sir, I solicit the indulgence and patience of the House, while I take a view of the nature, the powers and genuine principles of the federal constitution, as I understand it to be and of its relation to the states. In this view, I trust, those powers, those principles and that relation will be find down not incompatibly with the general understanding of them by the American people. I believe I shall be strictly conformable to its essential principles when I say that this constitution does not extend its authority to the utmost limits of civil jurisdiction—that it embraces not all the objects of civil rule or authority—that it does not assume the broad and extensive right to exercise every species of power or existing under the governments of these American states—that it conveys not to its authority to perform all the functions of sovereignty—that it restricts, it confines, it limits the authority of this government to certain delineated objects—that it confers upon it certain particular powers, all which are distinctly enumerated and specified; that these powers, and these alone, it delegates to this government—that it does not assume the broad and extensive principle that all powers are granted to this government, which are not expressly reserved to the states or to the people—that the contrary principle contrary principle constitutes its very essence. This principle is that all powers are reserved, which are not expressly granted to the federal government, or expressly prohibited to the states. So far from the states or the people of the states in possession of no other powers or rights than those which are expressly reserved to them, this constitution confines no express reservation at all, except in one single clause, which reserves to the states the right of appointing the officers of militia and of training them according to the discipline prescribed by Congress. This, I conceive, was done, because such a right was deemed proper to be retained to the states, and inasmuch as it has rights incidental to that of providing for organizing, arming and disciplining the militia, which is expressly granted to the federal government, as a mean of enabling it to command the force of the nation for the common defence; all the states—this right might be construed to pass over to the general government along with the legislative power, were it not positively excluded from the grant. It were, indeed, entirely needless, unless it should be for the purpose of guarding against construction no way compatible with the principles of government, to insert any such reservation. For, sir, the specification of particular powers is itself an exclusion of all other powers—it is a positive limitation of the authority of this government to those particular specified powers. This principle is manifestly appears from the organization of this constitution. From the plan, from the scope, from the nature, from the design of it we may trace this principle too plainly to doubtfully to be mistaken. It is in every appearance of this constitution in bright & shining colors—it is engraved on it in characters too strong and too splendid to be misunderstood.

I have taken this view of the constitution, because this great principle we to co-existent with the constitution itself, and because the principle of that, which declares that "the powers not delegated to the general government, not prohibited to the states are reserved to the states or to the people respectively," did not create this principle; it is from the constitution itself, which has been decoined power to be inserted, lest a spirit of innovation indulging itself in regions of wild, fanciful, extravagant theory might give a construction as to the *quantum* of powers delegated to the general government by the constitution. Reserved and as to the powers retained to the states, totally incompatible with the universal understanding of the American people thereon at the time of its adoption.

Why, sir, did the framers of this constitution so nicely construct its material parts? Why was it drawn with such precision, such exactness in the limitation of its powers, and on such peculiar principles? For this very manifest and important reason, that as little danger as possible might result from constructive interpretation—to guard it in the most effectual manner discernable by human foresight against such constructions as would give to its consolidating tendency, but may act of the federal legislature, which invades the independence of the states, whether it assumes jurisdiction over objects of the greatest importance, or whether it assumes jurisdiction over objects of small consequence, will have that tendency. Indeed, sir, both of these descriptions of acts are bottomed on the same destructive principle—both gravitate towards the same centre—both have a direct tendency to destroy the state institutions. The difference between these consists merely in the degree of rapidity with which the work of destruction would be wrought by measures of the first description, and the degree of rapidity with which it would be carried by those of the latter description. A bold and gigantic stride of usurpation might at once carry the state fabrics to their very *base*, and scarcely even with the face of the earth; whereas encroachments commencing in smaller violations of state sovereignty, and progressing step by step, would gradually and almost imperceptibly undermine and loosen their foundation. The operation in such instances, although it would be slower, yet perhaps, might not be the less sure of finally producing the same destruction. Indeed, sir, every act, which assumes a power not granted, is a step towards consolidation. It wrests from the state governments a portion of that *residuum* of authority which remained to them when the constitution was adopted. Such encroachments cannot be made without extreme danger. For one assumption always furnishes a precedent for another assumption; this again becomes proof for further infringements of state authority. Thus it proceeds in a regular progression of encroachments after encroachment, until at length the states are stripped of every species of authority, which can deserve the name of government. In these acts of federal usurpation, while they are drawing into its vortex this great accession of power are weaving around the state institutions the web of destruction. Although deadful may be the struggles—dreadful may be the scenes exhibited on the theatre of the American world, before this will be entirely drawn over the States; yet, sir, it may be done. After a continued series of such encroachments on their rights and authorities, the states may be so inconsiderably, that which they will then be states, they may be permitted to merge into the general mass. As institutions no longer worth the expenses requisite for their maintenance—as of too little consequence to be considered of any value, they may be given up, suffered to lose all their energy, and at length their very existence, as waves, which appear for a while on the surface of the ocean, subside into its immense bosom, and disappear entirely.

(*To be continued.*)

WILLIAM MARBURY,

HAS received from Philadelphia and Baltimore, and for sale by

Mr. DALBEY near door above Mr. Plaha Kingsbury's college street.

A General assortment of Fall & Fancy Goods of the latest fashion, and will receive a fresh supply in a few days, all of which have been purchased on the best terms for cash and will be sold very low.

George Town, October 15—1828.

WASHINGTON CITY.

MONDAY, DECEMBER 15.

Extract of a letter from a public character in Warren, Trumbull county and state of Ohio, dated November 20, 1828.

Tyler, of the state of New-York, (who is supposed to be one of Aaron Burr's subalterns,) has lately been in this county in company with an English gentleman by the name of Constable, who has published a work, entitled in drawing charts and views of places; he has engaged—— one tavern keeper, and some others of desperate character and fortune in his service, who are now enlisting men to go down the Mississippi, but where is kept a secret from the Gulls. Boats and provisions are said to be purchased, and a number are to start next week from this county; it makes a great rumor, and people are in gaping expectation of some wonderful events. For my part, I have not formed any opinion of the enterprise. It, at any rate has the prospect of doing us some good by ridding us of a parcel of idlers.

HOUSE OF REPRESENTATIVES.

FRIDAY, DECEMBER 12.

The Speaker stated to the House that he had received information from the Clerk of the public buildings that he was ready to proceed in securing the ceiling of the chamber of the House.

On motion of Mr. *Bidwell*, the House resolved itself into a committee of the whole—Mr. Basset in the chair—on the bill to revise and make permanent "An act to prescribe the mode of taking evidence in cases of contested elections for members of the House of Representatives of the U. S. and to compel the attendance of witnesses," and in addition to the same.

Mr. *J. Clay* remarked that in all the contested elections which had been conducted by ballot, a considerable difficulty had arisen in ascertaining from which of the candidates the votes given by unqualified persons should be deducted. For the purpose of removing, or at least lessening this difficulty, he had drafted a new section which he now rose to submit for consideration. The objection heretofore made to examining the votes, to determine for which candidate they had been "given, had been founded on the opinion that it interfered with the secrecy of the ballot. This, if a sound objection, could only apply to persons legally qualified to vote, as a principle fitted to save the rights of electors, and not of persons not legally qualified to vote. Mr. Clay had little objection to the clause, a magistrate to examine on oath persons who had voted without being qualified for whom they had voted; that votes thus given might be deducted from the candidate for whom they were given. He would remark, much of the difficulty at present existing. Instead of the offer such a provision, he moved that the committee should rise and ask leave to sit again.

Mr. *Bidwell* observed that the principle of the gentleman from Pennsylvania was a new one, that they should undertake to decide by law what votes shall not be examined. It appeared to him useless, as it was settled by the constitution, and unless constitutional evidence was given to the contrary of the existence of unqualified votes, this provision would abridge its constitutional power. A decision on the qualification of electors was expressly vested by the constitution in the House. It, therefore, appeared to him improper by statute to decide this point, which was the proper province of the House. A provision of that kind would go to put a construction by statute on the meaning of the constitution, or to interfere with the constitutional rights of members of the House. Such being his present sentiments he felt a repugnance to the proposition.

Mr. *J. Clay* said it was true that they could not by law decide what were the qualifications of electors. He would ask, if in cases of voting *viva voce*, where the votes given for a particular candidate were proved not to be good, they were not deducted from him. His objection was that the same process should be pursued where the votes were given by ballot. They had unquestionably a right to say that a man who votes, without being entitled, shall say for whom he voted. Such a provision would not be putting a construction on the constitution not at present attached to it. It would only require those not entitled to vote to declare on oath for whom they had voted.

Mr. *Smith* said he had no objection to the committee rising for the purpose of more fully considering the subject. He recollected that in the state in which he lived this point had often been discussed. Where votes were given *viva voce* there was no difficulty. But where ballots were resorted to, they could not compel the voter to say for whom he voted. He agreed with his colleague, that it would be no violation of principle to compel the unqualified voter to say on oath for whom he voted. The principle was so plain, it could not be denied. He hoped, however, that the committee would rise, that his colleague might be enabled to bring forward his proposition.

Mr. *Tidwell* said he was not disposed to precipitate a decision. He had, therefore, no objection to the committee rising that gentleman might mature their ideas on the subject. He would, however, observe that he considered the proposition objectionable in point of view, as giving a magistrate the right of determining who were qualified voters, a point only to be decided by the House.

Mr. *J. Clay* observed that before his question was taken he would suggest the propriety of recommitting the bill, either to a select committee or to the committee of elections, to determine the propriety of his amendment, where the subject might be canvassed, and the amendment so modified as to be unexceptionable. He hoped the gentleman from Massachusetts, who had brought in the bill, would make this motion.

The question was then taken on the rising of the committee, and carried without a division—when the committee rose and obtained leave to sit again.

Mr. *Holmes* moved that the Committee of Claims should be discharged from the further consideration of the petitions of Arnold Martin, and Sarah his wife, William Kincaid, John Hargleroad, Philip Turner, and Ludwig Kuhn, all barred by the statute of limitations, and that they should be referred to the committee appointed to consider what provision should be made for such claims, to which motion the House agreed.

Mr. *J. Randolph* observed that during the last session several petitions from persons engaged in the collection of the public revenue, praying for an increase of emoluments, had been referred to the Committee of Ways and Means—that the report of the secretary of the Treasury and that the committee under the instructions of the House, as well as from the general powers delegated to them, had taken up the subject in a general point of view, and proposed to modify the existing system as circumstances required. The subject had required much attention, and after a schedule had been made out, it by some means got pilslaid. Mr. R. concluded by moving that the report of the Secretary of the Treasury, together with the petitions, should be referred to the Committee of Ways and Means, which motion was agreed to.

COMMITTEES APPOINTED IN THE HOUSE OF REPRESENTATIVES.

Committee appointed to enquire what claims against the U. S. are barred by the statutes of limitation, which in reason and justice ought to be provided for by law.

Messrs Stanton, Tenney, Stedman, Chittenden, Dana, Tracey, Lamkin, Pugh, Brown, N. R. Moore, J. Morrow, Vit. Stanford, A. Moore, Merriwether, Ithn o'Ten, Dedinger, and Jer. Morrow.

SENATE.

DECEMBER 12.

The Senate took into consideration the bill, entitled "An act to suspend the operation of an act, intitled 'An act to prohibit the importation of certain goods, wares, and merchandise,' and to remit the penalties incurred under the same."

When the following amendments were agreed to without a division, viz. strike out at the end of the 2d sec. the following words, "and shall not take effect from and after the passing thereof."

Add to the end of the bill the following section:

And be it further enacted, That the President of the United States be, and he is hereby authorised, further to suspend the operation of the aforesaid act, if in his judgment the public service should require it: *Provided*, That such suspension shall not extend beyond the second Monday in December next.

The bill, so amended, was read a third time, and passed, without a division.

Leave has been given by the House of delegates of the state of Maryland, to bring in a bill, entitled "An act to tax *Bachelors* and *Bank stock* for the education of poor children in the several counties of the state"—Yeas 37—Nays 21.

The legislature of Virginia has confirmed the appointment of *Creed Taylor, esq.* as successor to the late venerable judge Wythe, in the high court of chancery.

Richmond, Dec. 3.

Virginia Legislature.

On motion, *Resolved unanimously*, as a testimonial of respect for the character and the illustrious fellow citizen, *George Wythe*, who so lately at a moment devoted to the service of his country those pre-eminent talents and distinguished virtues, which at a most perilous crisis, were with manly firmness and unequalled patriotism exerted to obtain for her the inestimable blessing of freedom—That the members of this house will for one month wear a badge of mourning.

Richmond, Dec. 9.

Lewis Hervey, esq. of this city, was on Saturday last elected by joint ballot of both Houses of the legislature of this commonwealth, a member of the privy council or council of state, to supply the vacancy occasioned by the death of *Lyne Schackelford, Esq.*

Baltimore, Dec. 11.

From letters just received from Pittsburg, dated 28th ult. it appears that Comfort Taylor was then at that place, actively engaged in purchasing and loading a large quantity of provisions—that a number of boats well loaded for the transportation of men and provisions were just finished at Beaver, a few miles below Pittsburg that a large quantity of powder had been taken by land from Pittsburg to Beaver—that a large quantity of salt had been brought