

MARYLAND GAZETTE.

THURSDAY, MAY 5, 1863.

From the AMERICAN.

AT REQUEST.

(Continued from our last.)

THE supreme court of the United States have unanimously decided—in that the nomination is the sole act of the president and is completely voluntary: and, that the appointment is also the act of the president, and voluntary, although it can only be performed by and with the advice and consent of the senate; they proceed to consider and so state, that appointment is the sole act of the president. They expressly declare that the last act of the president in making an appointment, is the signature of the commission—their words are: he has then acted on the advice and consent of the senate to his nomination. The time for deliberation has then passed. He has decided. His judgment on the advice and consent of the senate concurring in his nomination, has been made and the officer is appointed. The opinion of the present governor of Maryland had never extended so far, but had he not been convinced by their reasoning, he should not have opposed his own opinion to their authority; having offered to relinquish it on the opinion of either the legislature or judiciary here differing with him; so far as to cease to act, by resigning. This able and elaborate opinion of the supreme court, must have its weight throughout the legal world, and that the terms advice and consent are not now imperative or obligatory; is the supreme law of the land; any thing in the constitution or laws of the separate states to the contrary notwithstanding. The governor, the council and the legislature are bound to support that decision as law by their oaths, and although the Civil Officer cannot now undertake to say, how far that decision can determine a question, arising under the constitution of Maryland; yet he can safely say, that all those functionaries would be exposed to very serious difficulties, in giving different decisions on the same words, in their different capacities as citizens of the United States, and citizens or officers of this state, and they would expose the people of Maryland to a painful and dangerous dilemma, adding under a certainty that the one, or the other constitution was unquestionably violated.

Why should the people of the government be involved in such dangerous embarrassments? there has been no legal decision on the constitution of the state contrary to that of the United States. A practice in council, not exposed to public observation, frequently varying, and sometimes opposite, as extrajudicial will prove, and contrary to decisions of the legislature, will not certainly be exposed to common reason, immemorial and unvaried public usage, legal understanding, and the supreme judicial authority of our national government.

It will be seen that the supreme court decided on the word appoint, independently of the word nominate, the latter term is used in the federal constitution, where the president never personally meets the senate, and to avoid those evils which had already existed; but although the president of the United States has no power of proposing or negotiating a treaty exclusive of the general authority resulting from the terms making treaties, yet it must be well recollected that after negotiating the British treaty, submitting it to the senate, and obtaining the advice and consent of two thirds of that body, the late president Washington deliberated a long time whether he would ratify it or not. As soon as it was known that the senate had advised the ratification, addresses poured in upon him from all parts of America, praying him to reject it.—Although the advocates of that treaty were numerous, respectable for their wealth and eminent for their talents, yet it is not recollected that one solitary opinion appeared that the advice and consent of the senate was obligatory on him; or that he was not still at full liberty; to reject or ratify at his own discretion. Nomination therefore wholly unimportant to decide the import of appointing by and with the advice and consent even where it is used, has been lugged into this controversy although unknown to our constitution and laws—it has been connected with the term veto, which first excited the public odium, and destroyed a constitutional power, just established by the French people themselves. It was the magic spell that first raised all the tories of France and blighted perhaps for ever, the fair hopes of twenty-five millions, of the votaries of freedom.—It is hoped that it has been used with no such nefarious designs here, and it is believed it will be attended with no pernicious consequences—it probably was only designed to confuse a plain question, and in this view it certainly entitles the Friend of Candour to rank among the phenomena of natural history next to a fish, which discovers the instinctive sagacity, of muddying the water to elude pursuit.

With the foregoing observations, we have concluded our reply, without any material omission to our knowledge, to the 34th section of the constitution organizing the board of council; with the true construction of which, the pretensions of the council to the powers they have exercised, and the arguments of their friendly advocates must ultimately stand or fall. Admitting here the full force of the rule licet, which we have always urged,—that all the parts of the constitution must be considered together and so construed as to render the whole one regular and consistent act—our observations that follow will be more full and particular, and we hope and expect that they will prove entirely conclusive.

The Friend to Candour, thus commences: *The convention having as before stated created in the governor and council the right of appointments; and having also interpreted to them all other executive business not conferred to the governor alone. We have been early on our guard against this attempted fallacy; and have already referred the reader to the constitution itself, to prove, that the last division of this sentence from the word appointments, is an artful misstatement and its dangerous and deceptive design will be now developed and exposed. By attending to the order which the constitution observes, its true construction will become still more evident. The first division of this sentence, (which is entirely incorrect as a citation), is from the 43rd section of the constitution; it is the 43rd section, on which he is commenting; and the last division which is the direct reverse of the truth in fact and effect, is from the 33d section, prior to it in order. Strictly speaking, the power of ap-*

pointing to office, will be found to be no new power vested in the governor by section 43. It was a power that had been invested in that officer from the first settlement of Maryland, preserved by the declaration of rights, recognized and established as a part of the constitution, (unalterable and irrevocable but in the constitutional mode,) by the 33d section. The 43rd section in reality does no more than limit the governor in its exercise, by requiring the advice and consent of the council, without which express restriction, he might have alone exercised this power by the constitution and laws of Maryland. This remark is here intended to illustrate and connect our observations on this subject, but it is altogether unnecessary in proving the citation of the Friend to Candour to be the reverse of the truth. Section the 33d should be particularly attended to, as it organizes constitutionally the general executive powers of the state: its own words can best explain its meaning.—“The governor, nor, by and with the advice and consent of the council, may embody the militia, and when embodied shall alone have the direction thereof, and shall also have the direction on of all the regular land and sea forces under the laws of this state, but he shall not command in person, unless ordered thereto by the council, and then no longer than they shall approve thereof; and may alone exercise all other the executive powers of government where the concurrence of the council is not required according to the laws of this state.” So directly the reverse therefore is this position of the Friend of Candour from the truth—that the convention intrusted to the governor and council all other executive business, not conferred to the governor alone—that by the express effect of this general grant to the governor alone, in order to enable him to require their advice and consent to his exercise of those other executive powers, and in order to compel them to give their advice and consent thereto, there must be a special law directing their concurrence in the particular case, and all other executive business of whatever nature it be, is expressly and constitutionally conferred to the governor alone.—The position therefore of the Friend of Candour which immediately follows as an inference from these premises, that the governor and council were constituted into one board for the transaction of all such business as had not been conferred to the governor alone, must fall like the baleful fabric of a vision.” Here then stands fully exposed the great object of this deception, thus artfully contrived, which has stated the direct reverse of the real constitutional provision, as true. Notwithstanding this bold attempt to erect themselves, with the governor, by a fabrication, into a board for the general executive business of the state, and as such to legalize all their usurpations in his presence or absence, they must, as far as the constitution can prevail, remain a board full, to advise the governor as freely, and only to advise and consent to his acts in such special cases as may by law be required; who consents with them to hear the discussions and reasons they may offer for that advice, and decide, if they are divided; but who is still to act after that advice and consent is obtained on his own responsibility, and who is alone, without consulting them, to exercise all other the executive powers of government, whatever may be their nature, whether derived from the laws existing before the revolution and unrepelled by the convention; or created by new laws and subsequent legislatures.—But of this more fully hereafter.

This distinction, or rather these words of the 33d section preserved steadily in view, will be alone sufficient to destroy the pretensions of the council; but they form only a very minute part of those uniform, consistent, connected and unanswerable arguments, which result from our constitution and laws, as will appear from the following observations. Some young men, born as it were yesterday; seem to look back to the convention and the constitution as to the creator and creation of a new world, or at least so believe, that all that preceded was a chaos yielding not one ray of light: Before they undertake to confute the constitution of this state, they should first examine its records and laws, and depend in some degree on those who were men and public officers before that period. They would then observe that the convention, (after asserting this first and most important truth resulting from the principles of the revolution, “that all government originates from the people,”) proceeded to declare, (as we have stated,) “that the inhabitants of Maryland are of right entitled to all the laws arising either from common or statute law in force and in practice in this state on the 1st of June, 1774, subject however to such alterations as had been or might be made by the convention or future legislatures.”

It was on this basis that they proceeded to establish a constitution or system of organic laws, unalterable and irrevocable by any single act of a future legislature. By this constitution they preserve the three great departments of government as established and derived from the common law—the Legislative, Executive and Judiciary; but these they declare ought to be for ever thereafter separate and distinct: The principal laws relative to the organization of these departments they have rendered part of the constitution, consequently unalterable and irrevocable, (as has been observed,) by an ordinary act of the legislature; but all other laws in force on the 1st of June, 1774, (all of which necessarily prescribed duties to some of these departments,) are equally in force now, unless expressly or by necessary construction repealed by the constitution or subsequent legislatures; with this distinction, that they now remain, not constitutional laws, but repealable by ordinary legislative acts.

We must ever keep in view this fundamental principle when about to decide the true construction of the constitution, which without it must have remained a dead letter and never could have been brought into action; as will appear by the following observations:—The constitution organizes the legislative body in many respects differently from what before existed, but the power conferred on the delegates by section 10, of proposing to, or receiving bills from, the senate; and on the senate by section 11, of exercising their judgment in passing all laws, cannot be considered as describing or defining the nature or extent of the objects, to which those bills or laws must relate, or the forms or modes in which they were to progress and be executed; those remained dependent on the colonial laws in force on the 1st of June, 1774; derived from the common law, and other sources described in the constitution, except as altered by the convention.

The same general principle extends more forcibly to the judiciary: By the constitution, section 36, “Three persons of integrity, &c. shall be appointed judges of the court now called the Provincial Court, thenceforth to be called and known by the name of the General Court.” And the county and inferior courts are no otherwise organized or noticed by the constitution, than by providing for the appointment of the justices and clerks, and permitting a justice of peace to serve in the general assembly, which was otherwise prohibited by the general separation of the legislative and judicial departments, as established by the declaration of rights. Yet all these courts proceeded without hesitation or question under the colonial laws and statutes in force in 1774, without which they could not have issued a process, much less have tried a cause. In the executive department, the governor, and the council to advise the governor in certain cases, were preferred as the known and established functionaries of that department; but the legislative and judicial powers which both had exercised prior to the revolution, were destroyed, not only by the general provision of the declaration of rights separating the three departments; but also by the constitution organizing other depositaries on whom they were conferred. The words used by the constitution are strong and clear: Section 29 provides, that a person of wisdom, experience and virtue, shall be chosen governor. Here is no creation of a new office; a new mode only is prescribed of appointing an officer to discharge the duties of an office already known to the laws, and the inhabitants of Maryland from their first emigration; subject to such changes and limitations as the constitution and subsequent laws should make. Section 26. Five of the most sensible and experienced men are to be chosen the council to the governor. Words could not be more express and emphatical—the word the even definitely refers to a body and official duties then existing and already known to the laws:—this description itself, and all the laws and usages then known in Maryland, constitute them a body, only to advise the governor in the discharge of certain specified executive powers: The constitution throughout expressly recognizes and directs this, as the only mode in which they shall act, except in the appointment of their clerk, and the devising a great seal, exceptions which arose from very peculiar circumstances in the preceding history of Maryland, and which will be hereafter noticed.

In order more clearly to exhibit the executive powers of the governor under the constitution and laws of Maryland, the following analysis is offered:—

1. Appoint and notify one of the two days, or a day between, for the meeting of the assembly, where the two houses differ on the day of adjournment. Sect. 29.
2. Have the direction of the militia when embodied. Sect. 33.
3. Have the direction of the regular land and sea forces of the state. Sect. 33.
4. Grant pardons and reprieves for any crime, except in such cases where the law may otherwise direct. Sect. 33.
5. Lay embargoes, not exceeding thirty days, during the recess of the legislature. Sect. 33.
6. Compel any vessel to ride quarantine, suspected to be infected with the plague. Sect. 33.
7. Commission as sheriff the second of the two persons first returned, on the death or disqualification of the first. Sect. 41.
8. Commission a register of wills on the joint recommendation of both houses of assembly. Sect. 42.
9. Suspend or remove any militia officer in pursuance of the sentence of a court-martial. Sect. 48.
10. Sign all commissions and grants. Sect. 57.
11. Sign every bill passed by the general assembly. Sect. 60.
12. Appoint a treasurer in the recess of the assembly till they meet. Sect. 13.
13. Call the assembly before the time to which they are adjourned, giving ten days notice. Sect. 29.
14. Embody the militia. Sect. 33.
15. Command the militia and regular forces in person, but no longer than the council approve. Sect. 33.
16. Appoint a register of wills during the recess of the legislature till they meet. Sect. 42.
17. Appoint a sheriff when both the persons returned shall die, refuse to serve, or become disqualified. Sect. 41.
18. Appoint clerks of general and county courts in case of vacancies during the vacations of such courts. Sect. 47.
19. Appoint a chancellor, judges, justices, &c. and all civil and military officers, (overseers of roads excepted; &c.) Sect. 48.
20. Suspend or remove a civil officer who has not a commission during good behaviour. Sect. 48.
21. Suspend or remove any regular officer of the land or sea service. Sect. 48.

And, lastly, 22. The governor may alone exercise all other the executive powers of government, where the concurrence of council is not required by the laws of this state. Sect. 33. These other executive powers could no more be expressly enumerated, defined or fixed, by the constitution, than the other powers of the legislative or judiciary departments—which remain undefined thereby; and could it have been done, it would have been improper and absurd, unless the convention had been gifted with the divine attribute of foreknowledge; as they would then become part of the constitution, and unalterable by the ordinary acts of future legislatures.

The powers, therefore, of the governor, to be exercised by him alone, under this last general clause, are 18, such as existed under the laws of the state in 1774, not abrogated or altered by the constitution or subsequent laws; and, andly, such executive powers as are created by, or arise under, subsequent laws. On these we must remark, that his executive powers derived from the laws in force in 1774, must be such, and such only, as were created, adopted or recognized, by the laws and practice of Maryland, and not such as were merely executive powers in England or Great Britain; and that all such, which are implied into the constitution, remain still subject to repeal or alteration by subsequent laws; which may also require him to exercise

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them, by and with the advice and consent of council; and in all such executive powers as may arise under laws subsequent to the constitution, the governor may, under the same general clause, be specially directed to require and obtain the concurrence of council in such specified cases.

That the foregoing is the true meaning and construction of this general clause is evident, not only from the general principles, structure, and express letter of the constitution as just commented on, but also from the following considerations. Sect. 29. "But the governor shall not adjourn the assembly otherwise than as aforesaid, nor prorogue or dissolve it at any time." This power the governor only possessed under the laws of 1774, and being no otherwise abrogated by the convention than by this clause, he would of course, but for the exception, have still retained it under the general grant of all other executive powers. Again, sect. 33. "But the governor shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute or custom of England or Great-Britain." Thus, although the declaration of rights declares that the inhabitants of Maryland are entitled to the common law of England, and the statutes in force there at the time of their emigration, yet the executive powers derived therefrom, although used in England or Great-Britain, unless in force, recognized, and adopted as part of the laws of Maryland in 1774, are hereby excluded from the general grant of executive powers to the governor; who is expressly prohibited from the exercise of any such, on any pretence whatever.

Under any other construction of the constitution than that here laid down, these two last cited provisions are absolutely absurd; but under the fabrication which the Friend to Candour has attempted to impose on the public as the constitution of Maryland, that the governor and council are intrusted with all other executive business not confided to the governor alone, and still more under the construction of this writer, and the pretensions and practice of the council, that their advice and consent place him under their imperative guidance in the exercise of those other executive powers—these clauses must have been introduced by the convention in derision, which cannot be gravely contended of the venerable founders of our liberty:—although really under the degraded and humiliating state to which the chief magistracy has been reduced by the abuses that are practised; not only these clauses, but the whole constitution, appears now like mockery and insult to this officer—He must be a compound of qualities as inconsistent as the duties now required of him—at one moment he is called to discharge the most awful and important duties that society can intrust to an individual—which require all the virtues of the heart and all the energies of the mind; he holds in his hands the keys of life and death, and is the last resort for mercy in this world: If he does not command in person, he must still direct the united efforts of society in that appeal to arms which involves the fate of every thing dear and valuable to individual and associated man; and in the next minute he is deprived of all use of his intellectual faculties, and must submit as a mere automaton machine, to sign his name to any thing that perhaps runs of his council may direct, against his judgment, contrary to his sense of duty, and the obligations of his oath. The enlightened patriots who formed the constitution of Maryland, were far from intending to place at the head of their government a golden calf to be worshipped; but as little were they disposed to throw down a log for frogs to play upon: their whole work evidences that they intended to improve on a well known establishment, that had grown out of the wisdom and experience of their ancestors, curtailing only such of its powers as had been abused, and rendering the depository himself responsible for the exercise of those retained—conformably to which construction, we find the governor, as the executive of Maryland, on the same principles which guided the legislative and judiciary, continuing to issue proclamations, a power derived from the common law of England, as recognized and practised here; executing the powers conferred on a proprietary governor under the statute law of 1766, and by other laws previous to the revolution, an instance of which we shall have occasion presently to notice.

With the foregoing synopsis and preliminary observations, the 34th section of the constitution will be found, on examination, to be not only clear, and consistent with every other part of the same instrument, but its true meaning and construction will produce a very different result from what has been expected by those who now rely on it to support their pretensions. The whole section stands thus—"That the members of the council, or any three or more of them, when convened, shall constitute a board for transacting of business: That the governor for the time being shall preside in the council, and be entitled to vote on all questions in which the council shall be divided in opinion; and in the absence of the governor the first named of the council shall preside, and as such shall also vote in all cases where the other members disagree in their opinion." The first clause of this section, declaring the number that shall constitute a board to do business, is the usual preliminary in organizing a deliberative body of public functionaries; it may only be observed that it was peculiarly necessary here, as the council to the governor had before consisted of an unsettled number. On the 16th April, 1747, governor Ogle took the advice of eleven councillors; on the 16th September, 1747, he acted with only three. The next words that occur (*when convened*) are material: the expression, it is to be observed, is passive, not active; and we ask by whom convened? Will it be answered convened by themselves? If so the phraseology is uncommon, and the idea unique in legislation. Can it be possible that the convention intended to leave the constitutional assemblage and adjournment of this body for the transacting of such important business dependent entirely on the fortuitous concurrence of a majority at the same time and place? Could they rely on one simultaneous impulse on five men situated in different parts of the state? What a door would it open for fraud and intrigue, if three might convene themselves at any time, constitute a board for the transacting of business without the knowledge of the governor and the other two members! and how different might the result be if the governor and those members were attending? It might then happen, and it actually does now frequently happen, although it is not carried to all the extreme of which the abuse is susceptible, that two members residing at the seat of government, a third may ride into town—never apprize the governor—collect the other members—turn out what officers of the state they please, and put others in their places, and the first notice the governor may receive of business so transacted, may be commissions sent to him to sign for 30 or 40 officers, or perhaps double that number, whose names he probably never heard of before, and some of whom, to his knowledge, may be improper characters—and if he does not sign these commissions, he is liable, as the Friend to Candour supposes, to a civil suit. Is it possible this can be the meaning of the convention? Let their work speak for itself—it can bear no such construction; but when connected with the laws of 1774, all is clear and consistent—at that time the governor could alone convene the general assembly for legislative, or the council for executive business; the latter, it is believed, he almost invariably convened at his own house, for that purpose: neither of these bodies had any right to convene themselves; if they had convened themselves, they were

neither an assembly nor a council; nor are they at this day invested with any public authority whatever, when convened in any other manner than that prescribed by the constitution and laws. By referring to the constitution, and our preceding remarks, we must perceive the great care observed in that instrument to prescribe the manner in which the general assembly may be constitutionally convened and adjourned, limiting the authority which the governor possessed joined under the laws of 1774. But in what part of the constitution has the convention destroyed or limited the power of the governor to convene and adjourn the council? It is a power he ever exercised; in full force on the 1st of June, 1774, and unless destroyed by the convention, or some subsequent law, it is in force at this day; it is now still more essential than formerly to the constitutional discharge of some of the most important duties of his office, which he cannot exercise without their advice and consent; to obtain which he must convene them. Here then we find the reasons which induced the legislature when they limited the power the governor always possessed, (which they had recognized under their general grant,) of convening and adjourning the assembly, to leave his power over the assembly and adjournment of the council as it stood for their general laws; and the reason why no time is fixed for their assembling, or power conferred on them to convene themselves, leaving it dependent on the occasions that might require their advice. This will be still more evident when we proceed in our comments on the next words of the section (*for the transacting of business*), and shall satisfactorily ascertain what this business may be. It is neither legislative nor judicial; by the declaration of rights: they are not to transact the general business of the executive department, as the Friend to Candour has laboured to establish, by stating the exercise of the constitutional provision; for as we have frequently cited, the governor may alone exercise all other executive powers of government, unless the concurrence of the council is required by the laws.—To entitle the council to act at all, they must be specially authorized by the constitution, or some other law; and when they do act, they must act by advising and consenting to some act of the governor. They never had acted in any other manner on executive business before the constitution, and that in the sole manner in which the constitution directs them to act throughout—for although the constitution, sec. 49, mentions the civil officers of the appointment of the governor and council, they are merely words of reference, and as such correct and consistent, with all the other parts of the instrument and the construction here laid down; but those terms are never used as terms of grant throughout the constitution. When powers are invested in the executive, they are invested in the governor alone, or in the governor, by and with the advice of council. The governor is the agent always contemplated, and advice and consent presuppose an act to consent to, or although they with strict propriety may be said to advise what they consent to, yet the converse of the proposition is really absurd, for they cannot be said to consent to an act which emanates solely from their own advice.

A CIVIL OFFICER OF MARYLAND.

(To be continued.)

NEW YORK, April 29.

On the important question of peace or war, between Great-Britain and France, we have nothing decisive. The definitive answer of Buonaparte to the ultimatum of the British cabinet, which was every moment expected, had not arrived in London on the 20th March. Our extracts are principally confined to the subject. In fact, the London papers are almost wholly occupied with the "din of warlike preparation," and with conjectures on what will be the probable issue.

It is mentioned as report in a paper of the 14th, that Buonaparte had written a letter to the king of England, of which the following is the substance:—"Brother, in disputes between nations of such importance as England and France, a question must necessarily arise of considerable moment, viz.—Which is the greater?" We of course, reciprocally, must be partial; and I have no hesitation in declaring, that if Britain do not submit to my claims, the English empire must be *erased* (destroyed). The probability of a renewal of hostilities, and the report of an embargo in the French ports, had caused a sensible depression of the funds at the date of our latest accounts.

LATEST FOREIGN INTELLIGENCE.

From London papers to the 20th March, received at the office of the Mercantile Advertiser, by the ship Juliana, and other arrivals.

LONDON, March 9.

A most important message from his majesty was yesterday delivered to the two houses of parliament, of which the following is an accurate copy:—

"His majesty thinks it necessary to acquaint the house of commons, that as very considerable military preparations are carrying on in the ports of France and Holland, he has judged it expedient to adopt additional measures of precaution for the security of his dominions. Though the preparations to which his majesty refers are avowedly directed to colonial service, yet as discussions of great importance are now subsisting between his majesty and the French government, the result of which must at present be uncertain. His majesty is induced to make this communication to his faithful commons in the full persuasion that, whilst they partake of his majesty's earnest and unwary solicitude for the continuance of peace, he may rely with perfect confidence on their public spirit and liberality, to enable his majesty to adopt such measures as circumstances may appear to require, for supporting the honour of his crown and the essential interests of his people."

Ordered, That his majesty's said most gracious message be taken into consideration to-morrow.

March 10.

Notice was given last night by the minister that 10,000 additional seamen would be proposed to be voted to-morrow. The press-warrants have obtained a very large supply of prime seamen. The mansion house was crowded with sailors yesterday and this morning all eager to enter. In the course of Tues-

day upwards of 3000 men were procured. Press-warrants have also been sent to all our ports.

On Tuesday night large parties of seamen from the different ships at Spithead were ordered on shore for the purpose of impressing seamen for the fleet, and every man was indiscriminately taken from on board colliers and other ships.

The same activity prevailed yesterday, and a great number of hands were obtained. The same measures have been ordered to be adopted at Plymouth, Portsmouth, Falmouth, and the other ports. Several frigates and gun brigs have sailed for Guernsey and Jersey with warrants to impress seamen. Recruiting parties for the marines have been ordered out, and five guineas bounty is to be given to men entering. At the admiralty all is vigilance and activity. The board sits to a late hour every day, and the clerks are kept at work all night to forward the dispatches and orders to the different ports.

Orders were last night dispatched to "batham to get ready for sea, as quick as possible, every ship at that place, that can be equipped for service."

Orders have also been issued for the artificers in his majesty's dock-yards, to work as much extra time as they possibly can, in completing the repairs of the ships of war now in dock, and of those ordered into dock, when there may be some to receive them.

Naval officers have been flocking to the admiralty; above 300 captains have been there within these two days. Many of our great admirals have been sent for. Lords Nelson and Keith have both had conferences with earl St. Vincent.

Dispatches have been sent to Portsmouth to be forwarded to the Mediterranean. In the frigate which is to carry out these dispatches, captain Vodd, with de-camp to his royal highness the governor of Gibraltar, goes out again to that garrison. He carries with him dispatches to his royal highness the duke of Kent.

Military preparations are carrying on with the same vigour and dispatch. The militia are to be called out—orders have been issued to increase the army, and to facilitate this object, his royal highness the duke of York has intimated to the proper officers by his majesty's command, that the standard for the recruits that may be hereafter enlisted for the infantry of the line shall be reduced to five feet five inches; that the levy money for men of that height shall be raised to six guineas; of which the men are to receive five guineas in money and necessaries; and that the levy money for boys for general service shall be raised to four guineas, of which they are to have three guineas in money and necessaries.

March 11.

Yesterday general Andreossi, M. Schimmelpenninck, and the Spanish minister, waited on lord Hawkesbury, at his office, and had a conference with his lordship upon the measures and preparations now making by this country. Soon after the conference each of the ambassadors dispatched a courier to his respective government.

Ten thousand additional seamen are to be voted to-day by parliament—and it is probable that some debate will take place in both houses upon the state of the country. Ten additional sail of the line are to be put in commission with all possible speed. In a fortnight, we have no doubt, that 60 sail of the line, completely equipped, will be riding in our ports.

In all probability fleets of observation will instantly be sent out. Lord Nelson, of course, will have the command of one of them. It is a very fortunate circumstance that various causes have delayed the sailing of the French squadrons in the ports of Havre, Calais, and Dunkirk. The Louisiana expedition has been delayed, first by the failure of a boat at Paris, which had the contract for supplying it with necessaries; and secondly, by the frost, which set in with great severity in Holland.—Our correspondent at the Hague has informed us that it is to sail the end of this month. But if these preparations in the French and Dutch ports have given cause of just alarm and suspicion to our ministers, they will not of course, we should suppose, permit these fleets to get to sea.

March 15.

During the press on the river, a great number of American seamen have been taken; in consequence, Mr. Erving the consul of the United States, resident in London, has had a long interview with the lords of admiralty, when all those seamen who gave satisfactory testimonials of their being citizens of America, were ordered to be discharged. Several, however, have entered voluntarily.

March 17.—A circumstance of a very extraordinary nature transpired yesterday, which, however, made no noise or impression on the city. On Tuesday night, at half past ten o'clock, a person arrived at the admiralty from Brighton, with an account of a French vessel having drifted on shore near that place; she had, it seems, been deserted by the crew, excepting a boy, and having been boarded, was found to be laden with about 100,000 Randal of arms.—Before the crew left her, they threw a box on shore near Shoreham, and found to contain standards of green colours, suited to the Irish.—These colours had the word Union on them, and we have heard it stated, with a French and Irish hand united underneath. This is the account which was in general circulation; some said the ship was found off Colchester. The admiralty was yesterday engaged in examining the green colours of the nature alluded to; but we doubt the reports of the quantity of arms. Those who have been able to investigate all the circumstances cannot judge whether this ship be a stratagem or not.—No thing is more likely than that Buonaparte would send a vessel with arms, &c. apparently for the Irish.

bels, but really create alarm, on. At the fact nothing is more send Irish rebel king's message From the (London) It is extremely possible, to form present difficulties grounds of objection. There was a subject, however. It was said that by the first conditions, in which ta is given up of the court of and overthrow kingdom." Corlica could majesty and to sage had been light than an L. when he inv him in a tour

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hels, but really destined to fall into our hands to
create alarm, and have an influence on the negotia-
on. At the same time it is not to be forgotten, that
nothing is more likely than that Buonaparte would
send Irish rebels succour if the fears expressed in the
king's message be founded.

From the (London) Morning Chronicle—March 14.
It is extremely difficult, or rather absolutely im-
possible, to form any opinion as to the result of the
present discussions with Buonaparte, because the
grounds of dispute are known only to ministers.
There was a report yesterday so current on this sub-
ject, however, that we may be authorized to state it.
It was said that a most insolent letter had been sent
by the first consul to his majesty concerning late dis-
cussions, in which Buonaparte says, that unless Mal-
ta is given up, and other points, to the satisfaction
of the court of the Tuilleries, "he will come over
and overthrow (écraser) both the king and his
kingdom." It is scarce credible that the man of
Corsica could be guilty of so gross an insult to his
majesty and to the English nation. If such a mes-
sage had been sent, it could be considered in no other
light than an ebullition of madness, like that of Paul
I. when he invited all the princes of Europe to meet
him in a tournament.

March 18.
The contents of the dispatches brought by Mr.
Courvoisier have not transpired; but it is said, that
they are not of a decisive nature, private accounts
enable us to state the effect which our preparations
have made upon the chief consul. They seem to
have entirely deprived him of his accustomed caution
and reserve; and to have inflamed him to a degree of
irritability and anger which he cannot conceal.

When he entered the audience chamber on Sunday
last, his features were menacing, and his whole frame
seemed violently agitated. Lord Whitworth was at
the audience. The first consul addressed him imme-
diately upon his entrance; observed with warmth,
that a war had now desolated Europe for fifteen
years, and asked whether it was how to be renewed,
adding, that if it was, it might again last for a long
period. To which Lord Whitworth calmly replied,
that if it was renewed, it would not be the fault of
Great-Britain. Buonaparte then went amongst the
ladies, but soon after returned to Lord Whitworth,
and vehemently declared that the armaments now
preparing in the ports of France were destined only
for the colonies, in the preservation of which Eng-
land was as much interested as he could be. To this
no answer was made. He soon afterwards quitted
the room, calling on God and man to witness, that
he hoped vengeance would be inflicted on that power,
which, by a violation of treaty, should cause the re-
newal of hostilities. All accounts agree that his
contentment was throughout almost disguised by pas-
sion; and his tone was so loud and vehement, that at
least half the company present must have heard all
that passed on this extraordinary occasion.

The conduct of Lord Whitworth afforded a striking
contrast to the demeanor of the chief consul—it was
firm, but temperate—dignified without being haughty
—and moderate without being submissive.

Yesterday was full of rumours.—It was said, that
M. Talleyrand had been dismissed from the post of
minister for foreign affairs, and that he had been suc-
ceeded by M. Otto. Another rumour was, that M.
Talleyrand had poisoned himself immediately after
his dismissal. We need scarcely state that both these
rumours are unfounded. A third report was that the
pre-warrants had been called in; we noticed and
contradicted this report yesterday. It was asserted
also, that the difference with France would be amica-
bly adjusted, and that the first consul's tone was mild
and conciliatory. How mild and conciliatory we have
already shewn.

March 19.
Government, we have been informed this morning,
expect to receive a definitive answer from Buonaparte
to night. Their ultimatum was dispatched on Tues-
day last, and as we understand, an immediate reply
was demanded, they are in expectation of dispatches
to night or to-morrow morning; that will decide the
question of peace or war.

Lord Keith arrived at Plymouth on Thursday
morning, and immediately hoisted his flag on board
the Culloden of 74 guns.

An English vessel arrived on Wednesday night
from La Hogue; she failed from thence last Sunday
evening in consequence of the bustle and confusion
that was going on at La Hogue and Cherbourg. She
was about to load oysters for London, and was
heaving out ballast for that purpose; but from the
warlike appearance of affairs in that neighbourhood
the captain thought it most prudent to leave it as ear-
ly as possible. Tickets were leaving at the houses of
all those connected with the army, and the utmost
confusion seemed to prevail.

Courier office, Three P. M.
We have just heard a rumour, which is in circula-
tion in this city.—It is, that an embargo has been
laid upon our ships in the French ports.

We mention the rumour; but have not been able
at this late hour to ascertain whether it be authentic
or not. It produced some effect upon the funds.—
The 3 per cents, which were at 65 for money, and 66
for account, fell to 64 1-2 for money and 65 1-2 for
the account.

Traveller office, London, March 19; half past three
o'clock.

We stop the press to state, that intelligence has
just reached us of an embargo having been laid upon
all the British vessels in the ports of France.—We do
not pledge ourselves for the authenticity of this intel-
ligence.

By a vessel arrived at Plymouth from Cherbourg, an
account is received of orders having reached that
place on Sunday last from Paris, for all waggons,
carts, carriages and horses to be put in requisition, for
the purpose of transporting troops and baggage; in
consequence of which the greatest bustle and confusion
prevailed at that place.

March 20.
A letter by the Lisbon mail announces the arrival
of general Lafites at his former hotel; it adds, that
at the instant of his arrival he wrote to the prince re-
gent informing him that he came to resume his for-
mer functions, but that he could not appear at any
levee till all the ministers who had formerly given
him offence were dismissed! Extraordinary as it may
appear, the prince is said to have complied with this
request.

Will be SOLD, at private SALE.

THE whole or any part of that valuable planta-
tion, on the north side of Severn river, now
occupied by Mr. John McCubbin; nothing need be
said as to the soil and other advantages, &c. of this
place, as it is well known to be one of the richest and
best farms in this state. As I shall be in or near An-
napolis for two or three weeks, any application by
letter, or otherwise, will be attended to.

JOHN HESSELIUS.
April 29, 1803.

NEGROES.
FOR SALE.

SEVERAL very valuable NEGROES. Apply
to the subscriber, near the head of Severn river,
in Anne-Arundel county.

REZIN HAMMOND.
May 2, 1803.

To the Voters of Anne-Arundel county and the
City of Annapolis.

COMING forward as a candidate for the office
of sheriff of Anne-Arundel county, with re-
spectful deference I offer myself to fill the important
station, and solicit their suffrages, at the ensuing elec-
tion, in my favour; should my wishes in this instance
be realized, I sincerely promise a strict attention to
impartiality, legality, and allduity, and the public
shall find in my attention to the discharge of the du-
ties of the office a grateful return for the confidence
they may repose in me,
And remain their obedient servant,
ISAAC DORSEY.

THIS is to give notice, that the subscriber hath
taken out letters of administration on the estate
of JOHN DENT, late of Anne-Arundel county,
deceased, therefore all persons who have claims against
the said deceased are requested to bring in the same,
proved according to law, and all those who are in
any manner indebted to the estate are requested to
make payment, to
ELEANOR DENT, Administratrix
April 27, 1803.

A LIST of LETTERS remaining in the Post-Of-
fice, Annapolis, March 31, 1803.

LUCY ADDISON, Belle-Vue; Anthony Ad-
dison, Annapolis.

Arthur Bryan, George Bevan's, Dennis H. Battie,
Nathaniel Burwell, Annapolis.

John Callahan (2), William Caton (2), Annapo-
lis; Maria Chainey, Lord's Manor; John Lane
Chew, Anne-Arundel county.

Francis Digges, Annapolis.

Joseph Evans, Annapolis.

John E. Ford, care of Thos. Buchanan, Anna-
polis; Richard Franklin, near Herring Creek church;

John Gwynn, Annapolis.

Samuel Harvey Howard, Mr. Howard, sheriff (2),
Annapolis; Dr. John Harrison, West river.

Thomas Linthicum, near Annapolis; Alexander
Leitch, West river.

Nich. Z. McCubbin, Daniel Mandell, Gabriel
Murdoch, care of J. West, Annapolis.

Thomas Norman, West river.

P. H. O'Reilly, Rd. Owing, Annapolis.

Thomas Pownall, Saml. Peaco, Annapolis; Wil-
liam Pool, Anne-Arundel county.

James Ray, Annapolis; Richard Richardson,
West river.

Sheriff of Anne-Arundel county (2), Philip Stuart,
Benedict Stewart, Caleb Sapington, Fanny Shorter,
Annapolis; Larkin Shipley, Augustine Sewell, Anne-
Arundel county.

Jane Troy, Annapolis; Dr. James Tongue (3),
near Annapolis.

Jos. Watkins, care of Wm. Alexander, George
Wells, John Wims, Solomon Wallace, care of
Smith Price, Annapolis; Azel Warfield, Anne-
Arundel county.

S. GREEN, D. P. M.
None of the above letters will be delivered with-
out the money.

LAST NOTICE.

ALL persons indebted for the Maryland Gazette,
Advertisements, &c. are once more earnestly
requested to pay off their respective balances. It is
sincerely hoped that proper attention will be paid to
the above request, or compulsory measures, though
extremely disagreeable, must be resorted to.

FREDERICK GREEN.

In CHANCERY, April 20, 1803.
James Wells,

Thomas Rogan, and Grace his wife, William Wells,
and Cassandra his wife, Robert Bodin, and
Sarah his wife, Samuel McKiss,
and Esther his wife.

THE object of the bill is to obtain a decree for
the recording a deed of mortgage from John
and Sarah Cooke, of Harford county, to the com-
plainant, for one hundred acres of land, part of two
tracts of land, the one called MAIDEN'S MOUNT,
the other PARADISE; the bill states, that John
Cooke, one of the bargainors, has departed this life,
and the other defendants are his heirs at law; it is
thereupon, on motion of the complainant, ordered,
that he cause a copy of this order to be inserted three
weeks successively, before the 20th day of May next,
in the Maryland Gazette, to the intent, that the de-
fendants, and all persons claiming under the said John
Cooke, or conceiving themselves interested, may have
notice of the complainant's application to this court,
and of the substance and object of his bill, and may
be warned to appear here in person, or by a solicitor,
on or before the first Tuesday in October next, to
shew cause wherefore a decree should not pass as
prayed.

True copy,
Test: SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

NOTICE, That the Commissioners of the Tax
for Anne-Arundel county, will meet at the
city of Annapolis, on the third Monday in May next,
and will sit from day to day for twenty days, to hear
appeals, and make transfers of property, and that all
persons interested in the late sales of real property
where no personal property could be found to pay the
taxes due thereon, are then and there requested to at-
tend.

April 21, 1803.

To the Voters of Anne-Arundel county and City of
Annapolis.

GENTLEMEN,
HAVING been honoured with your friendly con-
fidence and support on a former occasion, in-
duces me again to offer myself a candidate for your
suffrages at the next election for sheriff. I am grate-
ful for past favours, and should I become the object
of your choice, I pledge myself that the duties of
that office shall be discharged with integrity. All
scruples as to my eligibility have been removed, there-
fore your choice cannot again be rejected. I do not
join any candidate.

There have been, my fellow-citizens, two charges
raised against me, with a malicious view of injuring
my character, and to defeat my election. I am
charged with having imposed on or cheated an
illiterate man, Andrew Anderson, and with having,
at the sale of the personal property of William Da-
vidson, purchased negroes the widow was desirous of
possessing, and an intention of making profit, by
selling them to Georgia men. It is true, I bought
negroes, but at the request of Mr. Anderson, and
captain Vachel Gaither; they are all intended for
the service of those persons. The certificate of the
former proves he was not imposed on, and the latter
also proves a Georgia speculation was not in view.
It is not true that the widow was desirous of owning
those purchased by me; none but those named in the
certificates were bought by me.

JASPER EDWARD TILLY.

I hereby certify, that I requested Mr. Jasper E.
Tilly to purchase for me a negro woman, and a child
or two, at the sale of the estate of William David-
son, deceased; that he did purchase a woman named
Henny, and her two children, named Moses and Jo-
nathan; they were bought for my use, and are in-
tended for my services. Given under my hand, this
seventh day of April, 1803.

(Signed) VACHEL GAITHER.

I hereby certify, that I requested Mr. Jasper E.
Tilly to purchase for me a negro at the sale of the
estate of William Davidson, deceased; that he did
purchase one named Jen; that in the transaction
Mr. Tilly acted with fairness, and did not in the least
attempt to impose on or defraud me. Given under
my hand; this fourteenth day of April, 1803.

ANDREW ANDERSON.

To the Voters of Anne-Arundel county and the
City of Annapolis.

GENTLEMEN,
ENCOURAGED by the solicitation of a number
of my friends, I respectfully beg leave to inform
you, that I intend offering myself as a candidate for
your suffrages at the ensuing election of a sheriff of
this county, and to assure you, should I be fortunate
enough to meet with your approbation, that every
exertion shall be made to give general satisfaction,
and to prove myself worthy of your confidence and
support.

As it is my wish to avoid egotism, and as few
tasks can be imposed on a man more disagreeable
than that of becoming his own encomiast, I shall
therefore forbear making any farther professions on
the score of abilities, than to observe, that I have
acted for sometime past as deputy to Mr. John
Welch, the late, and to Henry Howard, Esquire,
the present sheriff, and have thereby, I flatter myself,
acquired a competent knowledge of the duties in-
cident to the office.

ROBERT WELCH, of Bar.

NOTICE,

To the Public of Maryland.

THERE will be a petition preferred to the next general assembly of this state, for a law to pass for a road to be laid off from a large white oak tree, on the south side of the main road leading from the city of Annapolis round the head of the Severn river to the city of Baltimore, standing at the lower end of Richard Dorsey's, (of Caleb) lane or plantation, next adjoining to a plantation belonging to Charles Carroll, of Carrollton, Edg; along up through the neighbourhood on the north side of South river, in Anne-Arundel county, by Jacob Waters's mill and the South river meeting house, and the neighbourhood of the Mr. Hopkins's to a fording place on the main branch of Patuxent river known by the name of Ashton's Ford, and from there the most convenient route through Prince-George's county, by or through Mr. Benjamin Ogle's plantation, known by the name of Belle-Air, to a small town in the said county, called Bladensburg, at or near the head of a creek of the river Patowmack, called and known by the name of The Eastern Branch.

April 14, 1803.

I HEREBY give notice, that I intend to apply to Anne-Arundel county court, at April term next, for a commission to mark and bound a tract of land, lying in said county, called JOHN and MARY'S CHANCE, being a survey on two tracts or parts of tracts of land, the one called DAN, and the other called JEMISON, in pursuance of the act of assembly, entitled, An act for marking and bounding lands.

JOHNSON M. O'REILLY.

Herring Bay, Anne-Arundel county,
January 1, 1803.

THIS is to give notice, that the subscribers, of Anne-Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne-Arundel county, in Maryland, letters testamentary on the personal estate of ELIZABETH EVANS, late of Anne-Arundel county deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscribers, at or before the fifth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under our hands this 5th day of April, 1803.

HENRY EVANS, } Executors.
JOSEPH EVANS, }

In CHANCERY, April 14, 1803.

ORDERS, That the sale made by JOHN WELCH, trustee for the sale of the real estate of PRILEMON BROWN, deceased, shall be ratified and confirmed, unless cause to the contrary be shown on or before the 25th day of May next, provided a copy of this order be inserted in the Maryland Gazette three times before the 6th day of May next. The report states, that 281½ acres of land, subject to the widow's dower, was sold for £858 11 6, current money.

True copy, 3X
Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

Michael & Barney Curran,

Have received, by the arrivals at Philadelphia,
A handsome assortment of

SPRING GOODS,

Consisting of

CHINTZES and calicoes,
Dimities and muslinets,
Marseilles quilting and printed jeans,
Cambric dimities,
Ditto muslin 6-4 and 9-8 wide,
Coloured cambricks and ginghams,
Ladies and gentlemen's silk and cotton hose,
Extra long silk and kid gloves,
Gentlemen's best beaver ditto,
Striped and coloured nankeens,
Figured fustians for gentlemen's vests,
India book and jackson muslins,
British ditto, ditto, ditto,
India crape handkerchiefs, and jackson ditto,
Irish linens and checks,
And on hand some best London superfine clothes and cassimers,
Cotton counterpanes and table clothes, &c. &c.
Annapolis, April 19, 1803.

Hat Manufactory.

THE subscriber takes this method of returning his most grateful thanks to his friend and customers for past favours, and the generous encouragement he has received since his commencing business in this city; he has furnished himself with a quantity of all kinds of furs, and has on hand a large assortment of the best and newest fashioned hats, which he is determined to sell at the most reduced prices. He has also a number of excellent workmen, which will enable him to furnish merchants with any quantity at the shortest notice. He hopes, from the good quality of his manufactory, and attention to business, to merit the patronage of a generous public.

JOSEPH MERRIKEN.

N. B. There are no other hats manufactured in this city but at my shop. The highest price given for all kinds of furs.
Annapolis, April 20, 1803.

Valuable Family Medicine.

Doct. Rawson's Anti-Bilious and Stomachic Bitters,
Prepared by Thomas H. Rawson, M. C. M. S.
New-London, Connecticut.

FOR which discovery he obtained a patent, signed by the president of the United States, July 1802. The singular virtues, and uncommon efficacy of these bitters, are so universally known and acknowledged, that little need be said in a newspaper advertisement. As a family medicine they are the most useful, safe, and efficacious composition ever known, for the prevention and cure of those numerous and complicated complaints so common in the spring season, arising from indigestion, nervous debility, &c. and are unequalled by any medicine ever known for destroying worms, and removing crudities from the bowels of children.

Dr. Lee's genuine Windham Bilious Pills,

Prepared by Samuel Lee, jun. of Windham, Connecticut.

For which discovery he obtained a patent, agreeable to an act of congress, and signed by George Washington, late president of the United States, April 30, 1796. These pills operate as a mild and speedy purge, and are a useful and convenient physic for families; the universal fame which they have obtained in consequence of their uncommon virtues and usefulness, render certificates of cures, and all comments on them, useless. When the yellow fever has prevailed in the principal cities of the United States, the demand for these pills was so great, and their benefits so amply ascertained and publicly acknowledged, that it was with difficulty the vendors could obtain a necessary supply. Price 50 cents a box.

Genuine Aromatic Paste,

Prepared by Isaac Thompson, of New-London, Connecticut.

The only medicine that will with safety ease and certainty cure the scurvy in the teeth and gums; this paste cleanses the teeth, and purifies the gums of any foulness or acrid corrosive humours, it braces and strengthens the fibres of the gums, so that they adhere close to the teeth; it likewise makes the teeth appear white and beautiful, and takes off all disagreeable smells from the breath, which generally arise from scorbutic gums and bad teeth. Price 50 cents a box.

Tyris Itch, or Beautifying Ointment.

It is the most remarkable composition ever known for cleansing and beautifying the skin, and the most pleasant, safe, and efficacious application ever discovered for the cure of the itch. For further particulars, and the method of using the above valuable medicines, the purchaser is referred to a bill of directions, one of which accompanies each box.

The above genuine medicines for sale, by
THOMAS SHAW, at his store in
Church-street, opposite Messieurs
Ridgely and Weems.

Annapolis, April 21, 1803.

YOUNG DIOMED,

WILL stand at the subscriber's farm, on Rhode river, about seven miles from Annapolis, this season, to cover mares, at 15 dollars each, and one dollar to the groom, that sum, or a note of twenty dollars, payable the first of January, 1804, must be sent with each mare, or they will not be received; said notes may be discharged by the payment of 15 dollars on or before the first day of December next. The season will commence the first of April and end the first of August.

YOUNG DIOMED is a beautiful dapple grey horse, six years old this spring, full fifteen hands and a half high, his blood and strain equal to any horse on the continent; the compactness of his form, and elegance of his figure, is greatly admired by the best of judges, he is full of bone, and proportionable shape, symmetry, and fine action; he came out of Mr. Ogle's imported mare Charlotte, and was got by col. Tayloe's noted horse Grey Diomed, as will appear by the following certificates.

I do certify the bay mare called Charlotte, sold to Mr. Harford, was got by Snap, a son of old Snap, her dam by Lightfoot, a son of old Cade, her grand-dam by Regulus, her great-grand-dam by old Cade, her great-great-grand-dam by old Partner, &c. &c. &c.
(Signed) JOS. HARDY.
October 1, 1779.

A true copy from the original pedigree in my possession.

BENJ. OGLE, jun.

The grey horse now in the possession of col. Sellman was bred by me, he was got by Mr. Tayloe's horse Grey Diomed, out of the above mare.

BENJ. OGLE, jun.

March 20, 1802.

Good pastures will be provided for mares at one third of a dollar per week, but accidents and escapes must be at the risk of their owners.

JONATHAN SELLMAN.

March 22, 1803.

I DO hereby certify, that a servant of Mrs. ANNE STEUART, of Dodon, hath brought before me a small bay GELDING, about 8 or 9 years old, as a trespassing stray; said horse has no perceivable brand, is about thirteen hands high, and has a long switch tail.

2

Anne-Arundel county, 4th April, 1803.

The owner is requested to prove property, pay charges, and take him away.

THOMAS HIGDON, Overseer.

In COUNCIL, ANNAPOLIS, April 19, 1803.

ORDERS, That the act to alter, change and abolish, such parts of the constitution and form of government as relates to the establishing a general court and court of appeals, be published once in each week, for the space of three months successively, in the Maryland Gazette, at Annapolis; the Baltimore American, the Telegraph, the Federal Gazette, at Baltimore; the National Intelligencer; Mr. Smith's paper, at Easton; the Republican Advocate, at Fredericktown, and Mr. Grievess's paper, at Hagerstown.

By order,
NINIAN PINKNEY, Clerk.

An ACT to alter, change and abolish, such parts of the constitution and form of government as relate to the establishing a general court and court of appeals.

BE it enacted, by the General Assembly of Maryland, That from and after the first day of March, eighteen hundred and four, there shall be a court of appeals, composed of three persons of integrity, and sound judgment in the law, who shall be styled in their commissions Judge of the Court of Appeals, whose judgment shall be final and conclusive in all cases of appeal from the court of chancery, county court or orphans court; and that the court of appeals shall hold two sessions on the western shore and two on the eastern shore in each year, at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That from and after the said first day of March, eighteen hundred and four, this state shall be divided into five judicial districts, viz: Saint-Mary's, Calvert, Prince-George's and Charles counties, shall be the first district; Cecil, Kent, Queen-Anne's and Talbot counties, shall be the second district; Anne-Arundel, Baltimore and Harford counties, shall be the third district; Caroline, Dorchester, Somerset and Worcester counties, shall be the fourth district; and Washington, Frederick, Montgomery and Allegany counties, shall be the fifth district; and that there shall be appointed for each of the said districts two persons of integrity, and sound judgment in the law, who shall reside in the district for which they shall be appointed, who shall be styled in their commissions District Judges of the county courts in such district; and there shall be appointed for each of the counties of this state one person of integrity, experience and knowledge, resident of the county for which he shall be appointed, who shall be styled in the commission Associate Judge of the county court of the county for which he shall be appointed; and the said district judges in their respective districts, together with the said associate judge in the respective counties, shall compose the county court, and the county courts so established shall have, hold and exercise, all the powers, authorities and jurisdictions, that the general court and county courts of this state has heretofore held, used and exercised, except the appellate jurisdiction of the general court; and that the county courts shall hold their sessions in the respective counties at such times and places as the future legislature of this state shall direct, and appoint.

And be it enacted, That if this act shall be confirmed by the general assembly, after the next election of delegates, in the first session after such new election, as the constitution and form of government directs, that in such case this act, and the alterations and amendment of the constitution and form of government therein contained, shall be taken and considered, and shall constitute and be valid, as a part of the said constitution and form of government, to all intents and purposes, any thing in the said constitution and form of government contained to the contrary notwithstanding.

And be it enacted, That all and every part of the constitution and form of government that relates to the court of appeals, or the general court, as now established, or to the judges thereof, or that is in any manner contrary to, or inconsistent with, the provisions of this act, be and are hereby declared to be repealed and abolished, on the confirmation hereof.

Fifteen Dollars Reward.

RAN away from the subscriber, on Saturday the 9th instant, a stout well made fellow, by the name of WILL, about 25 or 26 years of age, 5 feet 8 or 9 inches high, black complexion, his feet rather large, and when he stands or walks each of his toes turns much out, when spoke to he stammers much in his speech; he had on when he went away, a brown Welch cotton lapped short coat and pantaloon, one blue coat, one clouded nankeen ditto, one cotton shirt, one osnabrig ditto, other apparel unknown, and it is probable he has a pass as a free man to assist him in travelling. Whoever takes up the said negro, and secures him in any goal in the State of Maryland, so that I get him again, shall receive the above reward, with all reasonable charges, and if taken out of the state and brought home, shall receive TWENTY-FIVE DOLLARS, with reasonable charges paid, by applying to the subscriber, living near Mount Pleasant ferry, in Anne-Arundel county, and state aforesaid, and all persons are forewarned harbouring, and all masters of vessels are forbidden, at their peril, carrying off said negro.

ISAAC SIMMONS, of ABRAHAM.

April 14, 1803.

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ANNAPOLIS:

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MARYLAND GAZETTE.

THURSDAY, MAY 12, 1803.

A CIVIL OFFICER OF MARYLAND.—CONTINUED.

THESE observations will materially assist in elucidating the next clause of the section, which appears to be the great pivot, around which all the arguments to destroy the powers of the governor and confer them on the council, seem to turn as it were in a circle; but which a correct examination will prove to be equally clear, and consistent with every other part of the constitution. The words are, *that the governor for the time being shall preside in the council, and be entitled to vote on all questions in which the council shall be divided in opinion.* The governor being the agent, as we have already shewn, on whom all executive powers are conferred by every part of the constitution; and the business the council are to transact; being to deliberate and decide on their advice and consent to such executive acts of the governor as require their concurrence by the laws of this state; by the express and uniform words of every clause of the same instrument, which authorizes them to do any act at all, except in the two trifling instances frequently mentioned; It naturally follows, that when they are convened to deliberate on that advice and consent, the governor should be present to confer with them, not only to explain his own motives of action, but hear the motives of such advice as they may suggest in discussion. Public decorum would certainly require that the chief magistrate should preside when officially present; but the Friend to Candour can see no benefit that can result from this personal conference, and that consequent deliberation and discussion, so necessary to produce a concurrent act. Are not these the means, which all deliberative bodies are frequently obliged to resort to, when their concurrence is necessary to form an act? Is it not in its nature still more essential in executive proceedings, where system, secrecy and promptitude, are the characteristic features? It was for the benefits to be derived from this conference, and to explain the motives of advice, that the governor of Maryland ever had presided in the council, when convened on executive business. It is the common law and custom of England, and probably of every civilized country in the world, where there is a chief executive magistrate, and a council to advise him. Although it may not appear from the journals whether he ever voted to decide the opinion of council before the revolution, and although it is almost certain he did not, as it was naturally and generally improper for him to advise himself, yet the reason is evident, when we reflect that it was unnecessary, as the council held their seats at his pleasure, and he could, if they ultimately disagreed, appoint such as would concur with him. And it will be seen that the governor, if he chose to take the responsibility on himself, never considered the advice and consent of council as legally necessary to the validity of an executive act. Perhaps it was really not so before the constitution; but the convention having rendered the council independent on the governor, and their concurrence being made necessary to enable him to act on the most important executive business, natural reason, it should seem, dictated the propriety, that where the council were equally divided, the judgment of the governor should decide, and that he should vote, in order that the decision should be entered on the journal as that advice and consent, without which he could not possibly act. For these plain and evident reasons the convention have directed, that in this only case the governor shall vote; and doubtless it is the only case he could vote, consistently with the whole theory and language of the constitution. But the Friend to Candour observes, unless he acts as a member, it is not the advice of council; we shall not vulgarize our language by calling this play upon words, a quibble. But this writer is certainly the first pupil of the school of reason that ever gravely contended, that those who had authority to lay down a general rule could not make a special one; or, that having admitted the general principle, the convention could not provide for an exception, so reasonable and necessary as this must appear to be.

But the question now occurs, how can the governor's presiding, or voting on such special cases, (and if all the council attend to their duty, as the convention must have contemplated, or any number except four, he never can vote,) destroy the power expressly vested in him of acting, or exercising all executive powers of government, either with or without the concurrence of council? How can that deprive him of the use of his deliberate reason and judgment as governor, the officer who is the express agent in every executive act? How can it enable the council to act? This is not only by implication to destroy the express powers of the governor, but by implication also to give them to the council. Can they view the governor in the light of a political sampter mule, who may be led to council as an ass goes to market, where his masters ease him of his load, and turn him aside to browse on thistles and thorns? He exists, they admit, as an integral officer, to issue death warrants, &c. but all his other powers become common property, over which he has no control, unless they should disagree in the division of the spoil. The Indian, who with his murderous tomahawk has cleared the soil of his adversary, vainly imagines that he inherits all his faculties and powers. But surely the council cannot believe, that if the governor is defended, his powers to act are to remain with them; for when he ceases to exist as constitutional governor, their president must immediately call the assembly to supply his place: See, 32. The convention would not admit the idea of any but a constitutional governor continuing, even for a short time, to exercise the powers attached to the chief magistrate; perhaps it has been the dread of this provision that led, to the invention of a convenient half-alive state for him, to legalize under his name their own acts; as the mayors of the palace formerly preserved the pageants of the second race of France.

It is admitted, it is certain, the governor could derive no authority merely as president, (if he had been declared so,) from his being governor's but vice versa, the converse must hold good, and he could lose no authority as governor by being made president. By an act passed in March, 1774, Governor Eden, and the governor for the time being, is created president of the board of trustees of Charlotte-Hall School; this act has been amended by several acts since the revolution, and the trustees may now transact business without the presence of their president, who remains the governor for the time being. No one could imagine that the go-

vernor gained any authority as president by being governor, or that he lost any as governor by being made a president; the idea is too absurd. No one, it is presumed, will contend, that if the power had not been conferred on the governor of presiding in council, and voting on those special cases, that his full and integral powers as governor, derived from the constitution and laws, would not have remained entire. It is then asked, can additional powers conferred on an officer destroy those already possessed? Can express powers be destroyed by implication? that the power of presiding, and voting in a particular case, should destroy by implication or merge the power of acting as governor, which is granted generally in every case, is contrary to every principle of reason hitherto received among mankind. The doctrine of merger in law is rarely applied, and can only apply, where the possessor of an inferior or imperfect title gains a superior and perfect title, the less or worse may be merged in the greater or better title, but that the governor, by gaining a trifling power, which may possibly never be exercised, and which cannot possibly be exercised, where all the constitutional functions are attending their duty, should lose the high and important powers he had ever possessed and had been constitutionally confirmed, is contrary to all natural and legal reason. But it seems admitted that it does not destroy those powers which by the constitution he is to exercise solely; with respect to them he still remains, it seems, an integral governor: And why should it destroy those which he is to exercise with the concurrence of council? Are they inconsistent? are not his integral powers necessary to fulfil the constitution in these cases? If he has no independent power as governor, but must act solely as an occasional member of the board, can it be a concurrent act when he does not vote at all? Can it be a concurrent act, even when he may happen to vote? Is it not then a joint act, which is the reverse of concurrent, the constitutional term? This, it should seem, must be conclusive as to legal construction. But as the necessity is admitted of his remaining at all times an integral governor in the exercise of his sole powers, we may inquire into the propriety of his preserving and using those intellectual faculties which qualified him for the discharge of the one when he comes to discharge the other. If they are so important as to require that the judgment of the governor should be assisted by the advice of others, it certainly is more necessary for him to exert the energies of his mind also; and it is possible that the convention, when they directed him to take the advice and consent of others before he performed those duties, meant that he should relinquish all his powers of rationality with respect to them, unless his advisers, by possibility, should happen to divide. As the convention could not possibly intend this, so they never could foresee such a construction. A governor ever had presided over the executive council in Maryland before, without any such effect being produced. The name of president could not alter the legal effect, for we see the president of the United States uses his deliberate judgment, even where assisted by the advice and consent of the senate. But it seems that the convention could only have had in view their own president, or the speaker of the house or other deliberative body, and by directing him to preside in council, they intended to destroy, by implication, the express power they had already vested in him—on those subjects at least where the concurrence of the council is required. This is the amount of the reasoning of the Friend to Candour. But what analogy could he discover between the governor, a chief magistrate, whose official duties had existed from the first settlement of Maryland, had been recognized and rendered constitutional powers by the convention, who vests in him all executive power with or without the advice of council, and a president or speaker, officers elected in the same manner as the other members of the body over whom they preside, at the same time, and to discharge the same duties; who are separated from their associates only by an election among themselves, and who remain always *primi inter pares*. Had the convention known a president or speaker, had they created these officers, with powers by and with the advice and consent of the senate and house of delegates, to pass laws—then there might be some analogy in the cases, but it would still have been a slight one. But having now proceeded so far, we are obliged to conclude our observations on this clause by a painful remark, that the Friend to Candour has been fabricating again. Let him examine this section better, and he will find it to be directly the reverse of what he states it to be. The governor of Maryland never had been, nor is he now, president of the council; there ever has been since the year 1716 another president of the council known to the law; and so far is it from being true, that the governor and council are by this section constituted into one board for the transacting of any business, much less all other executive business, that the language of the section has most cautiously and directly guarded against any such inference, or confounding the powers of the governor and council together. First, the members of the council, (not the governor and council,) or any three or more, shall constitute a board. The governor is not named, and the board is constituted without him. Then follows, the governor for the time being shall preside in council, and shall vote when the council are divided; but when the first named of the council presides in his absence, and votes as governor, (and he must qualify as such, as we shall see, to enable him to do so,) it is expressed, he shall vote in all cases where the other members disagree. Here then we find that the governor is neither president nor member of council, nor member of the board, by this article, he is to preside in council, and vote in a specified case, but he remains governor still, with all his powers vested in him by the other parts of the constitution, and after the advice and consent of council has been decided, the business of the board ends; then it remains with his deliberate judgment to determine, whether he will concur therewith before he finally acts. The language of the constitution is express, the governor, with the advice and consent of council, may appoint officers; may embody the militia; call the assembly, &c. &c.

This leads to the last clause of this section which will be found equally perplexing with every other part of the constitution: The words are—*and in absence of the governor, the first named of the council, shall preside, (not the first named of those who may happen to be convened or present, at any particular time, as has been strangely construed,)*

and as such shall vote in all cases where the other members disagree in their opinion. All therefore that now remains in examining this article, is to ascertain what is the constitutional or legal absence of the governor. This we shall find can only be the absence defined and established by sect. 32, the death, resignation, or removal out of this state, of the governor, and possibly the case of extreme sickness and inability to perform the duties, under the law of 1716. This law, it must be observed, is a perpetual law—it has always been acted under, was in force in 1774, and being no wise inconsistent with, or repealed by, the constitution, may be, and by the best opinion the Civil Officer can form, is still in force. When therefore the first named of the council presides and votes, it must be as governor—the words in the clause, as such, cannot be construed so as to make either grammar or sense in any other manner; for he is in no part of the section called president—the words are *shall preside*—the words therefore, as such, cannot refer to a verb; there is no substantive in the preceding part of the sentence to which they can either grammatically or intelligibly refer, but the governor. By referring to sect. 32, we find the cases there enumerated when the first named of the council shall act as governor, and qualify in the same manner, and shall immediately call a meeting of the general assembly, giving not less than 14 days notice, at which meeting a governor shall be appointed for the residue of the year. The first named of the council then can only act as governor by the constitution in the cases here specified; and to do this he must qualify as such: This section therefore, 32, renders this clause of 34 absolutely necessary, to authorize the first named, acting as governor and qualified as such, to preside in council, and as such to vote where the other members disagree, and that there may be a governor or a qualified officer for the board to advise; and the words vote as such, i. e. vote as governor, fixes, by necessary reference, that absence of the governor, and qualification of the first named of the council, which are here meant and understood by the convention.—And the meaning and effect of the clause will not be varied if the law of 1716 is in force, for that law has always been construed, understood and practised under, as requiring the president to qualify as governor; thus it appears, from the journal of executive proceedings, "that on the 3d May, 1752, governor Ogle died—on the next day, it is thus entered, his excellency Samuel Ogle, late governor of this province, being dead, and the honorable Benjamin Tasker taking his place as president, the several oaths of government appointed to be taken by act of assembly of this province, and also the usual oaths taken by the governors of this province at the times of their qualifications, (changing only what is necessary to be changed,) and also the following oath, were administered to the said Benjamin Tasker, &c. any other interpretation, was it consistent with grammatical construction, would involve the greatest of possible absurdities; that is, although the first named of the council, on the death, removal or resignation, of the governor, cannot act without qualifying, and must immediately call the assembly; yet by meeting in the absence of the governor, he may go on through the whole year, exercising the duties of governor without qualifying or calling the assembly. He, and two of the council, or indeed any three or more, may meet under the present constitution, and if when thus convened, they constitute a board to transact any business not confided to the governor alone, they may meet at any other place as well as at the seat of government, or where the governor resides; of course they may transact the business without his possible knowledge—they may meet at the seat of government at their own lodgings, and lastly, they may meet in the council chamber, without apprizing him, as they frequently have done, and transact the executive business without the governor, and without the qualification of the first named of the council; and the governor is as effectually excluded from all participation in the duties of the office, not only for the residue, but for the whole year, and every year, as if dead, resigned or removed; notwithstanding the constitution has so effectually guarded against the exercise of the duties of this officer by any other than a governor, and qualified as such, permitting only to the first named of the council, qualified as governor, to act during the time requisite, to call the assembly.

It has not hitherto been examined in what particular mode the governor is to act when he presides in council; that depends on the forms heretofore practised, and the constitutional provisions; we have only hitherto contended, that whether the governor has the right he always had exercised prior to the convention of proposing, or whether the council may originate, or whether the governor shall both originate and also deliberate after their advice and consent, agreeably to the determination of the supreme court of the United States; the theory and construction of our constitution require, that he shall exercise the faculties of a rational being in discharge of all the duties assigned to him, instead of holding an intermediate, semi-vital existence, between the inanimate pen he guides, and the animals who guide him, if the expression can be used with propriety where no personal offence is intended.

To the foregoing observations on the principles and construction of the constitution, it remains to add some remarks on the style and language that has been used in our laws, subsequent to the revolution: These frequently prescribe duties to be performed by the governor and council, instead of the constitutional formula, by the governor, with the advice and consent of council. This is neither essential to the question relative to the Susquehanna commissioners, (for in these the language of the constitution was observed,) nor to the general construction of the constitution itself—but the object of this address is, to offer information and reflections to assist the public mind in deciding an important constitutional question, and not to carry a particular point. We therefore have taken occasion to observe, that this loose language in our ordinary legislation cannot possibly create any change in the constitution; whenever the governor and council are named, they are named as constitutional organs, and when they are to act, they can only act in the manner prescribed by that instrument: This principle is admitted by all; for otherwise the governor and council must act jointly, and the governor vote on all occasions as another member: If they act as constitutional governor and council, they must act concurrently, with the

special proviso, that if the council are divided, the governor may decide their concurrence himself. The legislature can confer no powers on the governor and council to be executed jointly; they might name the governor by his name, and the councilors individually, and then like other individuals, they would become joint commissioners; but they must then act independently of their constitutional authority.

We have remarked the great caution and care observed in the language of the constitution to avoid any inference that the governor and council are constituted into one board, and to prevent his powers from being confounded with those of the council, when he presides over that body—a separation, without which, the object and nature of a concurrent act of the governor and council could not possibly be maintained and preserved. He presides to be advised, and when constitutionally and legally absent, the first named of the council, qualified as governor, presides for the same purpose, and with the same authority, but his style is president of the council still. The board of council having decided on their advice and consent, either by a majority of their own votes, or in case of division, the governor, by special authority in that case, having decided, it becomes then that constitutional advice and consent—that concurrence, which the constitution and laws have prescribed in specified cases, as an indispensable requisite, to enable the governor to act, and without which duly obtained, there is no doubt but that the act of the governor, in any of those cases, would be unconstitutional, illegal and invalid. But still that advice and consent can only be one part of an executive act in these cases: it still remains for the governor to concur and execute; for if it has ever been one of those few cases in which he could vote—so far as he voted with the council he acted jointly, he has not even then concurred as governor; and if it is one of those cases on which there was no division; and a governor may serve his term out without a division; and there never can be a division, if the constitutional number of members attend their duty; so far from concurring as governor, unless it was on his own nomination or proposal, he has not acted at all: His power and duty laid down generally by the constitution remain still to be executed, which are express, that the governor, (with the advice and consent of the council,) shall appoint officers—embody the militia, &c. &c. &c. This returns us again to the constitutional and legal meaning of advice and consent, which we have already, and we hope satisfactorily, discussed.

So far we have proceeded in explaining what we consider as the substance of the constitution, and it now remains to speak of those forms that are essential for the preserving and carrying that substance into effect. On the threshold of this inquiry, we have immediately opened to our view, how these misapprehensions have first arisen—how all these abuses have crept in—and how some able and honest men have gradually been led into a difference of opinion, and to imbibe prejudices that it is difficult to eradicate. Still we hope and believe that what we shall now say on this subject, must prove entirely satisfactory to every honest and intelligent man, however deep rooted his prejudices may have been.

We must premise, that the strongest mind that has ever applied its powers to the science of government, has never yet attempted to define by analysis, what are strictly legislative, executive and judiciary powers; separating by lines the departments distinctly from each other: the reasoning faculty seems to recoil from the tension necessary to divide them, by the application of first principles to that infinite mass and endless variety of human action, which reflection suggests and history teaches. This indeed is the great desideratum in politics; which, like longitude in navigation, when once discovered and settled, will enable those at the helm to steer clear of most of the rocks and quicksands on which the best hopes of mankind have been hitherto lost. Even those enlightened statesmen who have devised constitutions or systems of organic laws, have been forced to content themselves with some general and vague outlines; for all attempts hitherto to trace, by detail, have only ended in perplexity and confusion.

Strictly speaking, there are but two distinct branches of government, the legislative and executive; founded on the compound nature of man, who is a thinking as well as an acting being; but who has no other distinct quality to serve as the basis of that intermediate power, termed the judiciary, which has therefore been generally considered as more properly a branch of the executive—but those powers can no more be entirely separated in government, than the qualities on which they are founded can be in the individual man; every act of government, therefore, whether termed legislative, executive or judiciary, consists necessarily of two parts, the one legislative or deliberative, and the other executive or ministerial, and it can only be properly referred to the one or the other department, as the duties of deliberating or acting preponderate; we believe that the Creator never intended man, in any situation, to become a machine, and we believe and hope, that his omnipotence has secured his intentions from lasting violation. Man must and will think, and in some measure use his reasoning faculties in judging for himself, even when compelled to act by the iron hand of power, and in spite of the guillotine, the wheel, or the bed of Procrustes.

When the convention of Maryland, therefore declared that the governor should alone direct the land and naval forces, and alone grant pardons and reprieves for any crime, &c. they unquestionably intended and expected, that he should be a man capable of deliberation; and that he should deliberate before he acted. When it declared that he should, (with the advice and consent of council,) appoint officers, embody the militia, &c. it must have also intended, that he should not only deliberate himself, but consult and deliberate with others, and take the advice and consent of those who the constitution declared should be the council to the governor for these special purposes. If their concurrence in such cases cannot be obtained, his own deliberate judgment will not authorize him to act; but if it is obtained, then remains that executive power with which the council have nothing to do—he is then to act, and is still the sole executive agent, for such the constitution, by its express words, constitutes him in every act, whether to be performed with or without the advice and consent of council.

In pursuing and establishing these principles, we must repeat, that the council are expressly constituted a board of themselves. To preserve the system, secrecy and promptitude, of the executive character, the governor presides to be advised, and confers personally, in order to deliberate and discuss the special measures submitted by the constitution for their concurrence; but to render the advice and consent of the board a separate and distinct act, which is essential to the nature of a concurrent act, (a word of the constitution which the Friend to Candour cautiously avoids explaining or commenting on,) the governor is not allowed to interfere, unless they cannot agree, then, and then only, he decides by a vote that which is constitutionally intended as an act of the council, and for the evident reasons already enlarged on.

But here the doubts of gentlemen arise—that as his voting on that possible occasion necessarily implies that he shall vote on none other, whether his powers in such cases are not destroyed altogether, and whether he does not become only the ministerial agent of the council on those occasions, bound by their advice and consent to act as they direct; it

appearing to them not the probable intention of the convention on any possible case, and that he should vote, and afterwards separately act, on the same case. It is unnecessary here to repeat, that the destruction of the general powers of the governor by implication, and that too founded on a possible case that might never happen, cannot certainly bear legal scrutiny; or that the act of the council cannot possibly amount to more than advice and consent by the constitution. But the fact is probable, and certainly has been hitherto believed by the Civil Officer, that the convention never expected that he would have to deliberate again after voting. Had the language of the constitution, and those forms corresponding therewith, and established by long experience, been known, observed and preserved, no doubt ever could have arisen, no question on the subject could ever have occurred.

The history of law has long since established that forms are essential to the preservation of substance in government: hence it is that the *Lex Parliamentaria* has been received as part of the common law of the land. The forms of executive proceedings have not been so much exposed to public view; unfortunately, those records of Maryland remained at the revolution in the hands of the officers of the old government, and were not delivered over, (as it is understood,) until sometime in the administration of governor Lee.

The convention well knew that the right of originating and proposing ever had been vested in the governor; some of them had been councillors, and several of them, no doubt, were well acquainted with the forms—they knew that the acts of the council were in the form of advice and consent, to what was considered as the proposal of the chief magistrate. Hence it is that the terms the council to the governor—the advice and consent of the council—and the concurrence of the council, are the express language used by the convention—all of which terms are alone predicated on a supposed precedent act of the governor, on which the council are called to give, or not to give, at their discretion, their advice and consent, and without which he cannot act on his own judgment: on any other principle they are neither sense nor grammar. To admit a member to propose or give advice when not asked, destroys that unity of design so essential to executive proceedings—it destroys promptitude, by suggesting various plans—gentlemen will become attached to their own, it is not likely they will agree with the governor until the moment of action is lost, to seize which is the great characteristic of a wisely constituted executive power; and finally, as a governor of Virginia of great experience and sound judgment observed, more than twenty years ago, it would eventually reduce the governor to a cypher, even admitting his right, which was never then questioned, of rejecting that advice, and refusing to act by it. In fact, it would destroy the constitution, and therefore the convention have wisely guarded against it, by the expressions and terms they have used, and by continuing the governor the sole executive agent.

We have already observed, that when a power is conferred to do an act, the grant necessarily includes all the means, without which that act cannot be effected. If the governor is directed to do an act with the advice and consent of others, the responsibility, in the first instance, necessarily attaches on him; he must shew that he proposed to do the thing; and he must also shew distinctly, how and what it was he proposed to do, in order to justify himself, if the thing has not been done at all, or improperly done; and, in order to fix the responsibility on others, who have unreasonably withheld their advice and consent.

This is the rational theory of the constitution, founded on all preceding practice; but the constitutional point may be at once reduced to this: proposal or nomination is either an incidental power to the principal power of appointing or performing any other executive act, or a separate power; if incidental, it is vested in the governor, on whom the principal power is conferred; if separate, it is to be exercised by him alone, as one of all other the executive powers conferred on him alone, where the concurrence of council is not required by the laws of the state.—Sec. 33.

This sole right of proposal existing in the governor under the laws of 1774, as will appear from all the executive records prior to the convention, and not repealed by that body, but confirmed by a general grant, and indicated by every other expression of the instrument, is and must be the constitution of Maryland at this day. This right at once solves all the difficulties raised by the Friend to Candour and the council, and will explain every objection that can be raised, or seeming inconsistency that can be discovered, by the ingenuity of man; the contradiction therefore of the Civil Officer bears this indelible characteristic of truth, that it will suit every case that can occur, or can be imagined; which the Almighty has beneficently denied to the fabrications of deception and art, however consummate.

Prior to an examination of the decision of the supreme court of the United States, it had been the opinion of the Civil Officer, that when the governor had proposed, and the council had given their advice and consent, there was then completed that concurrence required by the constitution, and that there remained no other discretion with the governor than what naturally attaches to every ministerial duty; he still believes that such was the idea of the convention, founded on former precedents; for it could rarely occur that a governor would have occasion to change his opinion where the council had thus concurred with his own proposal—but the opinion of the court, that the act of the executive officer is only complete when he has done the last act required of him by the constitution, which in making an appointment is the signature of the commission, must have conclusive weight: for if the governor, or other chief magistrate, on hearing the reasons of his constitutional advisers for refusing their consent, shall be satisfied that his proposal was wrong; he ought, and it will be absolutely necessary for him, to alter his proposal; it therefore seems equally proper, that if deliberation should have suggested considerations to himself that produce a change of opinion, he should be at liberty to alter his proposition, or finally refuse to execute it, when it had become contrary to his judgment; although his constitutional advisers had actually concurred with his first proposal: this was precisely the case of the British treaty negotiated by president Washington, and proposed to the senate, and which he afterwards hesitated so long to ratify, although advised and consented to by the senate.

Doubtless there have been wise and honest men who have held the opinion and acted under it, that the council being authorized to give advice were not limited to the proposal of the governor, and they have argued that advice and consent should be construed advice or consent, the conjunctive and being frequently construed as a disjunctive; they have not sufficiently reflected that this is never done but in order to make sense of a clause, whereas this is sense without; and they have certainly not sufficiently examined the former laws and custom in this respect, on which the constitution was founded; the whole theory, expressions and language of the constitution throughout, and such observations as have been offered by the Civil Officer, together with the embarrassments that would necessarily occur in the execution—But still it would only render the construction of the supreme court, which establishes a deliberative right in the chief magistrate, after the advice and consent, more evidently

and conclusively necessary, in order to secure that concurrence act which the constitution of Maryland contemplates and requires. More than 20 years ago this independent right of proposal in the council was agitated in Virginia, at which time it is understood that the present governor of Maryland made up his mind fully, from the best information and reflection he could gain or bestow, and he has never wavered from this opinion. When elected into his present office, and the usual manner of conducting executive business was first made known to him, he expressed his amazement, and as soon as all the members of the council could be assembled, he took occasion fully to explain himself.—That he had accepted of the office under the constitution of Maryland, was a solemnly sworn to support; that the form of doing business in council, which he was then for the first time apprised of, although fifteen years had elapsed since he was first elected into the Maryland legislature, was expressly contrary to the undoubted sense and clear language of the constitution, and that he would execute the constitution as he had sworn to it, or not at all. He then prepared a form at the table, predicated on the constitution itself, and conformable to the principles laid down by the Civil Officer, who, as evidence, now offers the following extract from the proceedings of the board, on the 24th November, 1801, the first day the whole board assembled.—“The governor submits to the council of the governor a letter, &c. &c. Whereupon the council to the governor do advise his excellency to notify, &c. &c.”

This form, was adopted, having been assented to by every member present. Although the governor, as we are informed, had never then seen the forms of proceedings in council previous to the constitution, yet, on examination, that which he prepared will be found to correspond perfectly with all the precedents which the convention could have contemplated as in use before by the same functionaries, acting under the same formularies of executive power.

This extract must prove, that the present governor, accepted the office, and has since been actuated by one uniform principle and conviction of mind, consequently that his conduct on the Sufquehanna appointment originated from the solemn impression of constitutional duty, and religious obligation, and not from any personal motives arising from a particular occasion, as has been basely suggested. It is subsequently submitted to the irregularities of council from a strong anxiety to avoid a rupture, that might be injurious to the state, and painful to himself, he did it in cases where his confidence was not grossly violated with regard to individuals, and where his own constitutional powers enabled him to confirm their acts. Let the council, or the Friend to Candour, explain and justify their principles and conduct.

With these remarks we shall now conclude our general observations on the constitution, (referring ourselves in the next to the illustrations and facts of the Friend to Candour,) by stating that as the constitution protects the powers of the governor, and secures to him the exercise of his deliberate concurrence in those acts which require the advice and consent of council; we hope that the present governor not only understands his duty, but will have energy enough to execute it; and that he will not be deterred from refusing his signature to any commission which his confidence disapproves, by the menaces of a civil suit; and the council, as is presumed, will take good care that they do not subject themselves to unenviable suits, by way of criminal prosecutions, by their usurpations of power and violations of the constitution.

A CIVIL OFFICER OF MARYLAND.
(To be continued.)

BOSTON, May 2.
RUMOUR.

With her hundred tongues has been very loquacious, for a few days past on the subject of a war in Europe.

On Saturday, she announced in the Centinel, the war had been declared. This important news was brought by the arrival of the ship Volunteer, captain Bosworth, at Portsmouth from Liverpool, who reported, that “on the 23d March, in the river, he was boarded by a lieutenant of a man of war, who informed him that the declaration of war against France had that day been received in Liverpool from the admiralty.”

This intelligence, from the previous accounts of hostile preparations, created belief, and had a considerable influence on our markets, while it lasted; but on Saturday noon the Diana, capt. Wilson arrived at this port from Liverpool, which place he left 4 or 5 days after the Volunteer, and brings a contradiction of the intelligence of capt. Bosworth, that war had been actually declared.

The verbal information of captain Wilson, and letters received by him to the 27th March, states that public opinion seems to be divided, as to the event of measures adopted by the British administration; and while some are induced to believe that war is actually determined on, others are of opinion, that the arrangements will ultimately result in effecting a punctilious compliance with the articles of the treaty between the two nations, which have hitherto been delayed and left open for alterations. All intelligence, however, that has been received here from France and England indicate symptoms of actual hostility.

NEW-YORK, May 3.

We lay before the readers of the Mercantile Advertiser this morning later European intelligence than has been before received in America.

The ship Cotton Planter, Jefferies, arrived last evening within the Hook, in 37 days from Liverpool. She left Liverpool on the 26th March, and the captain has obligingly favoured us with the only paper he brought—the London Courier of the 23d.

The extracts which follow, comprise every article it contains of a political nature in which the public can have any interest:—

LONDON, March 23.

Downing-street, March 22.

By dispatches received this morning from the court of Elgin, his majesty's ambassador extraordinary at Constantinople, dated January 15, 1803, it appears that the differences which had subsisted between the Sublime Porte and the Beys of Egypt, have been satisfactorily arranged through the mediation of his majesty's ambassador.

Our preparations for the sailing of the Dutch squadron on Friday last, are doing at the for Louisiana troops should ders. The ex-

Vice-administrator failed at the lieve admiral ment with to tween this co-

The Dutch Admiral lo-terday, and Neptune.

Admiral lo Plymouth in ships. A gr-tered within

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A cabinet the dispatches

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Our preparations have produced the effect of stopping the sailing of the Louisiana expedition, and of the Dutch squadron, under vice-admiral Hartlinck. On Friday last, a courier arrived at the French ambassador's at the Hague, with orders that the squadron for Louisiana should remain in port, and that the troops should be cantoned at Helvoet till further orders. The expedition was to have sailed to-day.

Vice-admiral Hartlinck's squadron was to have sailed at the same time for the Mediterranean to relieve admiral De Winter. But the Dutch government wish to wait the issue of the negotiations between this country and France.

The Dutch funds continue falling.

Admiral lord Gardner arrived at Portsmouth yesterday, and is to hoist his flag to-day on board the Neptune.

Admiral lord Keith is very actively employed at Plymouth in superintending the fitting out of the ships. A great number of prize seamen have entered within these few days.

It has been rumoured that in consequence of the first consul's behaviour to lord Whitworth, at the audience on Sunday fortnight, his lordship has intimated to the minister for foreign affairs that he shall not attend the consular levees, without a proper explanation of the events of that day. His lordship acts with proper spirit. An insult to our ambassador is an insult to the British nation, and an ample apology ought to be demanded for it.

A cabinet council sat several hours yesterday upon the dispatches received from France.

By letters from Francfort of the 10th of March, we are informed, says the Paris papers, which we received yesterday, that the English merchants in Germany discover the utmost jealousy and uneasiness in regard to the endeavours of the French to revive their trade with that country. They view with indignation the new trading establishments in different ports. They blame France for the care with which Spain now endeavours to protect her manufactures, by prohibiting the exportation of Spanish wool. They see, with all the feelings of malicious envy, the vigorous measures taken on the Scheldt and Rhine to prevent the importation of English manufactures; the encouragement given to those who attempt a smuggling trade into England, and that declaration of Cherbourg to be a free port for liquors and brandy, which is likely to produce a large exportation of these articles to the opposite coasts of England and Ireland. The establishment, too, of chambers, and of a general council of commerce in France, has given much food for English envy. They are still in alarm in regard to colonel Sebastiani; and they talk of the cession of the port of Tetuan and of the fortifications of Tournhout, at the mouth of the Scheldt, to France. They will suppose, that a squadron of two ships of war, and several transports, has failed to take possession of Macao, ceded by France to Portugal.

There is said to be now a very frequent correspondence between Berlin and Paris, relating to an approaching interview between the king of Prussia and the first consul, when the latter visits Belgium.

We extract the following articles from a Rotterdam paper of the 19th instant.

"The grand question of peace or war is suspended on the will of Buonaparte. There is no absolute hostility pre-determined by the English ministry; the limits of concession, on their part, are chalked out; and as France may approach that point without injury to her safety or her honour, it is hoped she will weigh the consequences, and suffer the scale to preponderate on the side of humanity, and of regard for the dearest interests of this country, which are immediately at stake; thus convincing us of the importance of her amity."

When the dates of the affair at the Cape of Good Hope are examined, it would appear that the present preparations for war have not been too precipitate. From the time the dispatches were sent out to forbid the surrender, we may reckon on five months difference with the French government about something or other, independent of Malta, which appears a more recent cause of dispute.

Great exertions are made at Vienna, to improve the commercial state of the town and port of Trieste.

It is to be referred to the diet of the empire to provide to Bavaria an indemnity for Eichstaet.

The duke of Modena refuses to relinquish his former rights, till the countries of Ortenau and Elz, shall be without diminution, put into his civil and military possession.

Like master, like man, Talleyrand as well as his sovereign, can be insolent to the ministers of those states degraded by their French connexion, or weakened by French intrigues; but he was far from approving of the violence offered towards the representative of the king of the first nation upon earth; he, therefore, with all humility, entreated his master to make it up. His maxim is, that until France has a navy equal to that of Britain, the chief consul must sink his pretensions to be the modern Alexander, and content himself, with respect to England, to act a la Philippe. His advice, however, was so ill received, that he gave in his resignation; and for 24 hours rumour appointed him different successors, such as Seignior, Otto, Calliard, &c. but while the public were thus busy, Buonaparte invited Talleyrand to dine with him in private, and after some explanation, returned him his ministerial port-folio, and he is, at present, again the first favourite of the first consul.

PARIS, March 11.

It is feared that the frigate Fraternite, bound from St. Domingo to France, has foundered at sea.

They write from Toulon, that the frigates Rhine and Cornelle were in readiness to cruise before Algiers, to prevent the pirates of that people from injuring commerce. The frigate Minion is preparing for the same destination. We are informed that the day has given two months to the agent of the republic to leave his territories. We are ignorant of the motives of this insult.

They write from Brest, that on the 6th instant, the expedition for India failed with a favourable wind.

March 13.

The decree of the 9th, which prohibits the exportation of money, is extended to all articles of gold and silver.

The ship Dame Anne, bound from Bordeaux to Louisiana, with 17 passengers, has been forced by a storm to return to port to repair her damages.

PHILADELPHIA, May 5.

A considerable ferment was excited in the commercial world yesterday, by the arrival of an express announcing the actual declaration of war between England and France. The mail of this morning, however, has dissipated the illusion. There is now no doubt, but that the express was the stratagem of some speculative adventurer. By the accounts of this day it appears that as late as the 26th of March, nothing determinate, as to peace or war, had transpired in London. Warlike preparations continued throughout England. Couriers upon couriers were interchanged between the courts of London and Paris; but the aspect of their contents remained a profound mystery to the public. It is more than probable that this indelicate state of things will continue for some time longer. What may be the issue it is hazardous to conjecture.

May 6.

On a perusal of our papers received yesterday by the mail, we do not find there is any arrivals, by which accounts, later than the 23d of March, could be received from England; we have therefore, good reason to believe the story of the declaration of war on the 25th of March, published in our last, is without foundation.

ALEXANDRIA, May 5.

Yesterday exhibited a pleasing spectacle to the enterprising citizens of Alexandria, the wind which had blew for several days from the north-west, shifted to the southward and eastward and wafted into our port upwards of twenty sail of vessels, most of them from Europe and the West-Indies.

BALTIMORE, May 9.

A letter from Belfast, dated March 22, says, "We have the pleasure to inform you, that flaxseed has improved very much, and likely to continue so. —We, a day or two ago, sold 50 hds. at 6l. and this day refused the same price for 100—Cotton-wool is selling far below first cost. The best bowed Georgia brings no more than 15d. at Liverpool."

A small squadron of ships of war from Portsmouth, have arrived at Cork, where there was a hot press for seamen. Some hundreds have been pressed in Dublin, a number of them from vessels outward bound—they were put on-board the receiving ships at Ringend."

[N. York paper.]

Mr. DUPORT, Professor of Dancing.

MR. DUPORT presents his respectful compliments to the ladies and gentlemen of Annapolis, begs leave to inform them that his BALL is fixed for Tuesday evening 17th inst. at the assembly room.

The hall will open at 7 o'clock precisely by a plain English minuet. Tickets, price one dollar, to be had at the printing-office and at Mr. Caton's.

May 11, 1803.

NOTICE,

Agreeably to an order of the orphans court of Charles county, will be SOLD, on Wednesday the first day of June next, at the late dwelling of WILLIAM KIRKPATRICK, near Allen's Fresh, if fair, if not the first fair day,

ALL the personal property belonging to the deceased, consisting of a lease for thirty acres of land, for the term of seventy years, horses, cattle, sheep, hogs, a set of joiner's tools, three mill stones, plantation utensils, and a number of other articles too tedious to mention. Twelve months credit will be given on all sums above twenty dollars, the purchaser giving bond, with approved security.

PHILIP MARSHALL, Administrator.

Charles county, May 1, 1803.

EDUCATION.

THE subscriber begs leave to inform the citizens of Annapolis, and the public generally, that on Monday the 16th inst. he proposes to open an ACADEMY in a large and spacious room of the house he now occupies, opposite the south corner of the episcopal church, for the sole purpose of teaching young ladies orthography, English grammar, writing, arithmetic, geography, &c. also drawing and French, if required; he hopes the utility of this institution will be more satisfactorily evinced by the improvement of his pupils in literature, as well as morality, than pompous professions, which is the sincere wish of the public's most devoted, and very humble servant,

HUGH MAGUIRE.

N. B. For terms, &c. apply as above.

Annapolis, May 11, 1803.

THE subscriber returns his sincere thanks to his friends and customers for the liberal and generous support he has hitherto experienced, and begs leave to inform them, that he has opened his STORE and PORTER CELLAR, in the house lately occupied by THOMAS ROGERS, Esq. opposite the south corner of the episcopal church, where he hopes, by the goodness of his liquors, &c. and desire to please, to merit a further continuance of their favours, which will be gratefully received by their most obedient and very humble servant,

HUGH MAGUIRE.

Annapolis, May 11, 1803.

In CHANCERY, May 5, 1803.

Mary Peach, Administratrix of Richard Williams,

vs.

Rebecca, Elizabeth, and Richard Williams, and Isaac Williams, and Elizabeth his wife.

THE object of the bill is to obtain a decree for the sale of the interest of the defendants in two tracts of land in Prince-George's county, called BEAVER DAM NECK, and part of PARCEL ENLARGED, for the payment of the debts of Richard Williams, deceased, which from him descended to the defendants his heirs; the bill states that the defendants have removed out of the state of Maryland; it is thereupon adjudged and ordered, that the complainant, by causing a copy of this order to be inserted three times in the Maryland Gazette before the tenth day of June next, give notice to the defendants to appear here in person, or by a solicitor, on or before the second Tuesday of October next, to shew cause, if any they have, wherefore a decree should not pass as prayed.

True copy, SAMUEL HARVEY HOWARD,

Reg. Cur. Can.

In CHANCERY, May 6, 1803.

Robert Sewall,

against

Charles Sewall, Nicholas Sewall, Eleanor Pye, Thomas Rogison, and his wife Alice, Lewis Taney, Charles Henry Taney, Celastia

and Eliza Alice Taney.

THE object of the bill filed in this cause is to obtain a conveyance for a tract of land, called MATTAPONEY SEWALL, and other lands thereto adjoining, which Henry Sewall, ancestor of the defendants, now deceased, contracted for with the complainant, by his contract in writing, dated on the 17th day of October, 1801; the bill states that Lewis Taney, one of the defendants, resides out of the state of Maryland; it is thereupon, on the motion of the complainant, ordered and adjudged, that he cause a copy of this order to be inserted in the Maryland Gazette once in each of three successive weeks before the 3d day of June next, to the intent that the absent defendant may have notice of the present application, and of the substance and object of the bill filed in this cause, and may be warned to appear in this court in person, or by a solicitor, on or before the 1st Tuesday of October next, to shew cause, if any he hath, why a decree should not pass as prayed.

True copy, SAMUEL HARVEY HOWARD,

Reg. Cur. Can.

NOTICE,

To the public of Maryland.

THERE will be a petition preferred to the next general assembly of this state for a law to pass for a road to be laid off from a landing on the north side of Severn river, commonly called and known by the name of JUMPER'S HOLE, along through the neighbourhood by the widow Mary Johnson's, and from there the most convenient route to a landing known by the name of ASHPAW'S LANDING, on the east side of a fork of Curtis's creek, called MARLEY CREEK, and for to make the aforesaid landings public.

1st 16/16

In CHANCERY, May 10, 1803.

THOMAS L. SOTHORON, an insolvent debtor, of Charles county, entitled to the benefit of the last act of the general assembly for the relief of sundry insolvent debtors, being this day, by the sheriff of said county, brought before the chancellor, in consequence of an order this day passed, and having, before the chancellor, taken the oath by the said act prescribed for delivering up his property, &c. it is thereupon ordered, that the said Thomas L. Sothoron appear before the chancellor, in the chancery-office at 10 o'clock, on the third day of September next, for the purpose of answering such interrogatories as his creditors, or any of them, shall then and there propose to him, and that the said Thomas L. Sothoron shall give notice of the said time and place for his answering aforesaid, and for their appearing, to propose interrogatories, and for recommending a trustee for their benefit, by causing a copy of this order to be inserted at least three weeks successively, before the third day of June next, in the Maryland Gazette.

True copy, SAMUEL HARVEY HOWARD,

Reg. Cur. Can.

For more new Advertisements see the

last page.

NOTICE.

THAT the subscriber, of Charles county, in the State of Maryland, hath obtained from the orphans court of said county, letters of administration on the estate of RICHARD ROBY, late of Charles county, deceased. All persons having claims against said estate are hereby requested to bring them in, legally authenticated, to the subscriber, on or before the fourth day of July next, or they may otherwise by law be excluded from all benefit of said estate. Given under my hand this 4th day of January, 1803.

107/6 ANN ROBY, Executrix.

NOTICE.

ALL persons having claims against the estate of THOMAS POWER, late of Saint-Mary's county, deceased, are hereby requested to apply on or before the 1st day of August next, and receive their second and last dividend. Given under my hand, this 7th day of May, 1803.

107/6 JOSIAH B. GRINDALL, Administrator.

Will be SOLD, at private SALE,

THE whole or any part of that valuable plantation, on the north side of Severn river, now occupied by Mr. John McCubbin; nothing need be said as to the soil and other advantages, &c. of this place, as it is well known to be one of the richest and best farms in this state. As I shall be in or near Annapolis for two or three weeks, any application by letter, or otherwise, will be attended to.

JOHN HESSELIUS.

April 29, 1803.

To the Voters of Anne-Arundel county and the City of Annapolis.

COMING forward as a candidate for the office of Sheriff of Anne-Arundel county, with respectful deference I offer myself to fill the important station, and solicit their suffrages, at the ensuing election, in my favour; should my wishes in this instance be realized, I sincerely promise a strict attention to impartiality, legality, and assiduity, and the public shall find in my attention to the discharge of the duties of the office a grateful return for the confidence they may repose in me.

And remain their obedient servant,
ISAAC DORSEY.

THIS is to give notice, that the subscriber hath taken out letters of administration on the estate of JOHN DENT, late of Anne-Arundel county, deceased, therefore all persons who have claims against the said deceased are requested to bring in the same, proved according to law, and all those who are in any manner indebted to the estate are requested to make payment, to

ELEANOR DENT, Administratrix.

April 27, 1803.

A LIST of LETTERS remaining in the Post-Office, Annapolis, March 31, 1803.

LUCY ADDISON, Belle-Vue; Anthony Addison, Annapolis.
Arthur Bryan, George Bevens, Dennis H. Battie, Nathaniel Burwell, Annapolis.
John Callahan (2), William Caton (2), Annapolis; Maria Chainey, Lord's Manor; John Lane Chew, Anne-Arundel county.
Francis Digges, Annapolis.
Joseph Evans, Annapolis.
John E. Ford, care of Thos. Buchanan, Annapolis; Richard Franklin, near Herring Creek church.
John Gwinn, Annapolis.
Samuel Harvey Howard, Mr. Howard, Sheriff (2), Annapolis; Dr. John Harrison, West river.
Thomas Linthicum, near Annapolis; Alexander Leitch, West river.
Nich. Z. McCubbin, Daniel Mandell, Gabriel Murdoch, care of J. West, Annapolis.
Thomas Norman, West river.
P. H. O'Reilly, Rd. Owing, Annapolis.
Thomas Pownall, Saml. Peaco, Annapolis; William Pool, Anne-Arundel county.
James Ray, Annapolis; Richard Richardson, West river.
Sheriff of Anne-Arundel county (2), Philip Stuart, Benedict Stuart, Caleb Sapington, Fanny Shorter, Annapolis; Larkin Shipley, Augustine Sewell, Anne-Arundel county.
Jane Troy, Annapolis; Dr. James Tongue (3), near Annapolis.
Jof. Watkins, care of Wm. Alexander, George Wells, John Wims, Solomon Wallace, care of Smith Price, Annapolis; Azel Warfield, Anne-Arundel county.

S. GREEN, D. P. M.

None of the above letters will be delivered without the money.

Anne-Arundel county, 11th April, 1803. I DO certify, that CHARLES POULTON has this day brought before me, a small sorrel GELDING, about 13 hands high, twelve or thirteen years old, as a trespassing stray; said horse has no perceivable brand, has a small blaze in his face, and some white spots on his back, appears to have been used as a work horse.

H. H. DORSEY.

The owner is requested to prove property, pay charges, and take him away from the subscriber, living in Anne-Arundel county, on the main road between Annapolis and Baltimore-town.

CHARLES POULTON.

In CHANCERY, April 20, 1803.

James Wells,

vs.
Thomas Rogan, and Grace his wife, William Wells, and Cassandra his wife, Robert Bodkin, and Sarah his wife, Samuel McKiss, and Esther his wife.

THE object of the bill is to obtain a decree for the recording a deed of mortgage from John and Sarah Cooke, of Harford county, to the complainant, for one hundred acres of land, part of two tracts of land, the one called MAIDEN'S MOUNT, the other PARADISE; the bill states, that John Cooke, one of the bargainors, has departed this life, and the other defendants are his heirs at law; it is thereupon, on motion of the complainant, ordered, that he cause a copy of this order to be inserted three weeks successively, before the 20th day of May next, in the Maryland Gazette, to the intent, that the defendants, and all persons claiming under the said John Cooke, or conceiving themselves interested, may have notice of the complainant's application to this court, and of the substance and object of his bill, and may be warned to appear here in person, or by a solicitor, on or before the first Tuesday in October next, to shew cause wherefore a decree should not pass as prayed.

True copy,

Test. SAMUEL HARVEY HOWARD,

Reg. Cur. Can.

NOTICE, That the Commissioners of the Tax for Anne-Arundel county, will meet at the city of Annapolis, on the third Monday in May next, and will sit from day to day for twenty days, to hear appeals, and make transfers of property, and that all persons interested in the late sales of real property where no personal property could be found to pay the taxes due thereon, are then and there requested to attend.

April 21, 1803.

NOTICE,

To the Public of Maryland.

THERE will be a petition preferred to the next general assembly of this state, for a law to pass for a road to be laid off from a large white oak tree, on the fourth side of the main road leading from the city of Annapolis round the head of the Severn river to the city of Baltimore, standing at the lower end of Richard Dorsey's, (of Caleb) lane or plantation, next adjoining to a plantation belonging to Charles Carroll, of Carrollton, Esq; along up through the neighbourhood on the north side of South river, in Anne-Arundel county, by Jacob Waters's mill and the South river meeting house, and the neighbourhood of the Mr. Hopkins's to a fording place on the main branch of Patuxent river known by the name of Ashtons Ford, and from there the most convenient route through Prince-George's county, by or through Mr. Benjamin Ogle's plantation, known by the name of Belle-Air, to a small town in the said county called Bladensburg, at or near the head of a creek of the river Patowmack, called and known by the name of The Eastern Branch.

April 14, 1803.

I HEREBY give notice, that I intend to apply to Anne-Arundel county court, at April term next, for a commission to mark and bound a tract of land, lying in said county, called JOHN and MARY'S CHANCE, being a survey on two tracts or parts of tracts of land, the one called DAN, and the other called JERICO, in pursuance of the act of assembly, entitled, An act for marking and bounding lands.

JOHNSON M. O'REILLY.

Herring Bay, Anne-Arundel county,
January 1, 1803.

THIS is to give notice, that the subscribers, of Anne-Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne-Arundel county, in Maryland, letters testamentary on the personal estate of ELIZABETH EVANS, late of Anne-Arundel county deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscribers, at or before the fifth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under our hands this 5th day of April, 1803.

HENRY EVANS, } Executors.
JOSEPH EVANS, }

To be RENTED,

THAT commodious dwelling-house, lately occupied by WALTER DULANY, Esq; in this city, which belongs an excellent garden, out houses, &c. For terms apply to Mr. ADDISON, now in possession of the premises, or to

SAMUEL RIDOUT.

Annapolis, May 17, 1802.

JUST PUBLISHED,

And to be sold at the Printing-Office,
Price, One Dollar.

The LAWS

OF MARYLAND,

Passed November Session, 1802.

In COUNCIL, ANNAPOLIS, April 19, 1803.

ORDERED, That the act to alter, change and abolish, such parts of the constitution and form of government as relates to the establishing a general court and court of appeals, be published once in each week, for the space of three months successively, in the Maryland Gazette, at Annapolis; the Baltimore American, the Telegraph, the Federal Gazette, at Baltimore; the National Intelligencer; Mr. Smith's paper, at Easton; the Republican Advocate, at Frederick-town, and Mr. Griever's paper, at Hagar's town.

By order,

NINIAN PINKNEY, Clerk.

An ACT to alter, change and abolish, such parts of the constitution and form of government as relate to the establishing a general court and court of appeals.

Be it enacted, by the General Assembly of Maryland, That from and after the first day of March, eighteen hundred and four, there shall be a court of appeals, composed of three persons of integrity, and sound judgment in the law, who shall be styled in their commissions Judges of the Court of Appeals, whose judgment shall be final and conclusive in all cases of appeal from the court of chancery, county court or orphans court; and that the court of appeals shall hold two sessions on the western shore and two on the eastern shore in each year, at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That from and after the first day of March, eighteen hundred and four, this state shall be divided into five judicial districts, viz Saint-Mary's, Calvert, Prince-George's and Charles counties, shall be the first district; Cecil, Kent, Queen-Anne's and Talbot counties, shall be the second district; Anne-Arundel, Baltimore and Harford counties, shall be the third district; Caroline, Dorchester, Somerset and Worcester counties, shall be the fourth district; and Washington, Frederick, Montgomery and Allegany counties, shall be the fifth district; and that there shall be appointed for each of the said districts two persons of integrity, and sound judgment in the law, who shall reside in the district for which they shall be appointed, who shall be styled in their commissions District Judges of the county courts in such district; and there shall be appointed for each of the counties of this state one person of integrity, experience and knowledge, resident of the county for which he shall be appointed, who shall be styled in the commission Associate Judge of the county court of the county for which he shall be appointed; and the said district judges in their respective districts, together with the said associate judge in the respective counties, shall compose the county court; and the county courts so established shall have, hold and exercise, all the powers, authorities and jurisdictions, that the general court and county courts of this state has heretofore held, used and exercised, except the appellate jurisdiction of the general court; and that the county courts shall hold their sessions in the respective counties at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That if this act shall be confirmed by the general assembly, after the next election of delegates, in the first session after such new election, as the constitution and form of government directs, that in such case this act, and the alterations and amendment of the constitution and form of government therein contained, shall be taken and considered, and shall constitute and be valid, as a part of the said constitution and form of government, to all intents and purposes, any thing in the said constitution and form of government contained to the contrary notwithstanding.

And be it enacted, That all and every part of the constitution and form of government that relates to the court of appeals, or the general court, as now established, or to the judges thereof, or that is in any manner contrary to, or inconsistent with, the provisions of this act, be and are hereby declared to be repealed and abolished, on the confirmation hereof.

Michael & Barney Curran,

Have received, by the arrivals at Philadelphia,

A handsome assortment of SPRING GOODS,

Consisting of

CHINTZES and calicoes, Dimities and muslins, Marcellis quilting and printed jeans, Cambric dimities, Ditto muslin 5-4 and 9-8 wide, Coloured cambricks and ginghams, Ladies and gentlemen's silk and cotton hose, Extra long silk and kid gloves, Gentlemen's best beaver ditto, Striped and coloured nankens, Figured fattsins for gentlemen's vests, India book and jacksonet muslins, British ditto, ditto, ditto, India crape handkerchiefs, and jacksonet ditto, Irish linens and checks, And on hand some best London superfine clothes and cassimers, Cotton counterpanes and table clothes, &c. &c.

Annapolis, April 19, 1803. ANNAPOLIS; Printed by FREDERICK and SAMUEL GREEN.

April 19, 1803.
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T. H. E.

(No. 2940.)

MARYLAND GAZETTE.

THURSDAY, May 19, 1803.

A CIVIL OFFICER OF MARYLAND—Continued.

In the course of the foregoing argument, we have been continually referred to the express letter of the constitution, to disprove the gross misstatements of this *Friend to Candour*; although his errors are not of that class, which claim our pity, yet the *Civil Officer* displays a triumph over vulgar malevolence and vulgar malice; conscious of the rectitude of his motives, and in pursuit only of truth, he turns the paltry gratification of personal resentment, and nothing shall escape him, immutably constant and individual, unless public information or public justice require it.

The *Friend to Candour* having, as we observed, erected constitutional systems on a foundation of his own creation, instead of stating facts that would flow from the principles of his adversary, and showing them to be inconsistent with the constitution, he modestly proceeds to propound questions, that wholly arise out of, and depend upon, his own fabrications; like baby heads, which children erect out of cards, we shall see them tumble at the first breath directed against them. "It is true," he is inconceivable, that the governor can only vote when the council are equally divided; and yet can reject, while all five are united against him; and again, "In the last appointment of a judge of the general court, when the governor gave the casting vote, with the *Civil Officer* say he did not advise as was of the council? If to the judge was appointed without the advice and consent of council."—If this writer understood the constitution when he wrote, all his irreconcilability and his wonder would have vanished—he could have found, that the act of the board of council is exactly advice and consent to an act of the governor, and nothing more or less—the words of the constitution would solve all his difficulties; but as his illustrations and challenges every position of the *Civil Officer*, we will answer them minutely.

If the *Civil Officer* should indeed say that the governor, in the last case, had advised as was of the council, to the governor, which that body are expressly declared to be by the constitution, he would undoubtedly say, what is very great mistake. It is equally certain that the governor did not advise as was of the council; that he did vote as governor in that particular case, and that he was authorized to do so by an express provision of the constitution, which rendered his vote equivalent to that of one of the board, and enabled him, by deciding that advice and consent agreeably to his proposal and judgment, to appoint the judge, and he accordingly did appoint him.

That he did not vote as a member of the council, two of its members of the board, we have already seen; the mode of its election, the former laws on Maryland recognized and adopted part of the constitution, the various duties of his office, the express language of the constitution in all its parts, and the common sense of himself and his power from the members and duties of the board by this very act, even where he is directed to preside in council—he is incontrovertible evidence, that the constitution never intended that the chief magistrate, or his powers, should be subordinated or mixed with the members and duties of a board, composed solely of advice givers. In fact, without pretending that separation, the very theory and language of the constitution which requires a concurrence, where the governor acts by the advice and consent of council, and that mutual check which is the favourite principle of freedom, would be totally destroyed and perverted. But how the special authority of the governor, to decide by a casting vote the advice and consent of council in favour of those two who agree with him, is irreconcilable with his sole power of rejecting the advice and consent of council, if the whole five or any other majority should be divided in opinion against him, is utterly unintelligible to the *Civil Officer* and will be equally so to the *Friend to Candour* if he will confine himself to the express constitutional powers of the council.

It is not possible, that if the governor should, hereafter, be authorized by this special authority to decide the advice and consent of council, that he would ultimately reject what was determined agreeably to his proposal or opinion; or although such an event was possibly not in contemplation by the framers, and still very rarely if ever happen; yet we are not so narrow minded, and men had nearly occurred under the constitution, where the executive magistrate might be induced ultimately to reject advice and consent to what he proposed himself. There is nothing in reason or the constitution of Maryland to forbid it. But we conceive it to be utterly irreconcilable, not only with the constitution but common sense, that the convention intended to vest the general independent power of the governor, in every case where he acted with the council, because they authorized him in a possible contingency to decide where they were divided, without which decision his judgment would avail nothing, although an equal number of the council agreed with him; more especially when, by his retaining his power, the theory and language of the constitution are preserved without inconvenience; and by their being merged or absorbed, the whole constitution becomes a mass of absurdity and inconsistency.

For admitting the governor has the sole right of proposal, we admit rejection, or both these rights, yet this power of deciding in the special case of a division is equally essential and necessary. For if both these powers are vested in the full, if five members of the council, or four, or even more, refuse to concur with him by their advice and consent, there is an end of the business, he cannot act, but only if two concur, and only two refuse, it is reasonable and proper that he should act. It is neither presumed that the *Friend to Candour* will deny that the convention intended that the governor should possess the sole right of proposal and the ultimate right of rejecting the advice of council, and we also here state the special power of deciding the act of the council when the members were divided; nor is it believed that he would deny that such special power was not a peculiar and well provided, even in addition to his other powers.

Let us now turn our attention to the consequences—Under the constitution, the *Civil Officer* contends it is, the governor and council are each with their separate powers, and have the full faculties of distinct national beings, and they are necessary to being invested with public au-

thority, independently, deliberating, and finally, either freely concurring, or refusing to concur in some executive act, which the governor is to execute with their advice and consent; thus mutually checking each other, and preventing the abuse of power by either. But under the constitution, or rather the system created by the *Friend to Candour*, on no other instance than these irregular proceedings in council, that were first forced from the people, we must suppose that the convention intended that when the governor should proceed to deliberate in council, he should be instantly struck with a political dead palsy, and remain in council only half alive; that if he should be divided by council, he should be four, and these four should, by necessity, divide, the palfied half, on that contingency, on a contingency might never only for the moment to give a casting vote, and sink again into lifeless insensibility; and that when he should come to act, he should be a mere mechanical instrument—an hollow tube—either a pen or a trumpet, to promulgate their respective advice and consent, without that he should be out of the way, or not to elect as they might, with the satisfaction of their clerk to their acts, would answer the same purpose.

We would now in our turn propound a short question or two to this false prophet, the *Friend to Candour*; If the governor should advise as was of the council, in the appointment of the judges, as he supposes, pray whom did he advise? for where advice is given, a person to be advised is an absolute necessity as an adviser. Did he then, as councillor, advise himself as governor? There is perhaps but one case in point that can be produced, and that is recorded by the intemperate *Constitution*, to the following effect: When Sancho Pansa became governor of Barbados, doctor Pedro Polivio de Bode-ill was his chief councillor, and advised his excellency to conform to the usage and customs of other governors, especially in eating only what he should advise, it being found by experience that the same food would be improper for him that would suit his constituents, like the governor here, with patience, while difficulties still disappeared, until a favourable building was on the move, when in spite of all doctor Pedro Polivio could say, he turned councillor himself and advised his excellency to eat a fiddle of that pudding.

The constitution of Maryland admits of no such foolery or absurdity, if in the work of wisdom, patriotism and experience. Let its language, without addition or diminution, speak for itself, and it will dispel the fogs that arise from delusion or design. Its words are, "the governor, by the advice and consent of council, may embody the militia—may call the assembly," &c. It is to be remarked, that the word may is not here imperative, as there is no other official duty prescribed. It is perfectly equivalent here to the clause of the constitution that directs that the governor alone may, (which word is understood having before been repeated in the same instance,) grant pardons and reprieves for any crime, &c. It confers a power, which from its nature, must be exercised under a responsible discretion, as circumstances may require. In pardons and reprieves the governor's sole discretion is confined to; in embodying the militia, and calling the assembly, &c. the discretion and responsibility attach both on the governor and council; but as the governor is the executive agent to do the act, the responsibility rests first on him; if it becomes necessary to do either, he must require the concurrence of council, and then they become responsible for their advice and consent. The governor requires the concurrence of council to embody the militia or call the assembly, &c. five members will not advise and consent, four will not—three will not, the business is at an end, the governor can do nothing; but if they concur he can act; and if four members are present and two advise and consent, and two will not, the governor, by special provision of the constitution, in that case votes; and decides an act of council, equivalent to the advice and consent of all, or a majority of the board, and he may act constitutionally. Again if there is a vacancy, as was lately the case, the governor, with the advice and consent of council, may appoint a judge of the general court; here is an absolute duty prescribed, and may be imperative; he cannot therefore require the advice and consent of council merely to appoint; the only act to which he can require their advice and consent, is to appoint some particular person to judge; if so happened that a majority of the council did not concur, but the board being divided, the governor, by his special power decided, and then appointed a judge.

We shall now examine the A. B. C. argument of the *Friend to Candour*, and possibly prove that he is not yet master of his political alphabet. The tale he tells is, that if the council are divided between A and B, the governor cannot vote for C, although in his judgment and confidence he believes him most fit for the office, because C was not the cause of division in the council. We might finish this business by this simple question; if the governor is to appoint, and in order to appoint must propose, and believes C is the best man, why did he not propose C? by what possible chance were the council divided between A and B? But as this A. B. C. business furnishes new and conclusive arguments against any such possible construction of the constitution as that contended for by the *Friend to Candour*, it will be treated more at large. According to his doctrine, the unfortunate governor is never to vote but when the council permit, and he must vote when they please, and finally he must vote as they please, although to do so he must violate an express and particular oath. But in this the *Friend to Candour* is at least consistent; according to his system, the governor of Maryland never takes an oath but to break it. Let this candid writer examine section 30, he will there find, that the governor, and every member of the council, and every judge and justice, shall, before they act as such, respectively take an oath, that he will not for any person as an adviser, and conscience be believed must be and not qualified for the office. Now, according to the rule stated by the *Friend to Candour*, although the governor in his judgment and confidence believes C most fit and best qualified for the office, and therefore is obliged to vote for him, if he does vote, yet says the *Friend to Candour*, as C was not the cause of division in council, he shall not vote for him, but may either vote for A or B. How strangely, how badly partial and how inconsistent have been the arguments of the *Friend to Candour*, and the supporters of his system, and how inconsistent it is with

the constitution of Maryland can bear such a construction? Let it speak for itself, and how plain and consistent is its meaning, and how prudent and clear is every provision. The governor, authorized and directed, with the advice and consent of council, to appoint, select their advice and consent to appoint C, whom he believes in his confidence to be most fit for the office; the council are divided, and he to decide votes according to his oath for C, but if the members of the council, in their consciences, believe A and B more fit for this office than C, they of course will not advise nor consent to the appointment of C; there is nothing to oblige them to vote for C, against their consciences, they may refuse to concur, until the governor may be obliged to propose A or B. And this shows the great and prudent foresight of the constitution. This oath of the governor is referred to the possible case of his giving a casting vote, and there it is not only proper, as every person takes it, (even a judge, who cannot possibly vote for any officer but a clerk, but it is also necessary)—If the governor has proposed to appoint a person, that after full discussion the council are divided whether they will concur, it is proper that the governor, before he gives a casting vote, should tell his proposal by the same oath, the council have taken; and if, after full discussion, he cannot on his oath vote for the man he proposed, he must necessarily propose some one else, and may probably find it necessary to turn his attention to such persons as the council in discussion have brought into view. And the governor has taken no oath to prevent what he may do after full discussion necessary to do—He has taken no oath to support the man he thinks most fit for the office, for as he is to appoint with the advice and consent of council, if they will not concur in the appointment of the man he thinks best, he must, if the public necessities require it, appoint the man in whom the majority of the council will concur—but if the public necessities do not press, and he prefers to risk his responsibility on the man he proposes, he may reject, and in order to throw the responsibility on the council who have refused to concur, he, or any member of the board, can require the advice of each member to be entered on the journal, and their constituents can then decide, and render either the governor responsible for an improper proposal, or the particular members of council responsible for their unreasonable refusal to concur. But it is to be observed, that this particular provision of the constitution is absolutely incompatible with the practice of the council to vote by ballot for officers. This mode of ballot, the *Civil Officer* is informed, the Senate of the United States adopted, but were obliged to relinquish, finding it incompatible with their duty and powers, (which on executive business is confined to their advice and consent to the acts of the chief magistrate,) although there is no such express provision with respect to the advice of each member in the constitution of the United States.

Thus we see that every part of the constitution illustrates and confirms that construction which the *Civil Officer* has maintained, while every part is utterly inconsistent with the whole and every other part thereof, according to the principles of the *Friend to Candour*, and the conduct of the council.

The *Friend to Candour* seems to be at some loss to account for the council being expressly called in the constitution *To Council to the Governor*, and the reason he has laid hold of to solve his doubts is curious, and has at least the merit of originality; it amounts to this, that they are called to the council to the governor, because the governor is to obey them, and promulge their acts. One would have supposed that this would be the last reason in the world that a mind ordinarily confounded could have urged; but he tells us, by way of confirmation, that the oath they take calls them Counsellors of Maryland, and that this oath was prescribed by wise men, many of them members of congress; on this oath is very proper as an expression of reverence or deference for they certainly are not counsellors for Pennsylvania, in whatever manner some of them may act; but surely it cannot be contended that this oath gives them any powers, or alters the constitutional style. That constitution declares them to be the council to the governor; and for this plain and evident reason, which we have explained, they always had been the council to the governor, and were so continued by constitutional provision, with circumscribed powers, and a different mode of appointment, as an establishment already well known to the laws, on the same principle that an assembly, governor and court, &c. were constituted.

But it forms, according to the *Friend to Candour*, that the *Civil Officer* has allied, with wonderful dexterity, even what is to be done in the absence of the governor. The *Civil Officer* believes, that by this time he has laid as much on that subject as the *Friend to Candour* is willing to hear, but that writer may possibly learn hereafter, if the question should ever come before a tribunal of justice competent to decide on this class of fiction, that in the absence of the governor no one but the first named of the council, not the first named of those members who assemble and call themselves a council, can preside; that the first named of the council must preside as governors when to act as governor he must qualify as such, that he can only qualify as such on the death, resignation or removal out of the date of the real governor; that he can only do this until the assembly can meet to choose a governor for the residue of the year; and that these are the only cases of absence of the governor in which section 34 provides, that the first named of the council shall preside, or sign and vote when the other members disagree. The *Friend to Candour* may also learn, that instead of examining themselves with decency of a great feat, and examining into the conduct of their clerk, the convention intended that councillors should go home and transact their own business in the absence of the governor, as councillors had been used to do when their advice was not required; that the convention expected that every man that could be elected a councillor would have been too busy of his own to transact what he might do, that they expected the main business of council appointments on which they used to preside the governor, would be considered as the third branch of government; that the other correspondence relations that might require their concurrence could cover no great interruption of their private pursuits; that if indeed the legislature have backed the council on the governor, the assumption of almost every civil executive power, in

NOTICE.

THAT the subscriber, of Charles county, in the State of Maryland, hath obtained from the orphans court of said county, letters of administration on the estate of RICHARD ROBY, late of Charles county, deceased. All persons having claims against said estate are hereby requested to bring them in, legally authenticated, to the subscriber, on or before the fourth day of July next, or they may otherwise by law be excluded from all benefit of said estate. Given under my hand, this 4th day of January, 1803.

107/6 ANN ROBY, Executrix.

NOTICE.

ALL persons having claims against the estate of THOMAS POWER, late of Saint-Mary's county, deceased, are hereby requested to apply on or before the 1st day of August next, and receive their second and last dividend. Given under my hand, this 7th day of May, 1803.

107/6 JOSIAH B. GRINDALL, Administrator.

Will be SOLD, at private SALE,

THE whole or any part of that valuable plantation, on the north side of Severn river, now occupied by Mr. John McCubbin; nothing need be said as to the soil and other advantages, &c. of this place, as it is well known to be one of the richest and best farms in this State. As I shall be in or near Annapolis for two or three weeks, any application by letter, or otherwise, will be attended to.

JOHN HESSELIUS.

April 29, 1803.

To the Voters of Anne-Arundel county and the City of Annapolis.

COMING forward as a candidate for the office of sheriff of Anne-Arundel county, with respectful deference I offer myself to fill the important station, and solicit their suffrages, at the ensuing election, in my favour; should my wishes in this instance be realized, I sincerely promise a strict attention to impartiality, legality, and assiduity, and the public shall find in my attention to the discharge of the duties of the office a grateful return for the confidence they may repose in me.

And remain their obedient servant,
ISAAC DORSEY.

THIS is to give notice, that the subscriber hath taken out letters of administration on the estate of JOHN DENT, late of Anne-Arundel county, deceased, therefore all persons who have claims against the said deceased are requested to bring in the same, proved according to law, and all those who are in any manner indebted to the estate are requested to make payment, to

ELEANOR DENT, Administratrix.

April 27, 1803.

A LIST of LETTERS remaining in the Post-Office, Annapolis, March 31, 1803.

LUCY ADDISON, Belle-Vue; Anthony Addison, Annapolis.

Arthur Bryan, George Bevans, Dennis H. Battie, Nathaniel Burwell, Annapolis.

John Calkahan (2), William Caton (2), Annapolis; Maria Chainey, Lord's Manor; John Lane Chew, Anne-Arundel county.

Francis Digges, Annapolis.

Joseph Evans, Annapolis.

John E. Ford, care of Thos. Buchanan, Annapolis; Richard Franklin, near Herring Creek church.

John Gwinn, Annapolis.

Samuel Harvey Howard, Mr. Howard, sheriff (2), Annapolis; Dr. John Harrison, West river.

Thomas Linthicum, near Annapolis; Alexander Leitch, West river.

Nich. Z. McCubbin, Daniel Mandell, Gabriel Murdoch, care of J. West, Annapolis.

Thomas Norman, West river.

P. H. O'Reilly, Rd. Owings, Annapolis.

Thomas Pownall, Saml. Peaco, Annapolis; William Pool, Anne-Arundel county.

James Ray, Annapolis; Richard Richardson, West river.

Sheriff of Anne-Arundel county (2), Philip Stuart, Benedict Stuart, Caleb Sapington, Fanny Shorter, Annapolis; Larkin Shipley, Augustine Sewell, Anne-Arundel county.

Jane Troy, Annapolis; Dr. James Tongue (3), near Annapolis.

Jos. Watkins, care of Wm. Alexander, George Wells, John Wims, Solomon Wallace, care of Smith Price, Annapolis; Azel Warfield, Anne-Arundel county.

S. GREEN, D. P. M.

None of the above letters will be delivered without the money.

3X

Anne-Arundel county, 11th April, 1803.

I DO certify, that CHARLES POULTON has this day brought before me, a small sorrel GELDING, about 13 hands high, twelve or thirteen years old, as a trespassing stray; said horse has no perceivable brand, has a small blaze in his face, and some white spots on his back, appears to have been used as a work horse.

3X H. H. DORSEY.

The owner is requested to prove property, pay charges, and take him away from the subscriber, living in Anne-Arundel county, on the main road between Annapolis and Baltimore-town.

CHARLES POULTON.

In CHANCERY, April 20, 1803.

James Wells,

vs.
Thomas Rogan, and Grace his wife, William Wells, and Cassandra his wife, Robert Bodkin, and Sarah his wife, Samuel McKiss, and Esther his wife.

THE object of the bill is to obtain a decree for the recording of a deed of mortgage from John and Sarah Cooke, of Harford county, to the complainant, for one hundred acres of land, part of two tracts of land, the one called MAIDEN'S MOUNT, the other PARADISE; the bill states, that John Cooke, one of the bargainors, has departed this life, and the other defendants are his heirs at law; it is thereupon, on motion of the complainant, ordered, that he cause a copy of this order to be inserted three weeks successively, before the 20th day of May next, in the Maryland Gazette, to the intent, that the defendants, and all persons claiming under the said John Cooke, or conceiving themselves interested, may have notice of the complainant's application to this court, and of the substance and object of his bill, and may be warned to appear here in person, or by a solicitor, on or before the first Tuesday in October next, to shew cause wherefore a decree should not pass as prayed.

True copy,
Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

NOTICE, That the Commissioners of the Tax for Anne-Arundel county, will meet at the city of Annapolis, on the third Monday in May next, and will sit from day to day for twenty days, to hear appeals, and make transfers of property, and that all persons interested in the late sales of real property where no personal property could be found to pay the taxes due thereon, are then and there requested to attend.

April 21, 1803.

NOTICE,

To the Public of Maryland.

THERE will be a petition preferred to the next general assembly of this State, for a law to pass for a road to be laid off from a large white oak tree, on the fourth side of the main road leading from the city of Annapolis round the head of the Severn river to the city of Baltimore, standing at the lower end of Richard Dorsey's, (of Caleb) lane or plantation, next adjoining to a plantation belonging to Charles Carroll, of Carrollton, Esq; along up through the neighbourhood on the north side of South river, in Anne-Arundel county, by Jacob Waters's mill and the South river meeting house, and the neighbourhood of the Mr. Hopkins's to a fording place on the main branch of Patuxent river known by the name of Ashton's Ford, and from there the most convenient route through Prince-George's county, by or through Mr. Benjamin Ogle's plantation, known by the name of Belle-Air, to a small town in the said county called Bladensburg, at or near the head of a creek of the river Patowmack, called and known by the name of The Eastern Branch.

April 14, 1803.

I HEREBY give notice, that I intend to apply to Anne-Arundel county court, at April term next, for a commission to mark and bound a tract of land, lying in said county, called JOHN and MARY'S CHANCE, being a resurvey on two tracts or parts of tracts of land, the one called DAN, and the other called JERICHO, in pursuance of the act of assembly, entitled, An act for marking and bounding lands.

JOHNSON M. O'REILLY.

Herring Bay, Anne-Arundel county,
January 1, 1803.

THIS is to give notice, that the subscribers, of Anne-Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne-Arundel county, in Maryland, letters testamentary on the personal estate of ELIZABETH EVANS, late of Anne-Arundel county deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscribers, at or before the fifth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under our hands this 5th day of April, 1803.

HENRY EVANS, } Executors.
JOSEPH EVANS, }

To be RENTED,

THAT commodious dwelling-house, lately occupied by WALTER DULANY, Esq; in this city, which belongs an excellent garden, out houses, &c. For terms apply to Mr. ADDISON, now in possession of the premises, or to

SAMUEL RIDOUT.

Annapolis, May 17, 1802.

JUST PUBLISHED,

And to be sold at the Printing-Office,
Price, One Dollar,

The LAWS

OF

MARYLAND,

Passed November Session, 1802.

In COUNCIL, ANNAPOLIS, April 19, 1803.

ORDERED, That the act to alter, change and abolish, such parts of the constitution and form of government as relates to the establishing a general court and court of appeals, be published once in each week, for the space of three months successively, in the Maryland Gazette, at Annapolis; the Baltimore American, the Telegraph, the Federal Gazette, at Baltimore; the National Intelligencer; Mr. Smith's paper, at Easton; the Republican Advocate, at Frederick-town, and Mr. Grieve's paper, at Hagerstown.

By order,
NINIAN PINKNEY, Clerk.

An ACT to alter, change and abolish, such parts of the constitution and form of government as relate to the establishing a general court and court of appeals.

BE it enacted, by the General Assembly of Maryland, That from and after the first day of March, eighteen hundred and four, there shall be a court of appeals, composed of three persons of integrity, and sound judgment in the law, who shall be styled in their commissions Judge of the Court of Appeals, whose judgment shall be final and conclusive in all cases of appeal from the court of chancery, county court or orphans court; and that the court of appeals shall hold two sessions on the western shore and two on the eastern shore in each year, at such times and places as the future legislature of this State shall direct and appoint.

And be it enacted, That from and after the first day of March, eighteen hundred and four, this State shall be divided into five judicial districts, viz. Saint-Mary's, Calvert, Prince-George's and Charles counties, shall be the first district; Cecil, Kent, Queen-Anne's and Talbot counties, shall be the second district; Anne-Arundel, Baltimore and Harford counties, shall be the third district; Caroline, Dorchester, Somerset and Worcester counties, shall be the fourth district; and Washington, Frederick, Montgomery and Allegany counties, shall be the fifth district; and that there shall be appointed for each of the said districts two persons of integrity, and sound judgment in the law, who shall reside in the district for which they shall be appointed, who shall be styled in their commissions District Judges of the county courts in such district; and there shall be appointed for each of the counties of this State one person of integrity, experience and knowledge, resident of the county for which he shall be appointed, who shall be styled in the commission Associate Judge of the county court of the county for which he shall be appointed; and the said district judges in their respective districts, together with the said associate judge in the respective counties, shall compose the county court; and the county courts so established shall have, hold and exercise, all the powers, authorities and jurisdictions, that the general court and county courts of this State has heretofore held, used and exercised, except the appellate jurisdiction of the general court; and that the county courts shall hold their sessions in the respective counties at such times and places as the future legislature of this State shall direct and appoint.

And be it enacted, That if this act shall be confirmed by the general assembly, after the next election of delegates, in the first session after such new election, as the constitution and form of government directs, that in such case this act, and the alterations and amendment of the constitution and form of government therein contained, shall be taken and considered, and shall constitute and be valid, as a part of the said constitution and form of government, to all intents and purposes, any thing in the said constitution and form of government contained to the contrary notwithstanding.

And be it enacted, That all and every part of the constitution and form of government that relates to the court of appeals, or the general court, as now established, or to the judges thereof, or that is in any manner contrary to, or inconsistent with, the provisions of this act, be and are hereby declared to be repealed and abolished, on the confirmation hereof.

Michael & Barney Curran,

Have received, by the arrivals at Philadelphia,

A handsome assortment of SPRING GOODS,

Consisting of

CHINTZES and calicoes,
Dimities and muslins,
Marfelles quilting and printed jeans,
Cambric dimities,
Ditto muslin 3-4 and 9-8 wide,
Coloured cambricks and ginghams,
Ladies and gentlemen's silk and cotton hose,
Extra long silk and kid gloves,
Gentlemen's best beaver ditto,
Striped and coloured nankéens,
Figured fattsins for gentlemen's vests,
India book and jackonet muslins,
British ditto, ditto, ditto,
India crape handkerchiefs, and jackonet ditto,
Irish linens and checks,
And on hand some best London superfine clothes and cassimers,
Cotton counterpanes and table clothes, &c. &c.

Annapolis, April 19, 1803.
ANNAPOLIS;
Printed by FREDERICK and SAMUEL GREEN.

MARYLAND GAZETTE.

T H U R S D A Y, MAY 19, 1803.

A CIVIL OFFICER OF MARYLAND.—Continued.

IN the course of the foregoing argument, we have been constrained to refer to the express letter of the constitution, to disprove the gross misstatements of this Friend to Candour; although his errors are not of that class, which claim our pity, yet the Civil Officer disdains a triumph over vulgar malevolence and vapouring; conscious of the rectitude of his motives, and in pursuit only of truth, he scorns the paltry gratifications of personal resentment, and nothing shall escape him intentionally to offend an individual, unless public information or public justice require it.

The Friend to Candour, having, as we observed, erected a constitutional system on a foundation of his own creation, instead of stating cases that would flow from the principles of his adversary, and showing them to be inconsistent with the constitution, he modestly proceeds to propound questions, that wholly arise out of, and depend upon, his own fictions; consequently, like baby-houses which children erect out of cards, we shall see them tumble at the first breath directed against them. "It is (says he) irreconcilable, that the governor can only vote when the council are equally divided; and yet can reject, while all five are united against him;" and again, "In the late appointment of a judge of the general court, when the governor gave the casting vote, will the Civil Officer say he did not advise as one of the council?" If to the judge was appointed without the advice and consent of council—"If this writer has reflected the constitution when he wrote, all his irreconcilabilities and his wondrous would have vanished—he would there have found, that the act of the board of council is expressly advice and consent to an act of the governor, and nothing more or less;—the words of the constitution would solve all his difficulties; but as his illustrations tend to establish every position of the Civil Officer, we will mention them minutely.

If the Civil Officer should indeed say that the governor, in the late case, had advised as one of the council, to the governor, which that body are expressly declared to be by the constitution, he would undoubtedly say what is very great nonsense. It is equally certain that the governor did not advise as one of the council—that he did vote as governor on that particular occasion, and that he was authorized to do so by an express provision of the constitution—which rendered his vote equivalent to that of one of the board, and enabled him, by deciding that advice and consent agreeably to his proposal and judgment, to appoint the judge, and the council accordingly disapproved him.

That he did not vote as a member of the council, nor as a member of the board, we have already seen; the mode of election, the former laws of Maryland recognized and ordered part of the constitution, the various duties of his office, the express language of the constitution in all its parts, and the cautious separation of himself and his powers from the members and duties of the board by this very act, even where he is directed to preside in council—these are incontrovertible evidence, that the constitution never intended that the chief magistrate, or his powers, should be unfounded or mixed with the members and duties of a board, constituted solely to advise him. In fact, without preserving that separation, the very theory and language of the constitution which require a concurrence, where the governor acts by the advice and consent of council, and that mutual check which is the favourite principle of freedom, would be wholly destroyed and perverted. But how the special authority of the governor, to decide by a casting vote the advice and consent of council in favour of those two who agree with him, is irreconcilable with his sole power of proposal, or with his ultimate power of rejecting the advice and consent of council, if the whole five or any other majority should be in opinion against him, is utterly unintelligible to the Civil Officer, and will be equally so to the Friend to Candour if he will consider himself to the express constitutional powers of the council.

It is not probable, that if the governor should have acted, by this special authority to decide the advice and consent of council, that he would ultimately reject what was determined agreeably to his proposal or opinion; and although such an event was possibly not in contemplation by the convention, and will very rarely if ever happen; yet we are conscious of cases, and one had nearly occurred under the British treaty, where the executive magistrate might be induced ultimately to reject advice and consent to what he proposed himself.—There is nothing in reason or the constitution of Maryland to forbid it. But we conceive it to be very irreconcilable, not only with the constitution but common sense, that the convention intended to destroy the general independent power of the governor, in every case here headed with the council, because they authorized him on a possible contingency to decide where they were divided, without which decision his judgment would avail nothing, although an equal number of the council agreed with him; more especially when, by his retaining his power, the theory and language of the constitution are preserved without inconvenience; and by their being merged or absorbed, the whole constitution becomes a mass of absurdity and inconsistency.

For admitting the governor has the sole right of proposal, of ultimate rejection, or both those rights, yet this power of deciding in the special case of a division is equally wise and necessary: For if both those powers are vested in him, still, if five members of the council, or four, or even three, refuse to concur with him by their advice and consent, there is an end of the business, he cannot act; but only if two concur, and only two refuse, the convention intended that he should act. It is neither presumed that the Friend to Candour will deny that the convention intended that the governor should possess the sole right of proposal, and the ultimate right of rejecting the advice of council, could not also give him the special power of deciding the act of the council when the members were divided; nor is it believed that he will assert that such special power was not a prudent and wise provision, even in addition to those other powers.

Let us now turn our attention to the consequences.—Under the constitution, as the Civil Officer contends it is, the governor and council are each left with their separate powers, in every case, the facilities of different rational beings, are also to be considered as being intrusted with public au-

thority, independently deliberating, and finally, either freely concurring, or refusing to concur in some executive act, which the governor is to execute with their advice and consent; thus mutually checking each other, and preventing an abuse of power by either. But under the constitution, or rather the system created by the Friend to Candour, on no other pretence than some irregular proceedings in council, that were kept secret from the public, we must suppose that the convention intended, that when the governor should proceed to deliberate in council, he should be instantly struck with a political dead palsy, and remain in council only half alive; that if the board should by accident consist of four, and those four should, by accident, divide, the pained half, on that contingency, on a contingency might refuse only for the moment to give a casting vote, and link again into lifeless insensibility; and that when he should come to act, he should be a mere mechanical instrument—an hollow tube—either a pen or a trumpet, to promulgate their imperative advice and consent; or that if he should be out of the way, or not so alert as they might wish, the attention of their clerk to their acts, would answer the same purpose.

We would now in our turn propound a short question or two to this sage assult, the Friend to Candour: If the governor did advise as one of the council on the appointment of the judges, as he supposes, pray whom did he advise? for where advice is given, a person to be advised is as absolutely necessary as an adviser. Did he then, as councillor, advise himself as governor? There is perhaps but one case in point that can be produced, and that is recorded by the inimitable Cervantes, to the following effect: When Sancho Panza became governor of Barataria, doctor Pedro Positive de Boile-ill was his chief councillor, and advised his excellency to conform to the usage and customs of other governors, especially in eating only what he should advise, it being found by experience that the same food would be improper for him that would suit councillors. The governor bore with patience, whilst this after dish disappeared, until a favourite pudding was on the move, when in spite of all doctor Pedro Positive could say, he turned councillor himself and advised his excellency to eat a little of that pudding.

The constitution of Maryland admits of no such foolery or absurdity, it is the work of wisdom, patriotism and experience. Let its language, without addition or diminution, speak for itself, and it will dispel the fogs that arise from darkness or design. Its words are, "the governor, by the advice and consent of council, may embody the militia—may call the assembly," &c. It is to be remarked, that the word may is not here imperative, as there is no absolute official duty prescribed; it is precisely equivalent here to that clause of the constitution that directs that the governor "shall call the assembly," (which word is understood having before been repeated in the same sentence,) grant pardons and reprieves for any crime, &c. It confers a power, which from its nature, must be exercised under a responsible discretion, as circumstances may require. In pardons and reprieves the governor's sole discretion is confined to; in embodying the militia, and calling the assembly, &c. the discretion and responsibility attach both on the governor and council; but as the governor is the executive agent to do the act, the responsibility rests first on him; if it becomes necessary to do either, he must require the concurrence of council, and then they become responsible for their advice and consent. The governor requires the concurrence of council to embody the militia or call the assembly, &c. five members will not advise and consent, four will not—three will not, the business is at an end, the governor can do nothing; but if they concur he can act; and if four members are present and two advise and consent, and two will not, the governor, by special provision of the constitution, in that case votes, and decides an act of council, equivalent to the advice and consent of all, or a majority of the board, and he may act constitutionally. Again if there is a vacancy, as was lately the case, the governor, with the advice and consent of council, may appoint a judge of the general court; here is an absolute duty prescribed, and may is imperative; he cannot therefore require the advice and consent of council merely to appoint; the only act to which he can require their advice and consent, is to appoint some particular person judge; if it happened that a majority of the council did not concur, but the board being divided, the governor, by his special power, decided, and then appointed a judge.

We shall now examine the A. B. C. argument of the Friend to Candour, and possibly prove that he is not yet master of his political alphabet. The tale he states is, that if the council are divided between A. and B. the governor cannot vote for C. although in his judgment and conscience he believes him most fit for the office, because C. was not the cause of division in the council. We might finish this business by this simple question; if the governor is to appoint, and in order to appoint must propose, and believes C. is the best man, why did he not propose C. by what possible chance were the council divided between A. and B.? But as this A. B. C. business furnishes new and conclusive argument against any such possible construction of the constitution as that contended for by the Friend to Candour, it will be treated more at large. According to his doctrine, the unfortunate governor is never to vote but when the council permit, and he must vote when they please, and finally he must vote as they please, although to do so he must violate an express and particular oath. But in this the Friend to Candour is at least consistent; according to his system, the governor of Maryland never takes an oath but to break it. Let this candid writer examine section 30, he will there find, that the governor, and every member of the council, and every judge and justice, shall, before they act as such, respectively make an oath, that he will not for any person or persons, in his judgment and conscience be believed most fit and best qualified for the office. Now, according to the case stated by the Friend to Candour, although the governor in his judgment and conscience believes C. most fit and best qualified for the office, and therefore is sworn to vote for him, if he does vote, yet says the Friend to Candour, as C. was not the cause of division in council, he shall not vote for him, but shall either vote for A. or B. How strangely, how truly partial must the convention have been to indulgent to the confidences of the council, and so regardless of that of their chief magistrate! Is it possi-

ble that the constitution of Maryland can bear such a construction? Let it speak for itself, and how plain and consistent is its meaning; and how prudent and clear is every provision. The governor, authorized and directed, with the advice and consent of council, to appoint, asks their advice and consent to appoint C. whom he believes in his conscience to be most fit for the office; the council are divided, and he to decide votes according to his oath for C. but if the members of the council, in their consciences, believe A. and B. more fit for this office than C. they of course will not advise nor consent to the appointment of C. there is nothing to oblige them to vote for C. against their oaths, they may refuse to concur, until the governor may be obliged to propose A. or B. And this shows the great and prudent foresight of the constitution. This oath of the governor is restricted to the possible case of his giving a casting vote, and there it is not only proper, as every person takes it, (even a judge, who cannot possibly vote for any officer but a clerk,) but it is also necessary.—If the governor has proposed to doubtful a person, that after full discussion the council are divided whether they will concur, it is proper that the governor, before he gives a casting vote, should test his proposal by the same oath, the council have taken; and if, after full discussion, he cannot on his oath vote for the man he proposed, he must necessarily propose some one else, and may probably find it necessary to turn his attention to such persons as the council in discussion have brought into view. And the governor has taken no oath to prevent what he may so often find it absolutely necessary to do.—He has taken no oath to appoint the man he thinks most fit for the office, for as he is to appoint with the advice and consent of council, if they will not concur in the appointment of the man he thinks best, he must, if the public necessities require it, appoint the man in whom the majority of the council will concur—but if the public necessities do not press, and he prefers to risk his responsibility on the man he proposes, he may reject, and in order to throw the responsibility on the council who have refused to concur, he, or any member of the board, can require the advice of each member to be entered on the journal, and their constituents can then decide, and render either the governor responsible for an improper proposal, or the particular members of council responsible for their unreasonably refusing to concur. But it is to be observed, that this particular provision of the constitution is absolutely incompatible with the practice of the council to vote by ballot for officers. This mode of ballot, the Civil Officer is informed, the fathers of the United States adopted, but were obliged to relinquish, finding it incompatible with their duty and powers, (which on executive business, is confined to their advice and consent to the acts of the chief magistrate,) although there is no such express provision with respect to the advice of each member in the constitution of the United States.

Thus we see that every part of the constitution illustrates and confirms that construction which the Civil Officer has maintained, whilst every part is utterly inconsistent with the whole and every other part thereof, according to the principles of the Friend to Candour, and the conduct of the council.

The Friend to Candour seems to be at some loss to account for the council being expressly called in the constitution *The Council to the Governor*, and the reason he has laid hold of to solve his doubts is curious, and has at least the merit of originality; it amounts to this, that they are called to the council to the governor, because the governor is to obey them, and promulge their acts. One would have supposed that this would be the last reason in the world that a mind ordinarily constructed could have urged; but he tells us, by way of confirmation, that the oath they take calls them Counsellors of Maryland; and that this oath was prescribed by wise men, many of them members of convention: this oath is very proper as an expression of reference or deference; for they certainly are not counsellors for Pennsylvania, in whatever manner some of them may act; but surely it cannot be contended that this oath gives them any powers, or alters the constitutional style. That constitution declares them to be the council to the governor; and for this plain and evident reason, which we have explained, they always had been the council to the governor, and were so continued by constitutional provision, with curtailed powers, and a different mode of appointment, as an establishment already well known to the laws, on the same principles that an assembly, governor and courts, &c. were continued.

But it seems, according to the Friend to Candour, that the Civil Officer has glided, with wonderful dexterity, over what is to be done in the absence of the governor. The Civil Officer believes, that by this time he has laid as much on that subject as the Friend to Candour is willing to hear, but that writer may possibly learn hereafter, if the question should ever come before a tribunal of justice competent to decide on this clause of section 34, that in the absence of the governor no one but the first named of the council, nor the first named of those members who assemble and call themselves a council, can preside; that the first named of the council must preside as governor; that to act as governor he must qualify as such; that he can only qualify as such on the death, resignation or removal out of the state of the real governor; that he can only do this until the assembly can meet to choose a governor for the residue of the year; and that these are the only cases of absence of the governor in which section 34 provides, that the first named of the council shall preside as such and vote when the other members disagree. The Friend to Candour may also then learn, that instead of assuming themselves with devices of a great seal, and exalting into the conduct of their clerk, the convention intended that counsellors should go home and transact their own business in the absence of the governor, as counsellors had been used to do when their advice was not required; that the convention expected that every man that could be elected a counsellor would have some business of his own to transact, such as it might be; that they expected the main business of almost all appointments on which they are to advise the governor, would be completed in the third week of November; that the other extraordinary occasions that might require their concurrence could create no great interruption of their private pursuits; that if indeed the legislature have tasked the council to the governor in the execution of almost every trivial executive power, it is

could not be foreseen by the convention, who had authorized the governor to transact all executive business, where the concurrence of council was not required by law; and that even with all these duties, and almost the whole of the powers of the governor which they have assumed, the council find themselves as leisurely two thirds of the year; and when the constitution is executed and this clause is settled the governor may also leave, if he does not yet know it, that if he should go home with the council for a great part of the year, it will be better for himself and not worse for the public. We see governors of other states, with greater powers than the constitution ever contemplated to vest in a governor of Maryland, and where there is no council at all, live generally at home, and sometimes leave the state; we see the president of the United States absent from the seat of government half the year, and the sun still rises and sets as usual, without a council to regulate its course. All this may teach a governor and council of Maryland, that their absence is not likely to cause any great political chasm—that it never was committed but to one ATLAS to sustain the world on his shoulders, and that the great art of governing well, is not to govern too much.

On the authority of the governor of Maryland to preside in council before the revolution, we shall speak fully in our next, and are still close for the present with due notice of one of the most extraordinary passages of this address of the Friend to Candour; but for that personal respect which we wish to preserve, we should observe that it would defy the powers of chemical analysis to ascertain whether this is an extract from lead or brass, or from a compound of both, amalgamated in the same crucible, or whether it is only an harmless joke intended as a *jeu d'esprit*; if the latter, it is certainly as awkward as the gambols of an old-fiddler just escaped from the ices of March. The passage is this—“If the council should advise that he, (the governor,) should act the hero, (a term by no means ridiculous among military men,) this advice would operate as an order; and if after a particular period they should advise him to relinquish that command, it would be equally imperative.” So if they should advise him to act the hero, he must do so, whether he is an hero or not: This is imperative with a witness—this is commanding nature as well as the governor. This hint seems evidently taken from the governor of Barbary, the only governor of history, or romance from whence the Friend to Candour could have derived his ideas of government—the passage to which it is supposed he alludes is not quite accurately quoted: it is from lib. 4. cap. 1. (Smollet's translation of Don Quixote,) it stands thus—“Arm my lord, the enemy approaches—advise one councillor. For what should I do, replies the governor, I neither know the use of arms, nor can give you protection: How, my lord governor, cries another councillor, what dependence is this—Come forth! and be our guide and our general, seeing of right that place belongs to you as being our governor.”

A governor may be very infirm and decrepid with the gout, as one governor of Maryland has been; he may be totally unacquainted with military affairs, as several have been, and in the present state of the military science this knowledge is not to be gained by intuition; and will not be ridiculed by military men, or any wise men; in fact a governor may know no more of an order of battle, than the Friend to Candour knows of the constitution of Maryland: and above all a privy councillor within may whisper and advise, Mr. Governor do not go! you will certainly run away the first shot that's fired! And yet under all these impressions, if the council advise it, he must play the hero whether he will or not! if so they should be better councillors than the Friend to Candour—they should be men who would not insult the public with such a rhapsody of nonsense. What is the language of the constitution? sec. 33. “The governor, when embodied, i. e. militia, shall alone have the direction thereof, and shall also have the direction of all the regular land and sea forces, &c. but he shall not command in person, unless advised thereto by council, and then only so long as they shall approve thereof.” In what part of this clause did the Friend to Candour find that he should command in person, if the council advise it?—The power conferred on the governor here is precisely, (by the language,) the same as the other powers he is to exercise by the advice and consent of council; the phraseology only is necessarily altered, as it stands as an exception to the general power, conferred on the governor alone immediately before, of directing solely the military force; an exception founded on obvious and sound reasons; a governor may desire to command in person; he may believe himself qualified; he may think military knowledge ridiculous, and may imagine himself an hero as many men have done till they were tried; and he may feel it a point of honour to render his personal services: The convention therefore to avoid the misfortune of an inexperienced and unqualified man at the head of the army, has qualified that general direction which it vested in the governor over military affairs, by compelling him to obtain the advice and consent of council to his command in person; and as the council can advise him to command indefinitely, they may also limit the term to which that advice shall extend; this perhaps would have been the case without express provision, for *omne majus conquisit in minus*—and the power of advising for an indefinite term, naturally includes a power to advise for a less or limited term:—Where then is this extraordinary power to be found by which the council could order an infirm gouty old man, an inexperienced lawyer, or a feint-hearted coward, (no personal allusion is here intended,) to command in person, whether he will or not!—only in the distempered imagination of the Friend to Candour.

A CIVIL OFFICER OF MARYLAND.
(To be continued.)

PHILADELPHIA, May 12.

Yesterday arrived from quarantine, the ship Caroline, capt. Motley, from Cork; by whom we have passed to the 1st of April, which furnishes us with the following

LATE ADVICES.

GENOA, March 5.

Conscripts are daily arriving from France for completing the demi-brigades in Italy; 400 are now quartered here. The government provides for the subsistence of the troops of that nation which are in Liguria, by arrangements with contractors, but with whom this contract is only made for one year. For some days considerable bodies of French troops have been marching towards the Levant.

LEYDEN, March 22.

The formidable preparations making in England, appear more and more to awaken the solicitude of the French government, and dispositions are already made at all events, as if war were inevitable. It could hardly have been hoped, under the present circum-

stances, that the two belligerent powers would tolerate the neutrality of the Batavian republic; but if there were the smallest grounds for uncertainty on that head, all hopes of the kind are now totally vanishing. We learn that France has demanded of the Batavian government, that the necessary preparations for the maintenance of a considerable corps of French troops shall immediately be made, which troops are said to be already on their march for our frontiers: Though this measure be only precautionary, it proves how much the French government, notwithstanding the silence observed by its journals, attaches importance to what passes in England.

It was not impossible to imagine that the first consul after the high degree of glory and power which he had acquired, would ever yield to menaces. It appears that the French army destined to cover Holland in case of invasion, and no doubt, also to take part of a general expedition against England, will be distributed in the principal towns in Holland. It is not yet known where the head quarters will be fixed. It is said that general Durde has set out for Berlin, to require of that court the most prompt measures with respect to the electorate of Hanover. Thus on every side semi-hostile preparations do not even await the declaration of war, and without the intervention of a tutelary genius, it seems that the friends of humanity will in a few days have again to lament its fate.

General Cesar Berthier, brother to the minister for war at Paris, and who had arrived in Holland in quality of chief of the staff to the expedition to Louisiana, on Wednesday quitted the Hague, on another destination: He is gone to Helvoetsluis, to embark for Dunkirk, whence he will go to Tobago, with the character of captain-general of that island: It appears likewise, that the departure of the troops, at the head of which general Victor is to take possession of Louisiana, will be hastened.

PARIS, March 16.

Within these few days, orders have been dispatched to all our sea ports, to hasten the equipment with all possible zeal; and these orders are not alone confined to ships of the line, frigates and other vessels of war, but extend to the getting in readiness of a considerable number of gun-boats and flat bottomed boats; the latter are chiefly fitted out at Cherbourg and Bologne. The pressing of marines and others used to the sea, will be put vigorously into effect: From the interior 50,000 men will be draughted to march to the sea coasts; and this number, added to that already there, will form an army of 120,000 men. These military operations, and other circumstances, give cause of apprehension, that the peace with England is on the point of being broken and which may turn out not a little disastrous for both nations.

The minister of the marine received intelligence on the 13th, that the English fleet in the Mediterranean has been lately reinforced by several ships from England and Gibraltar, which lately passed the Straits. This is considered as a new proof that the English do not intend to evacuate Malta.

LONDON, March 27.

A letter from Berne, addressed to an eminent commercial house in Hamburg says:—“We are now virtually Frenchmen, and are perfectly sensible of the degradation of our situation—the government which has been imposed on Switzerland is offensive to the great majority of the people, and they look forward with impatience for a safe occasion to shake it off. The internal relations of France are of such a nature as must, within the period of a few years, produce great and wonderful changes.”

Letters from Vienna, Trieste, &c. mention that a great number of French troops were on their march to Lower Italy. These accounts add, that they are to embark for Malta and Egypt, in the event of the English delaying to evacuate them.

On Thursday night new press-warrants, with urgent orders, were sent off in different directions; many more ships are ordered into commission; orders have been given for all the three deekers to be got ready for sea service as soon as possible, in preference to every other rate. From the outposts yesterday, we learn, that at Portsmouth, orders are received to fit for a state of commissioning, without delay, all the line of battle ships at that port, not in need of repairs.

All the gun and flat bottomed boats, as well as small craft, there, are ordered into a state of readiness.

The stock jobbers and speculators in the funds were on Friday more industrious than usual in circulating rumours of an alarming tendency.

The ships destined to protect the entrance of the Thames are getting ready as floating batteries with all possible dispatch. They will occupy, at the Nore, the customary station calculated for that object.

SALEM, May 4.

From the Cape of Good Hope.

Captain Richard Gardner passenger in the Franklin, from the Cape, arrived here yesterday by way of the Vineyard, and favoured us with two numbers of the Cape-Town Gazette; from which we find that, agreeably to the treaty of peace, that place has been given up by the British to the Batavian republic.

The late British governor (Francis Dundas) on the 20th February, issued his proclamation, notifying that the restoration would take place the next day, and releasing the inhabitants from their oath of allegiance to his Britannic majesty. The Batavian troops took possession of the castle on the evening of the 20th, and the next morning displayed their co-

lours.—At 8 o'clock the large Batavian standard was seen flying; when the Batavian man of war, the Spion, together with the British admiral, saluted the flag, and were answered by the castle. The same day the Batavian governor-general (Janssen) gave an elegant dinner. General Dundas and other British officers assisting. On the 25th, the commissary-general from the Batavian republic also gave a dinner, on account of the approaching departure of gen. Dundas and admiral Corlies. The toast of his Britannic majesty's health, and of the welfare of the Batavian government, were given with a royal salute.—On the 1st of March, solemn thanksgiving was held in the churches, and afterwards the governor-general, council of police, and other officers were installed and proclaimed.—An elegant supper and ball succeeded in the evening; and many of the houses in the town were illuminated.—On the 3d of March admiral Corlies took leave of the commissary-general and the governor, and on going on board his ship was saluted by the battery.

BOSTON, May 6.

From the Mediterranean.
Late and authentic.

In the ship *Perseverance*, which arrived yesterday from Leghorn and Gibraltar, William Eaton, Esq. our consul for the city and kingdom of Tunis, came passenger; and will immediately proceed to the seat of government. Doctor George Davis, of New-York, is left charged with affairs.

As late as the 1st of April *Mafia* was not retaken by the English; nor any apparent movement to that effect. It was said that transports were going to bring off the British garrison from Alexandria; but, it is thought, more probably to provision them. In consequence of the late mutiny at Gibraltar, the duke of Kent was about to return to England, and the garrison to be relieved.

The French government has finally adjusted its misunderstanding with the regency of Algiers, by a general accession to the dey's terms. Consistent with that, Talleyrand has touched a *checquer* from the Jews Bocfi and Bounah, and consequently persuaded his young master into a decision on which he has long balanced between commercial policy and private ambition.—Bouchaparte might, indeed, have added one more sprig to the laurels which already cloud his brow, by annexing the “potent dey” to the catalogue of his slaves, and might have done something handsome for the pockets of the consuls.—But the archbishop is of opinion, that it would be killing the goose for an egg—that Algiers in activity would be ultimately of more utility to the French republic, and, of course, to their sovereign, than Algiers in ruins—and that notwithstanding all the *sanferran* displayed on the subject, his practical highness ought to be secure in the friendship of the first consul. Consequently that thief of brigands will have nothing the ensuing season to check his depredations on whatever tributary nation audacity shall direct his course, whose delinquency may furnish him with a pretext.

The dey positively refuses to receive Mr. Cathcart as consul for the United States; and as decidedly rejects cash in lieu of the naval stores, in payment of the annual tribute for the last and present year. According to the statement of Mr. O'Brien that will be an arrearage due that regency, on the 30th September next of 124,073 dollars; it being the tribute and contingencies of two years; including 20,000 dollars, estimated consular present, and 6,000 dollars, ransom of the mallee and four seamen of the brig *Franklin*, from the bashaw of Tripoli, through the intervention of Algiers.

The bey of Tunis requires, and is resolved to have, as a demonstration of the real friendship of the president of the United States, a good frigate of thirty-six guns; and sundry articles of smaller consideration, which he has signified to the government. He asserts a right of free intercourse with Tripoli, in contempt of an actual blockade; and declares his determination to hold the United States amenable for all infractions of this assumed right. He has caught Mr. Eaton, because, he says, he must have an American consul with a disposition more congenial to the Barbary interests! Or, in the language of his minister, more pliable to his views. This chief is endeavouring to negotiate a peace with Portugal, with view of giving his corsairs a greater range, by pushing them into the Atlantic. It is yet uncertain which his loyal friends, the Danes, Swedes or Americans will be designated as their prey.

The bashaw of Tripoli, now at peace with the rest of the world, treats with contempt the overtures of pacification proposed to him in writing by Mr. Cathcart on the part of the United States, in conformity to instructions from the department of state.—The notion of peace without paying is a fallacy in Barbary. It is impossible, however, yet to determine what influence the appearance of commodore Morris will have on the resolutions of this pirate, as none of his frigates has hitherto been before Tripoli.

Citizens of the United States! your Barbary lords assumed a majesterial tone with you; and, except you take an attitude with them a little more worthy of yourselves, to the common course of the “*faux pas*” they will soon add, “By the sweat of your brow we shall support your dishonour and our insolence!”—it not already the language of their behaviour?

NEW-YORK, May 11.

Latest from France.

Captain Godden, who arrived here yesterday from Bourdeaux, left that place on the 29th of March. He confirms the news already received, that propa-

tions were made we have information more considerable. We have seen first house there ble merchant; that day, an e A letter by of March, to observed, “Two ter expressed a city that war

PHILADELPHIA, May 12. It is asserted frontiers between take place, on will cede a cer government.

BATON ROUGE, May 11. The weather unusually cold today morning city the thick of Saturday a fall of snow

vegetable w streets and gr the weight and branches tree, and in r and principal contiguous t cracking of the spectacle whi with several subject, who flection of in mentioned an May, in the greater part

JOHN GOVERNOR

WHEAT one of the most cruel committed paper-maker Arndel co about the tion hath memorial of counties of city of Baltimore: the good pe vigilance of laws again I have then clamoration, content of FOUR H discover the murder and any of the I do, by vellest, her person being perpetrator robbery on Given und six Lo

By his NINETY the

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THIS Cl plans cou of admini DENT, sons havin warned to al, to the nary ne from all hand, thi Lord one

tions were making in the French ports for war. But, we have information by this arrival which deserves more consideration.
We have seen a letter from Bordeaux, from the first house there of the 26th of March, to a respectable merchant of this city. This letter states, that that day, an express arrived from Paris.
A letter by this courier dated at Paris the 24th of March, to a gentleman in office at Bordeaux, observed, "That a continuance of peace was certain." Two days before this, the writer of this letter expressed an opinion to his correspondent in this city that war was inevitable.

PHILADELPHIA, May 12.

Extract of a letter from Madrid, February 26.
It is asserted that a new line of demarcation of the frontiers between this country and France will soon take place, on which occasion we expect our court will cede a certain part of territory to the French government.

BALTIMORE, May 14.

The weather during the preceding week has been unusually cold and boisterous for the season. On Saturday morning last there was ice in and near this city the thickness of a dollar; and during the night of Saturday and the morning of Sunday, there was a fall of snow which did considerable damage to the vegetable world. The Lombardy poplars in the streets and gardens of this city were generally injured. The weight of the snow which adhered to the leaves and branches, in some instances bore down the whole tree, and in most others it stripped them of their tops and principal branches. Many who slept in chambers contiguous to those trees, were awakened by the cracking of the falling limbs to behold the singular spectacle which they exhibited. We have conversed with several old inhabitants of Philadelphia on this subject, who agree in saying that they have no recollection of snow in May, excepting the instance above mentioned and another which occurred on the 4th of May, in the year 1773 or 1774, which destroyed the greater part of the early fruit. [Phil. pap.]

Annapolis, May 19.

By his EXCELLENCY
JOHN FRANCIS MERCER,
GOVERNOR OF THE STATE OF MARYLAND,
A PROCLAMATION.

WHEREAS it appeareth unto me, by an inquiry taken before Robert Moore, Esq; one of the coroners of Baltimore county, that a most cruel and atrocious murder and robbery were committed on the person of ADAM WAYBLE, paper-maker, a respectable and aged citizen of Anne Arundel county, by some unknown hand, on or about the thirtieth day of March last, which inquiry hath been returned to me, accompanied by a memorial of sundry respectable inhabitants of the counties of Baltimore and Anne Arundel, and the city of Baltimore, praying the interposition of government: And, whereas the quiet and security of the good people of this commonwealth depend on the vigilance of the constituted authorities in causing the laws against such enormities to be duly executed: I have therefore thought proper to issue this my proclamation, and I do, by and with the advice and consent of council, hereby offer a REWARD of FOUR HUNDRED DOLLARS to whoever will discover the author or perpetrators of the aforesaid murder and robbery, provided he, she, or they, or any of them, be convicted thereof. And moreover I do, by virtue of the authority and powers in me vested, hereby promise a full and free pardon to any person being an accomplice, who shall discover the perpetrator or perpetrators of the said murder and robbery on the aforesaid conditions.

Given in Council, at the city of Annapolis, under the seal of the State of Maryland, this sixteenth day of May, in the year of our Lord one thousand eight hundred and three.

JOHN F. MERCER,

By his excellency's command,
NINIAN PINKNEY, Clerk of
the governor and council.

In COUNCIL, ANNAPOLIS, May 16, 1803.

ORDERED, That the foregoing proclamation be published three times in each week, for the space of three weeks successively, in the American, Telegraph, and Federal Gazette, at Baltimore; the National Intelligencer; the Maryland Gazette, at Annapolis; the Republican Advocate, Herald, and Mercury's paper, at Frederick-town, and in Mr. Smith's paper, at Easton.

By order,
NINIAN PINKNEY, CLK.

THIS is to give notice, that the subscriber, of Charles county, hath obtained from the orphans court of Charles county, in Maryland, letters of administration on the personal estate of GEORGE DENT, late of Charles county, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the first day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this thirteenth day of May, in the year of our Lord one thousand eight hundred and three.

WILLIAM DENT, Administrator
of GEORGE DENT.

SPRING GOODS.

JOSEPH EVANS,

On the Dock, opposite the Market-house,
Has just received by the Spring vessels arrived at Baltimore, and offers for sale,

A Handsome assortment of GOODS, suitable for the present season, consisting of a variety of the latest and most fashionable articles for Ladies and Gentlemen wear.

NOTICE.

All persons indebted to the subscriber, whose accounts have been longer standing than twelve months, are earnestly requested to call and discharge the same, or give note or bond for the amount thereof.

JOSEPH EVANS.

Annapolis, May 19, 1803.

MAREEN B. DUVALL,

CHURCH-STREET,

HAS just received a choice selection of SPRING GOODS, MIS GUTTERY and GROCERIES, the whole of which will be sold on the most reasonable terms.

Annapolis, May 17, 1803.

FOR SALE.

TICKETS in the ST. JOHN'S CHURCH LOTTERY, in Baltimore, by the subscriber, at Mr. Mattison's. The drawing of the above lottery will shortly commence, as more than one half the tickets are already sold; and as the subscriber means to remain here only a few days he requests those who wish to become adventurers to be speedy in their application.

MICHAEL NUSSEAR.

Annapolis, May 19, 1803.

In CHANCERY, May 13, 1803.

John Gwinn,

Samuel Godman, Robert Godman, Brutus Godman, Cassius Godman, Jefferson Godman, John Davidson Godman, Stella Godman, and Peggy Beall Godman, heirs at law of Samuel Godman, deceased.

THE object of the bill is to obtain a decree for the foreclosure of a mortgage given to the complainant by Samuel Godman, deceased, dated on the fourth day of January, seventeen hundred and ninety-nine, for the conveyance of the three following tracts of land, lying in Anne Arundel county, to wit: YOUNG'S LOCUST PLAINS, containing one hundred and fifty acres; HENDERSON'S MEADOWS, containing one hundred and five acres; and THE ADRIATION to SAMSON, containing one hundred and two acres; subject to redemption, and repayment of the principal sum of three hundred and seventy-five pounds, current money, with interest from the first day of November, seventeen hundred and ninety-eight, in three annual payments; the bill states, that no part of the principal or interest of the mortgage money hath been paid; that the period of redemption hath elapsed; that the mortgagor, Samuel Godman, hath departed this life intestate, leaving the defendants his heirs at law, all of whom are minors, except Samuel Godman, the eldest; that all of the said defendants have left the State of Maryland and reside in parts unknown, except Brutus, Cassius and Jefferson. It is thereupon, on the motion of the complainant, ordered and adjudged, that he cause a copy of this order to be inserted in the Maryland Gazette, once in each of three successive weeks, before the eleventh day of June next, to the intent that the absent defendants may have notice of the present application, and of the substance and object of the bill, filed in this cause, and may be warned to appear in this court in person, or by a guardian, on or before the fourth Tuesday of October next, to shew cause, if any he, she, or they may have, why a decree should not pass as prayed.

True copy,
SAMUEL H. HOWARD,
Reg. Cur. Can.

THIS is to give notice, that the subscriber, of Charles county, hath obtained from the orphans court of Charles county, in Maryland, letters of administration de bonis non, on the personal estate of WARREN DENT, late of Charles county, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the first day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this thirteenth day of May, in the year of our Lord one thousand eight hundred and three.

WILLIAM DENT, Administrator
de bonis non of WARREN DENT.

THIS is to give notice, that the subscriber, of Anne Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne Arundel county, in Maryland, letters of administration on the personal estate of EDWARD GWINN, late of Anne Arundel county, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the fourteenth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this 14th day of April, 1803.

ACHSAH GWINN, Administratrix.

In CHANCERY, May 13, 1803.

James Walker,

against

Samuel Godman, Robert Godman, Brutus Godman, Cassius Godman, Jefferson Godman, John Davidson Godman, Stella Godman, and Peggy Beall Godman, heirs at law of Samuel Godman, deceased.

THE object of the petition is to obtain a decree for the recording a deed of mortgage from Samuel Godman, deceased, father of the defendants, to the petitioner, James Walker, bearing date on the twenty-eighth day of October, seventeen hundred and ninety-nine, for the conveyance of sundry tracts of land, sundry negroes, and other personal property, particularly enumerated in the said deed, to the petitioner; the petition states, that the said Samuel Godman, the grantor, hath departed this life intestate, leaving the defendants his heirs at law; that all of them are minors, except Samuel, and that all of them, except Brutus, Cassius and Jefferson, have departed from the State Maryland, and gone to parts unknown; it is thereupon, on motion of the petitioner, ordered, that he cause a copy of this order to be inserted three weeks successively, before the eleventh day of June next, in the Maryland Gazette, to the intent that the defendants, and all persons claiming under the said Samuel Godman, deceased, or conceiving themselves interested, may have notice of the petitioner's application to this court, and of the substance and object of his petition, and may be warned to appear here in person or by guardian or solicitor, as the case may require, on or before the fourth Tuesday of October next, to shew cause why a decree should not pass as prayed.

True copy,
SAMUEL H. HOWARD,
Reg. Cur. Can.

MISFORTUNES of various kinds, together with the harassing disposition of my creditors, who are continually burthening me with heavy costs, hath at length reduced me to the necessity of surrendering my property for the benefit of my creditors; I therefore hereby give notice, that I intend to petition the next general assembly of Maryland for the benefit of the act respecting insolvent debtors.

May 17, 1803. SAMUEL EVANS.

Nottingham, April 16, 1803.

I HEREBY certify, that Mr. HENRY WARING brought before me, a justice of the peace for Prince George's county, as a trespassing stray, a grey HORSE, about twelve years old, fourteen hands high, paces, trots, and canters, has no perceivable brand, shod before. Given under my hand, the day and year above written.

ROBERT BOWIE.

The owner of the above horse is desired to come, prove his property, and take him away.

HENRY WARING.

NOTICE.

Agreeably to an order of the orphans court of Charles county, will be SOLD, on Wednesday the first day of June next, at the late dwelling of WILLIAM KIRKPATRICK, near Allen's Fresh, if fair, if not the first fair day.

ALL the personal property belonging to the deceased, consisting of a lease for thirty acres of land, for the term of seventy years; horses, cattle, sheep, hogs; a set of joiner's tools; three mill stones, plantation utensils; and a number of other articles too tedious to mention. Twelve months credit will be given on all sums above twenty dollars, the purchaser giving bond, with approved security.

PHILIP MARSHALL, Administrator.
Charles county, May 1, 1803.

EDUCATION.

THE subscriber begs leave to inform the citizens of Annapolis, and the public generally, that on Monday the 16th inst. he proposes to open an ACADEMY in a large and spacious room of the house he now occupies, opposite the south corner of the episcopal church, for the sole purpose of teaching young ladies orthography, English grammar, writing, arithmetic, geography, &c. also drawing and French, if required; he hopes the utility of this institution will be more satisfactorily evinced by the improvement of his pupils in literature, as well as morality, than pompous professions, which is the sincere wish of the public's most devoted, and very humble servant,

HUGH MAGUIRE.

N. B. For terms, &c. apply as above.
Annapolis, May 11, 1803.

COMMITTED to my custody as a runaway, a stout likely negro man, who calls himself JACK TURNER, and says he is free, a joiner by trade, that he has a father and mother, and some other relations, living in Baltimore, from whence he was forced away by a certain capt. Jervis, about four years ago, and carried and sold to a planter in Georgia, from whom he escaped last fall, and was on his way to Baltimore when apprehended. Jack is a likely young black man, about twenty-three years of age, five feet ten inches high, very bare of cloaths, and can read a little, has a scar on his left eye-brow. His master, if any, is requested to take him away, otherwise he will be sold agreeably to law for prison fees and other charges.

THOMAS PRICE, Sheriff of
Charles county.

February 31, 1803.

could not be foreseen by the convention, who had authorized the governor to transact all executive business, where the concurrence of council was not required by law; and that even with all these duties, and almost the whole of the powers of the governor which they have assumed, the council find themselves at leisure two thirds of the year; and when the constitution is executed and this clause is settled, the governor may also learn, if he does not yet know it, that if he should go home with the council for a great part of the year, it will be better for himself and not worse for the public. We see the governor of other states, with greater powers than the constitution ever contemplated to vest in a governor of Maryland, and where there is no council at all, live generally at home, and sometimes leave the state; we see the president of the United States absent from the seat of government half the year, and the sun still rises and sets as usual, without a council to regulate its course. All this may teach a governor and council of Maryland, that their absence is not likely to cause any great political chasm—that it never was committed but to one ATLAS to sustain the world on his shoulders, and that the great art of governing well, is not to govern too much.

On the authority of the governor of Maryland to preside in council before the revolution, we shall speak fully in our next, and we shall close for the present with due notice of one of the most extraordinary passages of this address of the Friend to Candour; but for that personal respect which we wish to preserve, we should observe that it would defy the powers of chemical analysis to ascertain whether this is an extract from lead or brass, or from a compound of both, amalgamated in the same crucible, or whether it is only an harmless joke intended as a *jeu d'esprit*; if the latter, it is certainly as awkward as the gambols of an old-felder just escaped from the ices of March. The passage is this—"If the council should advise that he, (the governor,) should act the hero, (a term by no means ridiculous among military men,) this advice would operate as an order; and if after a particular period they should advise him to relinquish that command, it would be equally imperative." So if they should advise him to act the hero, he must do so, whether he is an hero or not: This is imperative with a witness—this is commanding nature as well as the governor. This hint seems evidently taken from the governor of Batavia, the only governor of history, or romance from whence the Friend to Candour could have derived his ideas of government—the passage to which it is supposed he alludes is not quite accurately quoted: it is from lib. 4, cap. 1, (Smollett's translation of Don Quixotte,) it stands thus—"Arm my lord, the enemy approaches—advise one counsellor. For what should I arm, replies the governor, I neither know the use of arms, nor can give you protection: How, my lord governor, cries another counsellor, what dependence is this—Come forth! and be our guide and our general, seeing of right that place belongs to you as being our governor."

A governor may be very infirm and decrepid with the gout, as one governor of Maryland has been; he may be totally unacquainted with military affairs, as several have been, and in the present state of the military science this knowledge is not to be gained by intuition; and will not be ridiculed by military men, or any wise men; in fact a governor may know no more of an order of battle, than the Friend to Candour knows of the constitution of Maryland: and above all a privy counsellor within may whisper and advise, Mr. Governor do not go! you will certainly run away the first shot that's fired! And yet under all these impressions, if the council advise it, he must play the hero whether he will or not! if so they should be better counsellors than the Friend to Candour—they should be men who would not insult the public with such a rhapsody of nonsense. What is the language of the constitution? sec. 33, "The governor, when embodied, i. e. militia, shall alone have the direction thereof, and shall also have the direction of all the regular land and sea forces, &c. but he shall not command in person, unless advised thereto by council, and then only so long as they shall approve thereof." In what part of this clause did the Friend to Candour find that he shall command in person, if the council advise it?—The power conferred on the governor here is precisely, (by the language,) the same as the other powers he is to exercise by the advice and consent of council; the phraseology only is necessarily altered, as it stands as an exception to the general power, conferred on the governor alone immediately before, of directing solely the military force; an exception founded on obvious and sound reasons; a governor may desire to command in person; he may believe himself qualified; he may think military knowledge ridiculous, and may imagine himself an hero as many men have done till they were tried; and he may feel it a point of honour to render his personal services: The convention therefore to avoid the misfortune of an inexperienced and unqualified man at the head of the army, has qualified that general direction which is vested in the governor over military affairs, by compelling him to obtain the advice and consent of council to his command in person; and as the council can advise him to command indefinitely, they may also limit the term to which that advice shall extend; this perhaps would have been the case without express provision, for *omne majus continet in se minus*—and the power of advising for an indefinite term, naturally includes a power to advise for a less or limited term:—Where then is this extraordinary power to be found by which the council could order an infirm gouty old man, an inexperienced lawyer, or a feint-hearted coward, (no personal allusion is here intended,) to command in person, whether he will or not!—only in the distempered imagination of the Friend to Candour.

A CIVIL OFFICER OF MARYLAND.
(To be continued.)

PHILADELPHIA, May 12.

Yesterday arrived from quarantine, the ship Caroline, capt. Motley, from Cork; by whom we have papers to the 1st of April, which furnishes us with the following

LATE ADVICES.

GENOA, March 5.

Conscripts are daily arriving from France for completing the demi-brigades in Italy; 400 are now quartered here. The government provides for the subsistence of the troops of that nation which are in Liguria, by arrangements with contractors, but with whom this contract is only made for one year. For some days considerable bodies of French troops have been marching towards the Levant.

LEYDEN, March 22.

The formidable preparations making in England, appear more and more to awaken the solicitude of the French government, and dispositions are already made at all events, as if war were inevitable. It could hardly have been hoped, under the present circum-

stances, that the two belligerent powers would tolerate the neutrality of the Batavian republic; but if there were the smallest grounds for uncertainty on that head, all hopes of the kind are now totally vanished. We learn that France has demanded of the Batavian government, that the necessary preparations for the maintenance of a considerable corps of French troops shall immediately be made, which troops are said to be already on their march for our frontiers. Though this measure be only precautionary, it proves how much the French government, notwithstanding the silence observed by its journals, attaches importance to what passes in England.

It was not impossible to imagine that the first consul after the high degree of glory and power which he had acquired, would ever yield to menaces. It appears that the French army destined to cover Holland in case of invasion, and no doubt, also to take part of a general expedition against England, will be distributed in the principal towns in Holland. It is not yet known where the head quarters will be fixed. It is said that general Durde has set out for Berlin, to require of that court the most prompt measures with respect to the electorate of Hanover. Thus on every side semi-hostile preparations do not even await the declaration of war; and without the intervention of a tutelary genius, it seems that the friends of humanity will in a few days have again to lament its fate.

General Cesar Berthier, brother to the minister for war at Paris, and who had arrived in Holland in quality of chief of the staff to the expedition to Louisa, on Wednesday quitted the Hague, on another destination: He is gone to Helvoetsluys, to embark for Dunkirk, whence he will go to Tobago, with the character of captain-general of that island: It appears likewise, that the departure of the troops, at the head of which general Victor is to take possession of Louisiana, will be hastened.

PARIS, March 16.

Within these few days, orders have been dispatched to all our ports, to hasten the equipment with all possible zeal; and these orders are not alone confined to ships of the line, frigates and other vessels of war, but extend to the getting in readiness of a considerable number of gun-boats and flat bottomed boats; the latter are chiefly fitted out at Cherbourg and Bologne. The pressing of marines and others used to the sea, will be put vigorously into effect: From the interior 50,000 men will be draughted to march to the sea coasts; and this number, added to that already there, will form an army of 120,000 men. These military operations, and other circumstances, give cause of apprehension, that the peace with England is on the point of being broken and which may turn out not a little disastrous for both nations.

The minister of the marine received intelligence on the 13th, that the English fleet in the Mediterranean has been lately reinforced by several ships from England and Gibraltar, which lately passed the Straits. This is considered as a new proof that the English do not intend to evacuate Malta.

LONDON, March 27.

A letter from Berne, addressed to an eminent commercial house in Hamburg says—"We are now virtually Frenchmen, and are perfectly sensible of the degradation of our situation—the government which has been imposed on Switzerland is offensive to the great majority of the people, and they look forward with impatience for a safe occasion to shake it off. The internal relations of France are of such a nature as must, within the period of a few years, produce great and wonderful changes."

Letters from Vienna, Trieste, &c. mention that a great number of French troops were on their march to Lower Italy. These accounts add, that they are to embark for Malta and Egypt, in the event of the English delaying to evacuate them.

On Thursday night new press-warrants, with urgent orders, were sent off in different directions; many more ships are ordered into commission; orders have been given for all the three deckers to be got ready for sea service as soon as possible, in preference to every other rate. From the outposts yesterday, we learn, that at Portsmouth, orders are received to fit for a state of commissioning, without delay, all the line of battle ships at that port, not in need of repairs.

All the gun and flat bottomed boats, as well as small craft, there, are ordered into a state of readiness.

The stock jobbers and speculators in the funds were on Friday more industrious than usual in circulating rumours of an alarming tendency.

The ships destined to protect the entrance of the Thames are getting ready as floating batteries with all possible dispatch. They will occupy, at the Nore, the customary station calculated for that object.

SALEM, May 4.

From the Cape of Good Hope.

Captain Richard Gardner passenger in the Franklin, from the Cape, arrived here yesterday by way of the Vineyard, and favoured us with two numbers of the Cape-Town Gazette; from which we find that, agreeably to the treaty of peace, that place has been given up by the British to the Batavian republic. The late British governor (Francis Dundas) on the 20th February, issued his proclamation, notifying that the restoration would take place the next day, and releasing the inhabitants from their oath of allegiance to his Britannic majesty. The Batavian troops took possession of the castle on the evening of the 20th, and the next morning displayed their co-

lours.—At 8 o'clock the large Batavian standard was seen flying; when the Batavian man of war, the Spion, together with the British admiral, saluted the same, and were answered by the castle. The same day the Batavian governor-general (Janßen) gave an elegant dinner. General Dundas and other British officers assisting. On the 25th, the commissary-general from the Batavian republic also gave a dinner, on account of the approaching departure of gen. Dundas and admiral Curteis. The toasts of his Britannic majesty's health, and of the welfare of the Batavian government, were given with a royal salute. On the 1st of March, solemn thanksgiving was held in the churches, and afterwards the governor-general, council of police, and other officers were installed and proclaimed. An elegant supper and ball succeeded in the evening, and many of the houses in the town were illuminated. On the 3d of March admiral Curteis took leave of the commissary-general and the governor, and on going on board his ship was saluted by the battery.

BOSTON, May 6.

From the Mediterranean.

Late and authentic.

In the ship *Perseverance*, which arrived yesterday from Leghorn and Gibraltar, William Eaton, Esq. our consul for the city and kingdom of Tunis, was a passenger; and will immediately proceed to the seat of government. Doctor George Davis, of New York, is left charged with affairs.

As late as the 1st of April *Malta* was not retaken by the English; nor any apparent movement to that effect. It was said that transports were sent to bring off the British garrison from Alexandria, but it is thought, more probably, to provision them.

In consequence of the late mutiny at Gibraltar, the duke of Kent was about to return to England, and the garrison to be relieved.

The French government has finally adjusted its misunderstandings with the regency of Algiers, by general accession to the bey's terms. Consular says, that Talleyrand has touched a *douceur* from the Jews Bocfi and Bounahj, and consequently persuaded his young master into a decision on which he is long balanced between commercial policy and patriotic ambition. Buonaparte might, indeed, have added one more sprig to the laurels which already cloud his brow, by annexing the "potent day" to the catalogue of his slaves, and might have done something for some of the pockets of the consuls. But the bishop is of opinion, that it would be killing the goose for an egg—that Algiers in activity would ultimately of more utility to the French republic, and, of course, to their sovereign, than Algiers ruins—and that notwithstanding all the *sanctions* displayed on the subject, his piratical highness ought to be secure in the friendship of the first consul. Consequently that thief of brigands will have nothing the ensuing season to check his depredations on the ever tributary nation avidity shall direct his course, whole delinquency may furnish him with a pretext.

The dey positively refuses to receive Mr. Cart as consul for the United States; and as decidedly rejects cash in lieu of the naval stores, in payment of the annual tribute for the last and present year. According to the statement of Mr. O'Brien this will be an arrearage due that regency, on the 1st September next of 124,075 dollars; if being the tribute and contingencies of two years; including 20,000 dollars, estimated consular present, and 6,000 dollars, ransom of the master and four seamen of the brig *Franklin*, from the bathaw of Tripoli, through the intervention of Algiers.

The bey of Tunis requires, and is refused, to have, as a demonstration of the real friendship of the president of the United States, a good frigate, thirty-six guns; and sundry articles of smaller consideration, which he has signified to the government. He asserts a right of free intercourse with Tripoli, in contempt of an actual blockade; and declares his determination to hold the United States amenable for all infractions of this assumed right. He has compelled Mr. Eaton, because, he says, he must have an American consul with a disposition more congenial to the Barbary interests! Or, in the language of his minister, more pliable to his views. This chief is endeavouring to negotiate a peace with Portugal, with view of giving his corsairs a greater range, by passing them into the Atlantic. It is yet uncertain which his loyal friends, the Danes, Swedes or Americans, will be designated as their prey.

The bathaw of Tripoli, now at peace with the rest of the world, treats with contempt the overtures of pacification proposed to him in writing by Mr. Cathcart on the part of the United States, in conformity to instructions from the department of state.—The notion of peace without paying is a relicism in Barbary. It is impossible, however, to determine what influence the appearance of commodore Morris will have on the resolutions of this pirate, as none of his frigates has hitherto been before Tripoli.

Citizens of the United States! your Barbary lords assumed a majestic tone with you; and, even you take an attitude with them a little more worthy of yourselves, to the common course of the "foes they will soon add, "By the sweat of your brow we shall support your dishonour and our infidelity!" it is not already the language of their behaviour!"

NEW-YORK, May 11.

Latest from France.

Captain Godden, who arrived here yesterday from Bourdeaux, left that place on the 29th of March. He confirms the news already received, that propo-

tions were made we have information more considerable.

We have seen the first house there, a fine merchant, that day, an ex-

A letter by of March, to observed—"Two towns per expressed city that was

PHILADELPHIA

Extract of It is asserted frontiers between take place, on will create a government.

BATAVIA

The weather unusually cold today morning city the thick of Saturday a fall of snow vegetable streets and gardens the weight and branches, tree, and in principal contiguous cracking of the spectacle with several subject, who action of snow mentioned in May, in the greater part

JOHN

GOVERNMENT

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WHEN one of the most cruel committed paper-maker, Arndel committed the situation with memorial of counties of city of Baltimore: the good police vigilance of laws against I have there, thimation, content of FOUR HUNDRED discover the murder and any of them I do, by vellel, her person being perpetrator robbery on Given und sixty

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tions were making in the French ports for war. But we have information by this arrival which deserves more consideration.

We have seen a letter from Bourdeaux, from the first house there of the 26th of March, to a respectable merchant of this city. This letter states, that that day, an express arrived from Paris.

A letter by this courier dated at Paris the 24th of March, to a gentleman in office at Bourdeaux, observed,—"I have a continuance of peace was certain." Two days before this, the writer of this letter expressed an opinion to his correspondent in this city, that war was inevitable.

PHILADELPHIA, May 12.

Extract of a letter from Madrid, February 26.

It is asserted that a new line of demarcation of the frontiers between this country and France will soon take place, on which occasion we expect our court will cede a certain part of territory to the French government.

BALTIMORE, May 14.

The weather during the preceding week has been unusually cold and boisterous for the season. On Saturday morning last there was ice in and near this city the thickness of a dollar; and during the night of Saturday and the morning of Sunday, there was a fall of snow which did considerable damage to the vegetable world. The Lombardy poplars in the streets and gardens of this city were generally injured. The weight of the snow which adhered to the leaves and branches, in some instances bore down the whole tree, and in most others it stripped them of their tops and principal branches. Many who slept in chambers contiguous to those trees, were awakened by the cracking of the falling limbs to behold the singular spectacle which they exhibited. We have conversed with several old inhabitants of Philadelphia on this subject, who agree in saying that they have no recollection of snow in May, excepting the instance above mentioned and another which occurred on the 4th of May, in the year 1773 or 1774, which destroyed the greater part of the early fruit. [Phil. pap.]

Annapolis, May 19.

By his EXCELLENCY
JOHN FRANCIS MERCER,
GOVERNOR OF THE STATE OF MARYLAND,
A PROCLAMATION.

WHEREAS it appeareth unto me, by an information taken before Robert Moore, Esq; one of the coroners of Baltimore county, that a most cruel and atrocious murder and robbery were committed on the person of ADAM WAYBLE, paper-maker, a respectable and aged citizen of Anne-Arundel county, by some unknown hand, on or about the thirtieth day of March last, which information hath been returned to me, accompanied by a memorial of sundry respectable inhabitants of the counties of Baltimore and Anne-Arundel, and the city of Baltimore, praying the interposition of government: And, whereas the quiet and security of the good people of this commonwealth depend on the vigilance of the constituted authorities in causing the laws against such enormities to be duly executed: I have therefore thought proper to issue this my proclamation, and I do, by and with the advice and consent of council, hereby offer a REWARD of FOUR HUNDRED DOLLARS to whoever will discover the author or perpetrators of the aforesaid murder and robbery, provided he, she, or they, or any of them, be convicted thereof. And moreover I do, by virtue of the authority and powers in me vested, hereby promise a full and free pardon to any person being an accomplice who shall discover the perpetrator or perpetrators of the said murder and robbery on the aforesaid conditions.

Given in Council, at the city of Annapolis, under the seal of the State of Maryland, this sixteenth day of May, in the year of our Lord one thousand eight hundred and three.

JOHN F. MERCER.

By his excellency's command,
NINTIAN PINKNEY, Clerk of
the governor and council.

In COUNCIL, ANNAPOLIS, May 16, 1803.

ORDERED, That the foregoing proclamation be published three times in each week, for the space of three weeks successively, in the American, Telegraphic, and Federal Gazette, at Baltimore; the National Intelligencer; the Maryland Gazette, at Annapolis; the Republican Advocate, Herald, and Mercury's paper, at Frederick-town, and in Mrs. Smith's paper, at Easton.

By order,
NINTIAN PINKNEY, Clk.

THIS is to give notice, that the subscriber, of Charles county, hath obtained from the orphans court of Charles county, in Maryland, letters of administration on the personal estate of GEORGE DENT, late of Charles county, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the first day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this thirteenth day of May, in the year of our Lord one thousand eight hundred and three.

WILLIAM DENT, Administrator
of GEORGE DENT.

SPRING GOODS.

JOSEPH EVANS,

On the Dock, opposite the Market-house,
Has just received by the Spring vessels arrived at Baltimore, and offers for sale,

A Handsome assortment of GOODS, suitable for the present season, consisting of a variety of the latest and most fashionable articles for Ladies and Gentlemen wear.

NOTICE.

ALL persons indebted to the subscriber, whose accounts have been longer standing than twelve months, are earnestly requested to call and discharge the same, or give note or bond for the amount thereof.

JOSEPH EVANS.

Annapolis, May 19, 1803.

MAREEN B. DUVALL,

CHURCH-STREET,

HAS just received a choice selection of SPRING GOODS, also CUTLERY and GROCERIES, the whole of which will be sold on the most reasonable terms.

Annapolis, May 17, 1803.

FOR SALE.

TICKETS in the ST. JOHN'S CHURCH LOTTERY, in Baltimore, by the subscriber, at Mr. Mattison's. The drawing of the above lottery will shortly commence, as more than one half the tickets are already sold; and as the subscriber means to remain here only a few days he requests those who wish to become adventurers to be speedy in their application.

MICHAEL NUSSEAR.

Annapolis, May 19, 1803.

In CHANCERY, May 13, 1803.

John Gwinn,

Samuel Godman, Robert Godman, Brutus Godman, Cassius Godman, Jefferson Godman, John Davidson Godman, Stella Godman, and Peggy Beall Godman, heirs at law of Samuel Godman, deceased.

THE object of the bill is to obtain a decree for the foreclosure of a mortgage given to the complainant by Samuel Godman, deceased, dated on the fourth day of January, seventeen hundred and ninety-nine, for the conveyance of the three following tracts of land, lying in Anne-Arundel county, to wit: YOUNG'S LOCUST PLAINS, containing one hundred and fifty acres; HENDERSON'S MEADOWS, containing one hundred and five acres; and THE ADDITION TO SAMSON, containing one hundred and two acres; subject to redemption, and repayment of the principal sum of three hundred and seventy-five pounds current money, with interest from the first day of November, seventeen hundred and ninety-eight, in three annual payments; the bill states, that no part of the principal or interest of the mortgage money hath been paid; that the period of redemption hath elapsed; that the mortgagor, Samuel Godman, hath departed this life intestate, leaving the defendants his heirs at law, all of whom are minors, except Samuel Godman, the eldest; that all of the said defendants have left the State of Maryland and reside in parts unknown, except Brutus, Cassius and Jefferson. It is thereupon, on the motion of the complainant, ordered and adjudged, that he cause a copy of this order to be inserted in the Maryland Gazette, once in each of three successive weeks, before the eleventh day of June next, to the intent that the absent defendants may have notice of the present application, and of the substance and object of the bill filed in this cause, and may be warned to appear in this court in person, or by a guardian, on or before the fourth Tuesday of October next, to shew cause, if any he, she, or they may have; why a decree should not pass as prayed.

True copy,

Test, SAMUEL H. HOWARD,
Reg. Cur. Can.

THIS is to give notice, that the subscriber, of Charles county, hath obtained from the orphans court of Charles county, in Maryland, letters of administration de bonis non, on the personal estate of WARREN DENT, late of Charles county, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the first day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this thirteenth day of May, in the year of our Lord one thousand eight hundred and three.

WILLIAM DENT, Administrator
de bonis non of WARREN DENT.

THIS is to give notice, that the subscriber, of Anne-Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne-Arundel county, in Maryland, letters of administration on the personal estate of EDWARD GWINN, late of Anne-Arundel county, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the fourteenth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this 14th day of April, 1803.

ACHSAH GWINN, Administratrix.

In CHANCERY, May 13, 1803.

James Walker,

against

Samuel Godman, Robert Godman, Brutus Godman, Cassius Godman, Jefferson Godman, John Davidson Godman, Stella Godman, and Peggy Beall Godman, heirs at law of Samuel Godman, deceased.

THE object of the petition is to obtain a decree for the recording, a deed of mortgage from Samuel Godman, deceased, father of the defendants, to the petitioner, James Walker, bearing date on the twenty-eighth day of October, seventeen hundred and ninety-nine, for the conveyance of sundry tracts of land, sundry negroes, and other personal property, particularly enumerated in the said deed, to the petitioner; the petition states, that the said Samuel Godman, the grantor, hath departed this life intestate, leaving the defendants his heirs at law; that all of them are minors, except Samuel, and that all of them, except Brutus, Cassius and Jefferson, have departed from the State of Maryland, and gone to parts unknown; it is thereupon, on motion of the petitioner, ordered, that he cause a copy of this order to be inserted three weeks successively, before the eleventh day of June next, in the Maryland Gazette, to the intent that the defendants, and all persons claiming under the said Samuel Godman, deceased, or conceiving themselves interested, may have notice of the petitioner's application to this court, and of the substance and object of his petition, and may be warned to appear here in person, or by guardian or solicitor, as the case may require, on or before the fourth Tuesday of October next, to shew cause why a decree should not pass as prayed.

True copy,

Test, SAMUEL H. HOWARD,
Reg. Cur. Can.

MISFORTUNES of various kinds, together with the harrassing disposition of my creditors, who are continually burthensome to me with heavy costs, hath at length reduced me to the necessity of surrendering my property for the benefit of my creditors; I therefore hereby give notice, that I intend to petition the next general assembly of Maryland for the benefit of the aforesaid insolvent debtors.

May 17, 1803.

SAMUEL EVANS.

Nottingham, April 16, 1803.

I HEREBY certify, that Mr. HENRY WARING brought before me, a justice of the peace for Prince-George's county, as a trespassing stray, a grey HORSE, about twelve years old, fourteen hands high, paces, trots, and canters, has no perceivable brand, shod before. Given under my hand, the day and year above written.

ROBERT BOWIE.

The owner of the above horse is desired to come, prove his property, and take him away.

HENRY WARING.

NOTICE.

Agreeably to an order of the orphans court of Charles county, will be SOLD, on Wednesday the first day of June next, at the late dwelling of WILLIAM KIRKPATRICK, near Allen's Fresh, if fair, if not the first fair day,

ALL the personal property belonging to the deceased, consisting of a lease for thirty acres of land, for the term of seventy years; horses; cattle, sheep, hogs; a set of joiner's tools; three mill stones, plantation utensils; and a number of other articles too tedious to mention. Twelve months credit will be given on all sums above twenty dollars, the purchaser giving bond, with approved security.

PHILIP MARSHALL, Administrator.
Charles county, May 1, 1803.

EDUCATION.

THE subscriber begs leave to inform the citizens of Annapolis, and the public generally, that on Monday the 16th inst. he proposes to open an ACADEMY in a large and spacious room of the house he now occupies, opposite the south corner of the episcopal church, for the sole purpose of teaching young ladies orthography; English grammar, writing, arithmetic, geography, &c. also drawing and French, if required; he hopes the utility of this institution will be more satisfactorily evinced by the improvement of his pupils in literature, as well as morality, than pompous professions, which is the sincere wish of the public's most devoted, and very humble servant,

HUGH MAGUIRE.

N. B. For terms, &c. apply as above.

Annapolis, May 11, 1803.

COMMITTED to my custody as a runaway, a stout likely negro man, who calls himself JACK TURNER, and says he is free, a joiner by trade, that he has a father and mother, and some other relations, living in Baltimore, from whence he was forced away by a certain capt. Jervis, about four years ago, and carried and sold to a planter in Georgia, from whom he escaped last fall, and was on his way to Baltimore when apprehended. Jack is a likely young black man, about twenty-three years of age, five feet ten inches high, very bare of cloaths, and can read a little, has a scar on his left eye-brow. His master, if any, is requested to take him away, otherwise he will be sold agreeably to law for prison fees and other charges.

THOMAS PRICE, Sheriff of
Charles county.

February 31, 1803.

THE subscriber returns his sincere thanks to his friends and customers for the liberal and generous support he has hitherto experienced, and begs leave to inform them, that he has opened his **STORE** and **PORTER CELLAR**, in the house lately occupied by **THOMAS ROSS**, Esq. opposite the south corner of the episcopal church, where he hopes, by the goodness of his liquors, &c. and desire to please, to merit a further continuance of their favours, which will be gratefully received by their most obedient and very humble servant,

HUGH MAGUIRE.

Annapolis, May 11, 1803.

In CHANCERY, May 5, 1803.

Mary Peach, Administratrix of Richard Williams, vs.

Rebecca, Elizabeth, and Richard Williams, and Isaac Hams, and Elizabeth his wife.

THE object of the bill is to obtain a decree for the sale of the interest of the defendants in two tracts of land in Prince-George's county, called **BEAVER DAM NECK**, and part of **PARCEL ENLARGED**, for the payment of the debts of Richard Williams, deceased, which from him descended to the defendants his heirs; the bill states that the defendants have removed out of the state of Maryland; it is thereupon adjudged and ordered, that the complainant, by causing a copy of this order to be inserted three times in the Maryland Gazette before the tenth day of June next, give notice to the defendants to appear here in person, or by a solicitor, on or before the second Tuesday of October next, to shew cause, if any they have, wherefore a decree should not pass as prayed.

True copy,
Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

In CHANCERY, May 6, 1803.

Robert Sewall,
against

Charles Sewall, Nicholas Sewall, Eleonor Pye, Thomas Rogison, and his wife Alice, Lewis Taney, Charles Henry Taney, Celistia and Eliza Alice Taney.

THE object of the bill filed in this cause is to obtain a conveyance for a tract of land, called **MATTAPONI SEWALL**, and other lands thereto adjoining, which Henry Sewall, ancestor of the defendants, now deceased, contracted for with the complainant, by his contract in writing, dated on the 17th day of October, 1801; the bill states that Lewis Taney, one of the defendants, resides out of the state of Maryland; it is thereupon, on the motion of the complainant, ordered and adjudged, that he cause a copy of this order to be inserted in the Maryland Gazette once in each of three successive weeks before the 3d day of June next, to the intent that the absent defendant may have notice of the present application, and of the substance and object of the bill filed in this cause; and may be warned to appear in this court in person, or by a solicitor, on or before the 1st Tuesday of October next, to shew cause, if any he hath, why a decree should not pass as prayed.

True copy,
Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

NOTICE,
To the public of Maryland.

THERE will be a petition preferred to the next general assembly of this state for a law to pass for a road to be laid off from a landing on the north side of Severn river, commonly called and known by the name of **JUMPER'S HOLE**, along through the neighbourhood by the widow Mary Johnson's, and from there the most convenient route to a landing known by the name of **ASHAW'S LANDING**, on the east side of a fork of Curtis's creek, called **MARLEY CREEK**, and for to make the aforesaid landings public.

NOTICE.

THAT the subscriber, of Charles county, in the State of Maryland, hath obtained from the orphans court of said county, letters of administration on the estate of **RICHARD ROBY**, late of Charles county, deceased. All persons having claims against said estate are hereby requested to bring them in, legally authenticated, to the subscriber, on or before the fourth day of July next, or they may otherwise by law be excluded from all benefit of said estate. Given under my hand, this 4th day of January, 1803.

ANN ROBY, Executrix.

NOTICE.

ALL persons having claims against the estate of **THOMAS POWER**, late of Saint-Mary's county, deceased, are hereby requested to apply on or before the 1st day of August next, and receive their second and last dividend: Given under my hand, this 7th day of May, 1803.

JOSIAH B. GRINDALE, Administrator.

TO THE PUBLIC.

I TAKE this mode of informing those who may have property for sale, that I will act as auctioneer, on application. My experience and ability in that line may be known on inquiry.

C. MILLS.
Annapolis, August 10, 1803.

In CHANCERY, May 10, 1803.

THOMAS L. SOTHORON, an insolvent debtor, of Charles county, entitled to the benefit of the last act of the general assembly for the relief of sundry insolvent debtors, being this day, by the sheriff of said county, brought before the chancellor, in consequence of an order this day passed, and having, before the chancellor, taken the oath by the said act prescribed for delivering up his property, &c. it is thereupon ordered, that the said Thomas L. Sotheron appear before the chancellor, in the chancery office at 10 o'clock, on the third day of September next, for the purpose of answering such interrogatories as his creditors, or any of them, shall then and there propose to him, and that the said Thomas L. Sotheron shall give notice of the said time and place for his answering aforesaid, and for their appearing, to propose interrogatories, and for recommending a trustee for their benefit, by causing a copy of this order to be inserted at least three weeks successively, before the third day of June next, in the Maryland Gazette.

True copy,
Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

NOTICE, That the Commissioners of the Tax for Anne-Arundel county, will meet at the city of Annapolis, on the third Monday in May next, and will sit from day to day for twenty days, to hear appeals, and make transfers of property, and that all persons interested in the late sales of real property where no personal property could be found to pay the taxes due thereon, are then and there requested to attend.

April 21, 1803.

NOTICE,

There will be a petition preferred to the next general assembly of this state, for a law to pass for a road to be laid off from a large white oak tree, on the south side of the main road leading from the city of Annapolis round the head of the Severn river to the city of Baltimore, standing at the lower end of Richard Dorsey's, (of Caleb) lane or plantation, next adjoining to a plantation belonging to Charles Carroll, of Carrollton, Esq. along up through the neighbourhood on the north side of South river, in Anne-Arundel county, by Jacob Waters's mill and the South river meeting house, and the neighbourhood of the Mr. Hopkins's to a fording place on the main branch of Patuxent river known by the name of **Alhton's Ford**, and from there the most convenient route through Prince-George's county, by or through Mr. Benjamin Ogle's plantation, known by the name of **Belle-Air**, to a small town in the said county called **Bladenburg**, at or near the head of a creek of the River Patowmack, called and known by the name of **The Eastern Branch**.

April 14, 1803.

HEREBY give notice, that I intend to apply to Anne-Arundel county court, at April term next, for a commission to mark and bound a tract of land, lying in said county, called **JOHN and MARY'S CHANCE**, being a resurvey on two tracts or parts of tracts of land, the one called **DAX**, and the other called **JERUHO**, in pursuance of the act of assembly, entitled, An act for marking and bounding lands.

JOHNSON M. O'REILLY.

Herring Bay, Anne-Arundel county,

January 1, 1803.

THIS is to give notice, that the subscribers, of Anne-Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne-Arundel county, in Maryland, letters testamentary on the personal estate of **ELIZABETH EVANS**, late of Anne-Arundel county deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscribers, at or before the fifth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under our hands this 5th day of April, 1803.

HENRY EVANS, } Executors.
JOSEPH EVANS, }

THIS is to give notice, that the subscriber hath taken out letters of administration on the estate of **JOHN DENT**, late of Anne-Arundel county, deceased, therefore all persons who have claims against the said deceased are requested to bring in the same, proved according to law, and all those who are in any manner indebted to the estate are requested to make payment to

ELEANOR DENT, Administratrix.

April 27, 1803.

Ten Dollars Reward.

RAN away the Wednesday after Whit Sunday last, a negro boy named **HEZ**, about nineteen years of age, five feet high, he is a black fellow, and stammers when spoken to, he is an artful villain, and on the left or right shoulder is a mark by a burn when a child; had on when he went away, a long blue coat, a pair of corduroy pantaloons, an old bag shirt. I suppose he is harboured by his father who belongs to **Walter Claggett**, in Anne-Arundel county, near Queen-Anne. Whoever takes up said fellow, and secures him in any goal, so that I may get him again, shall receive the above reward, paid by **BENJ. DUVALL**, of ELKLAND.

N. B. I forewarn all persons from harbouring said fellow on their peril.

In COUNCIL, ANNAPOLIS, April 19, 1803.
ORDERED, That the act to alter, change, amend, abolish, such parts of the constitution and form of government as relates to the establishing a general court and court of appeals, be published once in each week, for the space of three months successively, in the Maryland Gazette, at Annapolis; the Baltimore American, the Telegraphic, the Federal Gazette, at Baltimore; the National Intelligencer; Mr. Smith's paper, at Easton; the Republican Advocate, at Fredericktown; and Mrs. Griever's paper, at Hagerstown.

NINIAN PINKNEY, Clerk.

An ACT to alter, change and abolish, such parts of the constitution and form of government as relate to the establishing a general court and court of appeals.

BE it enacted, by the General Assembly of Maryland, That from and after the first day of March, eighteen hundred and four, there shall be a court of appeals, composed of three persons of integrity, and sound judgment in the law, who shall be styled in their commissions Judge of the Court of Appeals, whose judgment shall be final and conclusive in all cases of appeal from the court of chancery, county court or orphans court; and that the court of appeals shall hold two sessions on the western shore and two on the eastern shore in each year, at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That from and after the said first day of March, eighteen hundred and four, this state shall be divided into five judicial districts, viz. Saint-Mary's, Calvert, Prince-George's and Charles counties, shall be the first district; Cecil, Kent, Queen-Anne's and Talbot counties, shall be the second district; Anne-Arundel, Baltimore and Harford counties, shall be the third district; Caroline, Dorchester, Somerset and Worcester counties, shall be the fourth district; and Washington, Frederick, Montgomery and Allegany counties, shall be the fifth district; and that there shall be appointed for each of the said districts two persons of integrity, and sound judgment in the law, who shall reside in the district for which they shall be appointed, who shall be styled in their commissions District Judges of the county courts in such district; and there shall be appointed for each of the counties of this state one person of integrity, experience and knowledge, resident of the county for which he shall be appointed, who shall be styled in the commission Associate Judge of the county court of the county for which he shall be appointed; and the said district judges in their respective districts, together with the said associate judge in the respective counties, shall compose the county court; and the county courts so established shall have, hold and exercise, all the powers, authorities and jurisdictions, that the general court and county courts of this state has heretofore held, used and exercised, except the appellate jurisdiction of the general court; and that the county courts shall hold their sessions in the respective counties at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That if this act shall be confirmed by the general assembly, after the next election of delegates, in the first session after such new election, as the constitution and form of government directs, that in such case this act, and the alterations and amendment of the constitution and form of government therein contained, shall be taken and considered, and shall constitute and be valid, as a part of the said constitution and form of government, to all intents and purposes, any thing in the said constitution and form of government contained to the contrary notwithstanding.

And be it enacted, That all and every part of the constitution and form of government that relates to the court of appeals, or the general court, as now established, or to the judges thereof, or that is in any manner contrary to, or inconsistent with, the provisions of this act, be and are hereby declared to be repealed and abolished, on the confirmation hereof.

Michael & Barney Curran,
Have received, by the arrivals at Philadelphia,

A handsome assortment of
SPRING GOODS,

Consisting of

CHINTZES and calicoes,
Dimities and muslins,
Marseilles quilting and printed jeans,
Cambric dimities,
Ditto muslin 6-4 and 9-8 wide,
Coloured cambrics and ginghams,
Ladies and gentlemen's silk and cotton hose,
Extra long silk and kid gloves,
Gentlemen's best heavier ditto,
Striped and coloured nankeens,
Figured satins for gentlemen's vests,
India book and jackonet muslins,
British ditto, ditto, ditto,
India crape handkerchiefs, and jackonet ditto,
Irish flannels and checks,
And on hand some best London superfine clothes and cassimers,
Cotton counterpanes and table clothes, &c. &c.
Annapolis, April 19, 1803.

ANNAPOLIS:
Printed by FREDERICK and SAMUEL
GREEN.

MARYLAND GAZETTE.

THURSDAY, MAY 26, 1803.

A CIVIL OFFICER OF MARYLAND.—CONCLUDED.

THIS candid writer believes, that the Civil Officer can show no public act prior to the constitution, which positively directs the governor to preside in council. To have rendered his negative-cred more complete, he might have added, that no public act could be produced authorizing the assembly to pass laws, or enacting the common law—the indefeasible birth-right of every British freeman that emigrated to Maryland. But in all these separate articles of belief he would be equally mistaken: the most ample and satisfactory public acts still remain on record, enacting and declaring all and each of these organic provisions; and as he appears so unfortunately defective in legal information, we shall endeavour to suggest to him those sources, whence he may derive some knowledge of the constitution and laws of Maryland prior to the revolution, forming, as they still do, the basis of those under which we now live.

Whether the feudal system was introduced into England by the Norman conqueror, or was only extended over allodial property, the unextinguished remains of British or Roman titles, as seems to be the more correct opinion, (for there is no solid ground to believe that the Saxons differed in their fundamental institutions from their German brethren, or those other hordes of northern barbarians that subjugated civilized Europe on the decline of the Roman empire,) it is at least certain that these institutions were completely established long before the expiration of that period, which legal history exclusively assigns, to the reign of what we now term the common law.

The basis of this constitution in England, and in every soil and climate where the feudal tree has pushed its roots or spread its branches, was the power of the sovereign, or feudal chief, to grant lands to vassals, annexing to the grant at his discretion, any portion of the *jura regalia* or heritable rights of feudal sovereignty; the political rights of all other tenants of those lands remaining the same, for the rights of the grantor and grantee could not be increased to the prejudice of others by this division; together they could only be equal to what the grantor originally held.

These grants indiscriminately made of British or foreign lands through every period of English history, were termed County Palatines, when erected within the limits of England, but were conferred under the various descriptions of Kingdoms, dominions, lordships, feignories and proprietorships, when of foreign lands. Of these Cheshire and Durham were counties palatine in the time of the conqueror; Henry 2d granted Ireland, with complete *jura regalia* to his son John; Edward 3d created Lancaster in England into a county palatine in favour of his kinsman Henry Plantagenet, and granted Guienne and Poitou in France to his son the Black Prince, with similar sovereign authority; Henry 4th granted Man as a kingdom to the earls of Northumberland, and subsequent to their attainder, Henry 5th granted it to the Stanleys, afterwards earls of Derby; the discovery and settlement of America which followed, opened a wide field for the prodigal favours of the house of Stuart, and among their grants of this nature was that of the proprietorship of Maryland by Charles 2d to the family of Calvert, barons of Baltimore, by charter, bearing date in 1632. By the seventh article of this instrument, the lords Baltimore, &c. are authorized to enact laws with the advice, assent and approbation of the freemen, or their deputies, and to execute the same by their deputies, lieutenants, &c. &c. as near as may be according to the laws and customs of England.

Two lords Baltimore of the name of Charles, exercised these powers personally within the province from 1676 to 1683, and again in 1733; but at all other times, whilst Maryland remained under their dominion, or was subject to the immediate jurisdiction of the crown, they were exercised by representation—by a deputy or lieutenant, commonly styled governor, from our earliest records, and by a council appointed by the proprietor or his deputy. The powers of the proprietor, when acting in person, were limited by the charter and the common law of England; and the powers of his representative, the governor, by the same; and farther, by such commission and instructions, not inconsistent therewith, as were given by the proprietor or the king, which were entered of record, and ever were recognized and acted under as part of the fundamental laws of the land.

In exercising the legislative power by the advice and consent of the freemen or their deputies, the proprietor, or his representative, deliberated first conjointly with the assembly, and then acted solely and separately, passing or rejecting their joint acts; which is in exact conformity with the principles of the common law of England, where the king always presides in parliament, and sits in the house of lords, either personally or by representation; but still remains and acts as a sole branch of the legislature.

It appears by the original records of the first assembly of the freemen in 1637, that they appeared personally, or by proxy, and sat, together with the governor, in one house; by an act of this assembly the governor is declared president of the assembly, and voted and acted as such; but preserving and exercising his sole and integral power of finally rejecting or assenting to the laws which were all proposed by him. In 1658, the freemen were allowed, by act of assembly, to appear by representation or deputies, electing burgesses for each hundred; the governor being still declared by law the president of the assembly, voted and acted as such, and separately rejected or assented to the bills when passed by the assembly. This assembly passed an act declaratory of the rights of freemen, and formed certain constitutional or organic laws, regulating the different departments of government; by which the governor, council, and those summoned by the governor, together with the burgesses, were declared to possess the same powers as the house of commons of England, and all laws passed by them, and assented to by the proprietor, or his representative, were declared to be binding on all people of the province. This constitution continued until 1650, when the governor and council were by law separated as an upper house, and the two houses thereafter sat in different apartments. The governor was recognized by joint act as president of the council or upper house, and voted with them as such, still however retaining his sole and separate power of rejecting or assenting to the acts of both; and the lower house nomi-

nated a speaker, who was to be approved by the governor, whose representative he was in that house: This constitutional law placed the government precisely on the basis of the common law of England.

The council or upper house derived their authority solely from the appointment of the proprietor as feudal seignior or lord, as the peers of England, the upper house of parliament, do from the creation of the king; but their authority was never rendered hereditary, they were removable at pleasure, and records of such removals are still existing: When appointed, and whilst their commissions remained in force, their constitutional form and relation to the governor, when acting together, were established by acts of assembly from 1650, as renewed, continued or altered, and by the commissions to the then governor and council from the proprietor, conformably to the charter and common law, which were renewed and continued by general reference, and special alterations, not materially affecting their constitutional form. By all these, as so occasionally renewed, continued or altered, it will appear that the governor might call, or prorogue or dissolve an assembly at his pleasure, consisting of his council and the house of burgesses or delegates of the freemen; that the governor presided in the assembly, sitting as president in the upper house or council, and by representation in the lower house; that he gave a casting vote as president of the council, and although in this special case he acted jointly, and might by that vote determine the act of the council, yet by the act of assembly expressly; by the terms of his commission; by the common law and uniform practice and usage, it was no law until it received his sole and separate assent as governor. This form and relation of the council to the governor, which had thus existed from the year 1650 to the 1st June, 1774, is precisely that which was rendered part of the constitution by sect. 34, although they are now confined to execute business. In legislative business it is the English common law, that the king may, and always must sit as president of the upper house of parliament, either personally or by his representative or proxy; and that he may give a casting vote and decide an act of the upper house; but he still remains a sole branch of the legislature to pass or reject any bill so passed.

It will be found by examining our records, that the proprietor himself, when in the province, or the governor, or his deputy, did preside personally in the council whilst acting as an upper house, until the revolution; when the *jura regalia* of the province were seized by the crown; from that time the governors, as representatives of the king, and of the proprietor after the restoration of the Calvert family in 1715, seldom sat personally in the upper house, except at the opening of the session: They continued the custom and usage adopted whilst royal governors, (and latterly they were commissioned as such,) founded on the practice in England, of acting in the upper house generally by deputy, who was styled President of the Council, and confined their personal interference in passing laws, to the exercise of their separate authority, as a third branch, by assenting to or rejecting the acts of the other two.

In this constitutional form and relation subsisting between the governor and his council, we find the principle established from the earliest settlement of Maryland, that the governor, acting by and with the advice and assent of council, and voting when they were divided, still retained his separate and integral right of concurring as governor before the act was valid. The convention, therefore, using the same formulary, and establishing the same form and relation, could not possibly have suspected that an interpretation could be given to their act contrary to the uniform practice of themselves and their forefathers—an interpretation that would render their governor a mere cypher, and their constitution a mass of contradictions from one end to the other.

It may be said that this constitution or relation only subsisted between the governor and council when acting in a legislative capacity, but it is certain that the convention having established the same form of procedure, and the same formulary precisely of power on executive business, the legal effect and relation must be the same, as far as their powers extend or concern. But if we examine the laws and practice prior to the constitution as to executive business, they will still more strongly establish the construction of the Civil Officer.

By the Charter of Maryland and the common law and the constitution of England, according to which it was to be executed, the proprietor, or the governor as his representative, was the sole executive: In executing the laws he was not required to obtain either the advice or consent of the freemen, or any others—He might ask it, and if he did ask it, the common law of England, and the commissions of the proprietors to their governors and councillors, provided and designated constitutional advisers, who were responsible for any advice they might give; but that advice never was necessary to the complete validity of an executive act: its object and effect was only to create and fix a responsibility on the advisers. The council as the upper house of the legislature, were by the common law, as well as by their commissions, the advisers of the executive; the upper house of parliament are, and have been time immemorial, the advisers of the supreme executive of England, who may assent to them at any time for that purpose, whether parliament are sitting or not. The council of Maryland were expressly bound by their commissions to advise the governor, when, where and upon whatever occasion he might ask it. When convened by him he acted as president according to the act of assembly, but it does not appear by the journals that he ever voted, by being the sole executive, it will appear at every period of the journals of the executive prior to the constitution, that he considered himself as constitutionally empowered to act as he pleased, both before and after their advice, as he chose or might not choose to take the responsibility on himself, and his act in either case was held and considered as equally valid: This will appear by the journals of the 12th June, and 14th, 15th and 16th November, 1769, and by frequent and uniform preceding entries up to the earliest periods; and it will be found that governor Sharpe, after requiring the advice of each member of the council, and having it entered on the journals May 3, 1750, in the manner now made part of the constitution by sect. 26,

still acted contrary to the opinion of the majority as will appear by the law itself, as he passed it.

But the convention having established the constitutional form and formulary, (on certain specified executive business,) which subsisted between the governor and council, when acting in their legislative capacity, and having required that the governor should not only ask the advice of council, but obtain their consent, before he does certain acts, which acts are declared to be concurrent acts of governor and council, their consent is undoubtedly necessary to the validity of an executive act in those cases—but in those cases only; and it is doubtful if he should require advice in any other cases, whether they are bound to give it, or are any wise responsible for it: consent they certainly cannot give, the governor being the sole executive in all those other cases, as well as the sole ministerial agent contemplated by the constitution in every case.

That this was the interpretation given to the constitution immediately after its formation, and for several succeeding years, can be yet established by the records, and by the contemporary testimony of the most eminent fathers of the revolution now living. At the head of these still remains Mr. Thomas Johnson, the first governor after its adoption: on mentioning his name, an expression of indignation may surely be indulged at the insinuation of the Friend to Candour, that "as he exercised authority confessedly unconstitutional, his proceedings could never be evidence of correct construction on questionable or controverted points;" by whom has this been confessed? Will he say by the Civil Officer? If so, when and where did he confess it? Is it possible that this production of Candour is only the misbegotten offspring of a defective intellect? Or is it intended thus to confound the Civil Officer with those Curs who bark at the setting sun? He has said, that it appeared from record that great part of the executive business was transacted by him, (Governor Johnson,) when not a single councillor was present. Does not the constitution render the governor the sole executive, except where the concurrence of council is required by law? To show then that Mr. Johnson acted unconstitutionally, it must first be proved that he acted without the advice and consent of council, when required by law. Has any such instance been adduced? And if such had been so entered, still the council might have confirmed the act of the governor at a subsequent session. This is not without precedent here; and in a neighbouring state the council acting under a similar formulary, have sometimes advised and consented that the governor might act as he should find it necessary, on a particular emergency; and the constitutionality of that advice was never questioned. However, there is no such pretence that this venerable patriot ever acted unconstitutionally. The journals of his proceedings as sole executive, will be found strictly conformable to the constitution, and precisely corresponding with the only precedents then existing of official conduct under similar powers, although he had no access to them as has been observed. During the present controversy, the Civil Officer has been indirectly informed, that this aged statesman has declared, that during the whole term of his service as governor, he recollects no attempt by any member of the council to propose or to nominate, but in one instance by a single member; that he repelled it with a becoming indignation, and that some warmth ensued; but that the next day the member made his apology, and acknowledged his error. This account perfectly coincides with that which the Civil Officer received personally from the first clerk of the governor and council after the adoption of the constitution.

It seems to be admitted that no positive adverse precedent can be adduced from the records of the first administration of Mr. Lee; and although the Friend to Candour has quoted with a benevolent irony the expression of a strict investigation by the Civil Officer, candidly suppressing the limitation he had annexed by the preceding words "for several years," yet his own indefatigable industry has discovered no precedent that he supposes will warrant his construction, for near seven years after the adoption of the constitution; and it happens unfortunately that not one of the six instances he has adduced during the administration of Mr. Paca, can possibly justify his conclusion; four of them are entries of the issuing commissions; and it will not be seriously contended, that they furnish evidence of correct construction of the constitution, as the council certainly cannot commission: one civil officer was appointed; but it appears clearly that the governor never commissioned him; and also a commissioner for the sale of confiscated property, but he was no civil officer, nor does the authority appear under which he was appointed.

With these instances he has closed his remarks on the administration of Mr. Paca, and he appears to lump the following governors under the article of BLANK COMMISSIONS. And so it seems the Friend to Candour has been rummaging the old trunk, instead of the records in the council room. Certainly his remarks on these blank commissions are designedly ludicrous; for in the light he considers them, he never could offer them as evidence of correct construction of the constitution. The governors who succeeded Mr. Paca were gentlemen of great merit and worth, and of independent fortunes; but as none of them, (it is believed,) were bred to business but one, they would probably have found it easier to sign blank commissions than to contend on constitutional points with the council, generally consisting of able lawyers, bred to, and practised in a profession, that can only be supported by the "indiscriminate defence of right and wrong;" it is probable that capacity for business naturally drew it into their hands, and that mutual confidence produced a custom and mode of procedure without investigation on either side; that one precedent served for another, and continued precedents, we know, soon become laws, with lawyers. In every view it is most certain, that a commission signed by the governor, whenever, or by whomsoever filled, is evidence of his constitutional concurrence in the appointment; he could not deny it. In the same manner an act of the council concurring in an appointment would be conclusive evidence of their advice and consent, in whatever manner given; they could not deny it; and it would justify the act of the governor; but still it is believed by the Civil Officer that these blank commissions have been signed, rather from a confidence in the clerk than in the council, as he knows that the present governor has frequently signed them in the following manner: A number of

appointments, possibly an hundred or more, may be agreed to in one morning, as the civil officers, with a few exceptions, must be re-appointed every year: A clerk cannot possibly fill up the commissions as the appointments are made; he presents therefore a number of blanks to the governor, who signs them, and then he fills them at his leisure from his entries; some of these may not be wanting, and of course will be thrown aside generally into an old trunk, with the blank commissions, waste papers, &c. Out of these, possibly, at a future day, the signature of the present governor may be drawn, and with as much propriety, produced as evidence of his correct construction of the constitution: But it is hoped that no future Friend to Candour will arise, for our Friend, we suspect, is something like Blackmore's elephant—none but himself can be his parallel.

With respect to the assertion of the Civil Officer relative to Mr. Henry, it was founded on the information of two gentlemen, whose names will not be here inserted, but will be communicated to the printer, that if this writer wishes information he may ask it personally; but it will be remarked, that the rank they hold in the public esteem can never be injured by a board of friends to candour: it may also be added, that the distinguished individual whom this writer has introduced, four and twenty years ago acted upon oath under the same formulary; giving it precisely the same construction that the governor of Maryland now does.

The name of Mr. Duvall has been also used; this gentleman, instead of being nineteen years a councillor, as was published by an anonymous writer, was a councillor one year, and being elected another year, resigned, assigning as a reason the unconstitutionality of a law of the preceding session, which certainly has no possible connexion with the present question: the deliberate opinion of that gentleman, on this or any other legal subject, will, when known, be respected beyond the limits of Maryland; and by none more than the Civil Officer.

Every information has been sought from those who have acted in the executive, and whose evidence must command respect; many of them relate, that a practice existed, and was continued without inquiry, which seemed to have resulted from mutual accommodation: the governor commissioned those in whom a majority of the council concurred; but it is certain that the present chief judge, to whose worth all parties subscribe, and who was six years a councillor, has, on being asked, said, that during all the time he served, if the members of the council assembled, and the governor was not present, but at the seat of government, they never proceeded to business without him. General Stone, who was six years a councillor, and three years a governor, on being asked declared, he could recollect nothing like the conduct of the present council; and every member of any former council with whom the Civil Officer has conversed, has related to him instances of their convening at the government house, when the governor from any cause could not conveniently attend at the state-house.

But according to the Friend to Candour, if the governor is notified and will not attend, it is his own fault. Will the Friend to Candour deny that the council have met when the governor was in town—transacted business, and made appointments, without notifying him at all? It is certain, that if according to their construction of the constitution, they can act without the governor, and that when present, if all the council attend, or any number but four, he can do nothing: their notification and his attendance must be mere matter of civility and form; and it must be as well, or even better, to proceed without him, especially if they believe he is averse to their measures: Nothing farther is necessary but for them to shew, "that when the governor, by and with the advice and consent of council, is authorized and required to appoint," the council are thereby empowered to appoint, and to appoint without the consent or even the presence of the governor; if they can establish this, then they have acted constitutionally, and their incivility, to an individual, however felt by him, will not probably be much regarded by the public, and much less by themselves. But this is yet to be determined.

The Friend to Candour must have strangely misunderstood the Civil Officer respecting the resolutions: no particular allusion was made to those which originated in the senate; all the resolutions, those respecting the Susquehanna, and those explanatory of them, were contemplated by the Civil Officer, who would not consider himself as justified by any personal motive in publishing their history; but he has prepared it; and if, after this explanation, he is again invited to publish, it shall be furnished to the printer, and the Friend to Candour may have it published if he pleases, and the Civil Officer will give his name, and become responsible for the facts.

It yet remains to remark on the comments which the Friend to Candour has made on the assertion of the Civil Officer, that there was no precedent of an adjournment of the council to meet in the evening since the governor and they had acted together. This he has politely termed quibbling, a vulgar expression, heretofore considered as appropriated to the lowest pettifoggery retainers of a county court bar; the Civil Officer will leave the term with those who have used it; but in reply he must take the liberty to prove, that the Friend to Candour has been guilty of a suggestion of what is not true, and it is feared with malice prepense. He has suggested, that there had been an adjournment of the council in the morning to meet in the evening with the knowledge of the governor, before that on the Susquehanna appointment. This is not the fact. He could not have supposed that the Civil Officer meant that there could be an adjournment on one day to meet on the evening of the next day, this would be too absurd. The Civil Officer evidently meant, that the council had never done business twice a day to his knowledge; this not only appears from the entries on the journal, but it is the real fact. These expressions were used by the Civil Officer to avoid the following disagreeable detail: "that for the governor to meet the council in the evening at the state-house in the winter, (when this happened,) could not be reasonably desired; at that season it is expected he should entertain frequently; this seems indeed the principal object of his appointment, as the constitution is construed by the council, although it must be chiefly done at his own expense; as the public bodies sit till late before dinner, his company seldom disperses till long after candlelight, and although he may not entertain every day, yet his hours must be nearly the same every day; from this cause these never had been an adjournment to meet in the evening to the knowledge of the governor. The instances alluded to by the Friend to Candour happened as the year advanced, the days lengthened, and the public bodies had retired; and from the following cause, as far as the governor has been concerned. A member has been sent from the country to make a board, he would be late the next day before he arrived, and a meeting has been therefore held in an evening, but there was then no meeting in the morning." From this detail of facts the public could determine where the imputation of quibbling and fabrication would attach; was other evidence wanting.

With the citizens of Maryland, and their representatives, it now remains to decide, whether the construction of the council is the real constitution of the state. They will naturally reflect, that if the governor is thus rendered a cy-

pher, and if he is to continue a mere dependent on the civility of the council, who may ask him or not to be present at their deliberations, where he must sit chiefly as an unconcerned spectator, no man of talents or worth will accept of the office on such conditions. They must know, that when the head is insignificant, the body politic can never be respectable. The people have established the office of governor as the first in their constitutional compact; the power and authority they have attached to it are their power and their authority; it rests with their sovereign will to support this office, or to let others destroy it. As to the individual who now fills it he holds it but for a moment, and that as their trustee and servant. In determining the question they will only be guided by the interest of the state, and their duty to themselves and their posterity; in comparison with these objects, the officer of the day or the year will disappear from their view; he is but as a grain of sand on the shore of the ocean: but still the devotion to public service of more than eight and twenty of the forty-three years of his life that have now passed away, without any other reward, or hope of reward, than the good opinion and good will of his fellow-citizens, may excite an anxiety to explain the principles, and justify the motives of his conduct.

A CIVIL OFFICER OF MARYLAND.

BOSTON, May 16.

Latest from Europe.

By the arrivals on Saturday, we received Dutch papers to the 26th March, and London to the 5th April. The verbal advices by the several matters, are however, of later date, though not definitive, on the subject of either peace or war—they are from Hamburg, as late as the 1st, from Cadiz the 12th, from Bristol, (Eng.) the 14th, and from Gibraltar to the 18th April, which, although many days posterior to our other late accounts from Europe, furnish nothing more, than that the most active preparations for war were continued in all the ports of France and England, but that the public mind, unadvised of the exact state, in which the negotiation between the two rival countries, stood, was much embarrassed and perplexed. This state of doubt and uncertainty is evidenced by the subsequent statement of the fluctuation of stocks, both in France as well as England.

NEW-YORK, May 18.

Latest from England.

Captain Low, of the English ship Stranger, arrived yesterday from Hull, informs us that the 2d inst. on the Banks of Newfoundland, he spoke the British packet Lady Arabella, out 20 days from Falmouth bound for this port, to touch at Halifax, the captain of which communicated the following intelligence—That he sailed from Falmouth on the 10th of April, when the aspect of affairs was the same as stated by our last advices—Dispatches were frequently exchanged between the courts of France and England, but their contents was a profound secret, and the impression and preparations for war continued with unabated activity. Colonel BARCLAY, the British consul-general for the middle and eastern states, was a passenger on board the packet.

PHILADELPHIA, May 19.

From Gibraltar—Late.

The schooner Falcon, capt. Kennifson, arrived at Boston last Saturday, in 37 days from Alicante, and 27 from Gibraltar. The advices by the Falcon, are to the 18th April, which state, that "the Tripolitan ship, which has been blockaded at Gibraltar for a long time, has at length made her escape, having been claimed by the emperor of Morocco; she sailed for Tripoli about the 11th inst. The Adams frigate, with a convoy of merchantmen for the Mediterranean, sailed about the 29th March. Commodore Morris had been at Gibraltar with his squadron, to procure provisions, but left there the 15th April. No Tripolitans were supposed to be out the 7th of April.

FREDERICK-TOWN, May 21.

HAIL STORM.

Last Monday, the 16th, there happened the most tremendous hail storm, accompanied with thunder and lightning, that ever was witnessed within the memory of the oldest inhabitants of this place. The weather had been unusually cold for the season during the last five or six days of the preceding week, and there were several severe frosts, that entirely destroyed the fruit; but on that day it had suddenly become very sultry and warm. The storm advanced between three and four o'clock in a N. N. E. direction and lasted about twenty minutes, during which time the hail poured down incessantly as thick as flakes of snow. It was uncommonly large and some of it measured three inches and an half in circumference. It did very considerable damage: The windows in a northern exposure were almost broken to pieces. The rye crops have been entirely destroyed wherever it extended, the kitchen gardens have not escaped the devastation, and vegetation in general has suffered great injury. The hail fell with such violence as to leave marks on the roofs and planks wherever it struck, and clattered like a volley of pebbles upon the doors and windows.

It has not been exactly ascertained how far the hail storm extended its ravages; but there are certain accounts from the distance of eight miles in a S. and S. W. direction, where it raged with equal violence as here. Towards E. and S. E. it did not reach more than two or three miles, and towards the W. and N. W. it branched in various directions, leaving a stripe of country, in some instances not more than a mile or two in extent, untouched. We are happy to learn, that the state of the wheat crops is such, as not to have subjected them to the same fate as those of rye.

The scene was truly awful and terrific.—The elements seemed to war in dreadful conflict, threatening ruin and destruction to all the works of human art, and every heart, in affrighted dismay, throbb'd aguish at this tremendous spectacle of Nature.

"At first, heard solemn o'er the verge of Heaven,
"The tempest growls; but as it nearer comes,
"And rolls its awful burden on the wind,
"The lightnings flash a larger curve, and more
"The noise alouds: till over head a sheet
"Of livid flame discloses wide; then shuts,
"And opens wider; shuts and opens still
"Expansive, wrapping ether in a blaze.
"Follows the too often aggravated roar
"Enlarging, deepening, mingling; peal on peal
"Crush'd horrible, convulsing Heaven and earth,
"Down comes a deluge of sonorous hail,
"Or prone descending rain: Wide rent the clouds,
"Pour a whole flood; and yet its flame unquench'd,
"Th' unconquerable lightning struggles through,
"Ragged and fierce, or in red whirling balls
"And fires the mountains with redoubled rage.
"Guilt hears appall'd with deeply troubled thought."

BALTIMORE, May 18.

The United States frigate Chesapeake has arrived in Hampton Roads from Gibraltar; sailed from there the 6th April. Lieutenant Sterett, of the Essex prize, came passenger in her, and arrived here the morning in the Norfolk packet. She brings nothing new.

May 19.

Extract of a letter from an officer on board the United States ship Chesapeake, dated Gibraltar, March 26, 1803.

"Captain Sterett has taken a prize; she is an Imperial polacre, from Smyrna, bound to Tripoli with Tripolitan property on board—very valuable."

To the Editor of the Mercantile Advertiser.
NEW-YORK, 16th May, 1803.

SIR;

I am requested by our minister in France to communicate publicly, that he had on the 11th March received the most flattering letter in answer to one addressed by him to the first consul, on the subject of our debts; &c. in which the most full and complete assurances are given that every letter of the convention shall be punctually complied with.—That the finances are in the best situation, and capable of meeting all engagements, and that even were it otherwise, and though it should subject them to partial inconveniences, he would strictly comply with the demands of justice, and calls upon the minister to make out the accounts of American claims, for which he promises a full and ready payment. The minister adds, that he gives this early intelligence, because it will probably come through other channels, as he intended to call the Americans at Paris together the next day, and communicate it to them, in which case he feared that interested persons might speculate on the views of those who have already suffered too much by the delay. He concludes by saying, that without being absolutely certain, he thought he might confide in the promises so solemnly made; and that he would press eagerly for their execution.

EDWARD P. LIVINGSTON.

MR. DUPORT'S BALL.

MR. DUPORT, professor of dancing, professes his respectful compliments to the ladies and gentlemen of Annapolis, and begs leave to inform them that his LAST BALL, for this season, will be on FRIDAY EVENING, the 27th inst. at the assembly room.

The ball will open at 7 o'clock precisely by a piano minuet and perigourdine. Tickets, price one dollar, to be had at the printing-office and at Mr. Caton's May 26, 1803.

In CHANCERY, May 19th, 1803.

ORDERED, That the sales made by JAMES CAMPBELL, as stated in his report of the real estate of EDWARD WATTS, deceased, shall be ratified, unless cause to the contrary be shown on or before the first day of July, provided a copy of this order be served on Charles Bennett, or John Watts and Adeline Watts; or published three times in the Maryland Gazette before the 18th day of June next. Test. SAMUEL HARVEY HOWARD, Reg. Cur. Can. 10th 7/6

In CHANCERY, May 11, 1803.

ON application to the chancellor, by petition, in writing, of RAPHAEL SAXTON, of Saint Mary's county, praying the benefit of the act for the relief of sundry insolvent debtors, passed at the last session, and a schedule of his property, and a list of his creditors, on oath, being annexed to his petition, and the chancellor being satisfied, by competent testimony, that the said Raphael Saxton hath resided in the State of Maryland the two last years preceding the passage of the said act; it is thereupon adjudged and ordered, that by causing a copy of this order to be inserted three times in the Maryland Gazette before the tenth day of June next, he give notice to his creditors to appear before the chancellor, in the chancery-office, at ten o'clock, on the first day of July next, for the purpose of recommending a trustee for their benefit, on the said Raphael Saxton's then and there taking the oath by the said act required for delivering up his property. True copy, 10th 7/6

Test. SAMUEL HARVEY HOWARD, Reg. Cur. Can.

In CHANCERY, May 23, 1803.

ORDERED, That the sale made by PHILIP STRUWART and ROBERT A. BEALL, trustees for the sale of the real estate of THOMAS DENT, shall be ratified and confirmed, unless cause to the contrary be shown on or before the fifteenth day of July next, provided a copy of this order be inserted in the Maryland Gazette three times before the 17th day of June next.

The report states, that four acres of ground on the south side of Piscataway creek, was sold for 970 dollars, a lot on the north side of said creek for 100 dollars, and 339 acres of land, in Prince-George's county, for 6120 dollars and 18 cents.

True copy,
Test. SAMUEL HARVEY HOWARD
Reg. Cur. Can.

THIS is to give notice, that the subscriber, the administrator of DELAH TAYLOR, late of Calvert county, deceased, will, on the 15th day of June next, attend at the office of the register of wills for Calvert county, in Huntington, for the purpose of making payment, or distribution, amongst the creditors of the said deceased according to law; all persons interested will take notice of this information. Given under my hand, this 14th day of May, 1803.

IN CHANCERY, May 23, 1803.
ON application to the chancellor, by petition, in writing, of ZACHARIAH SOTHORON, of Charles county, praying the benefit of the act for the relief of sundry insolvent debtors, passed at the last session, on the terms therein mentioned, and a schedule of his property, and a list of his creditors, on oath, so far as he can ascertain the same, being annexed to his petition, and the chancellor being satisfied, by competent testimony, that the said Zachariah Sthoroh had resided in the State of Maryland the two last years preceding the passage of the said act; it is thereupon adjudged and ordered, that the said Zachariah Sthoroh, by causing a copy of this order to be inserted in the Maryland Gazette three weeks successively before the twentieth day of June next, give notice to his creditors to appear in the chancery-office, at ten o'clock, on the second day of September next, for the purpose of recommending some person to be trustee for their benefit, on the said Zachariah Sthoroh's then and there taking the oath prescribed for delivering up his property.

Test. SAMUEL H. HOWARD,
Reg. Cur. Can.

In CHANCERY, May 23, 1803.

ON application to the chancellor, by petition, in writing, of JOHN J. SOTHORON, of Saint-Mary's county, praying the benefit of the act for the relief of sundry insolvent debtors, and a schedule of his property, and a list of his creditors, on oath, being annexed to his petition, and the chancellor being satisfied, by competent testimony, that the said John J. Sthoroh had resided in the State of Maryland the two last years preceding the passage of the said act; it is thereupon adjudged and ordered, that the said John J. Sthoroh, by causing a copy of this order to be inserted three weeks successively in the Maryland Gazette before the twentieth day of June next, he give notice to his creditors to appear before the chancellor, in the chancery-office, on the second day of September next, for the purpose of recommending a trustee for their benefit, on the said John J. Sthoroh's then and there taking the oath by the said act required for delivering up his property.

True copy,
Test. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

In CHANCERY, May 21, 1803.

CHARLES WILLIAMSON, an insolvent debtor of Calvert county, entitled to the benefit of the last act of the general assembly for the relief of sundry insolvent debtors; being this day by the sheriff of said county brought before the chancellor, in consequence of an order this day passed and having before the chancellor taken the oath prescribed for delivering up his property, &c. it is thereupon ordered, that the said Charles Williamson appear before the chancellor, in the chancery-office, at 10 o'clock, on the 17th day of September, for the purpose of answering such interrogatories as his creditors, or any of them, shall then and there propose to him; and that the said Williamson shall give notice of the time and place appointed for his and for their appearance to propose interrogatories, and for recommending a trustee for their benefit, and his answering as aforesaid, by causing a copy of this order to be inserted at least three times successively, before the 17th June next in the Maryland Gazette.

True copy,
Test. SAMUEL H. HOWARD,
Reg. Cur. Can.

THIS is to give notice, that the subscriber, of Charles county, hath obtained from the orphans court of Charles county, in Maryland, letters of administration de bonis non, on the personal estate of WARREN DENT, late of Charles county, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the first day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this thirteenth day of May, in the year of our Lord one thousand eight hundred and three.

WILLIAM DENT, Administrator
de bonis non of WARREN DENT.

By his EXCELLENCY
JOHN FRANCIS MERCER,
GOVERNOR OF THE STATE OF MARYLAND;
A PROCLAMATION.

WHEREAS it appeareth unto me, by an inquiry taken before Robert Moore, Esq; one of the coroners of Baltimore county, that a most cruel and atrocious murder and robbery were committed on the person of ADAM WAYBLE, paper-maker, a respectable and aged citizen of Anne-Arundel county, by some unknown hand, on or about the thirtieth day of March last, which inquiry hath been returned to me, accompanied by a memorial of sundry respectable inhabitants of the counties of Baltimore and Anne-Arundel, and the city of Baltimore, praying the interposition of government: And, whereas the quiet and security of the good people of this commonwealth depend on the vigilance of the constituted authorities in causing the laws against such enormities to be duly executed: I have therefore thought proper to issue this my proclamation, and I do, by and with the advice and consent of council, hereby offer a REWARD of FOUR HUNDRED DOLLARS to whoever will discover the author or perpetrators of the aforesaid murder and robbery, provided he, she, or they, or any of them, be convicted thereof. And moreover I do, by virtue of the authority and powers in me vested, hereby promise a full and free pardon to any person being an accomplice, who shall discover the perpetrator or perpetrators of the said murder and robbery on the aforesaid conditions.

Given in Council, at the city of Annapolis, under the seal of the State of Maryland, this sixteenth day of May, in the year of our Lord one thousand eight hundred and three.

JOHN F. MERCER.
By his excellency's command,
NINIAN PINKNEY, Clerk of
the governor and council.

In COUNCIL, ANNAPOLIS, May 16, 1803.

ORDERED, That the foregoing proclamation be published three times in each week, for the space of three weeks successively, in the American, Telegraph, and Federal Gazette, at Baltimore; the National Intelligencer; the Maryland Gazette, at Annapolis; the Republican Advocate, Herald, and Bartgis's paper, at Frederick-town, and in Mr. Smith's paper, at Easton.

By order, NINIAN PINKNEY, CLK.

NOTICE.

Agreeably to an order of the orphans court of Charles county, will be SOLD, on Wednesday the first day of June next, at the late dwelling of WILLIAM KIRKPATRICK, near Allen's Fresh, if fair, if not the first fair day.

ALL the personal property belonging to the deceased, consisting of a lease for thirty acres of land, for the term of seventy years, horses, cattle, sheep, hogs, a set of joiner's tools, three mill stones, plantation utensils, and a number of other articles too tedious to mention. Twelve months credit will be given, on all sums above twenty dollars, the purchaser giving bond, with approved security.

PHILIP MARSHALL, Administrator.
Charles county, May 1, 1803.

In CHANCERY, May 13, 1803.

John Gwinn,
vs.
Samuel Godman, Robert Godman, Brutus Godman, Cassius Godman, Jefferson Godman, John Davidson Godman, Stella Godman, and Peggy Beall Godman, heirs at law of Samuel Godman, deceased.

THE object of the bill is to obtain a decree for the foreclosure of a mortgage given to the complainant by Samuel Godman, deceased, dated on the fourth day of January, seventeen hundred and ninety-nine, for the conveyance of the three following tracts of land, lying in Anne-Arundel county, to wit: YOUNG'S LOCUST PLAINS; containing one hundred and fifty acres; HENDERSON'S MEADOWS; containing one hundred and five acres, and The ADDITION to SAMSON, containing one hundred and two acres; subject to redemption, and repayment of the principal sum of three hundred and seventy-five pounds, current money, with interest from the first day of November, seventeen hundred and ninety-eight, in three annual payments; the bill states, that no part of the principal or interest of the mortgage money hath been paid; that the period of redemption hath elapsed; that the mortgagor, Samuel Godman; hath departed this life intestate, leaving the defendants his heirs at law; all of whom are minors, except Samuel Godman, the eldest; that all of the said defendants have left the State of Maryland and reside in parts unknown, except Brutus, Cassius and Jefferson; it is thereupon, on the motion of the complainant, ordered and adjudged, that he cause a copy of this order to be inserted in the Maryland Gazette, once in each of three successive weeks, before the eleventh day of June next, to the intent that the absent defendants may have notice of the present application, and of the substance and object of the bill filed in this cause, and may be warned to appear in this court in person, or by a guardian, on or before the fourth Tuesday of October next, to shew cause, if any he, she, or they may have, why a decree should not pass as prayed.

True copy,
Test. SAMUEL H. HOWARD,
Reg. Cur. Can.

SPRING GOODS.

JOSEPH EVANS,

On the Dock, opposite the Market-house,
Has just received by the Spring vessels arrived at Baltimore, and offers for sale,

A Handsome assortment of GOODS, suitable for the present season, consisting of a variety of the latest and most fashionable articles for Ladies and Gentlemen wear.

NOTICE.

All persons indebted to the subscriber, whose accounts have been longer standing than twelve months, are earnestly requested to call and discharge the same, or give note or bond for the amount thereof.

JOSEPH EVANS.

Annapolis, May 19, 1803.

MAREEN B. DUVAL,

CHURCH-STREET,

HAS just received a choice selection of SPRING GOODS, also CUTLERY and GROCERIES, the whole of which will be sold on the most reasonable terms.

Annapolis, May 17, 1803.

FOR SALE,

TICKETS in the ST. JOHN'S CHURCH LOTTERY, in Baltimore, by the subscriber, at Mr. Mattison's. The drawing of the above lottery will shortly commence, as more than one half the tickets are already sold; and as the subscriber means to remain here only a few days he requests those who wish to become adventurers to be speedy in their application.

MICHAEL NUSSEAR.
Annapolis, May 19, 1803.

In CHANCERY, May 13, 1803.

James Walker,
against
Samuel Godman, Robert Godman, Brutus Godman, Cassius Godman, Jefferson Godman, John Davidson Godman, Stella Godman, and Peggy Beall Godman, heirs at law of Samuel Godman, deceased.

THE object of the petition is to obtain a decree for the recording a deed of mortgage from Samuel Godman, deceased, father of the defendants, to the petitioner, James Walker, bearing date on the twenty-eighth day of October, seventeen hundred and ninety-nine, for the conveyance of sundry tracts of land, sundry negroes, and other personal property, particularly enumerated in the said deed, to the petitioner; the petition states, that the said Samuel Godman, the grantor, hath departed this life intestate, leaving the defendants his heirs at law; that all of them are minors, except Samuel, and that all of them, except Brutus, Cassius and Jefferson, have departed from the State Maryland, and gone to parts unknown; it is thereupon, on motion of the petitioner, ordered, that he cause a copy of this order to be inserted three weeks successively, before the eleventh day of June next, in the Maryland Gazette, to the intent that the defendants, and all persons claiming under the said Samuel Godman, deceased, or conceiving themselves interested, may have notice of the petitioner's application to this court, and of the substance and object of his petition, and may be warned to appear here in person, or by guardian or solicitor, as the case may require, on or before the fourth Tuesday of October next, to shew cause why a decree should not pass as prayed.

True copy,
Test. SAMUEL H. HOWARD,
Reg. Cur. Can.

THIS is to give notice, that the subscriber, of Charles county, hath obtained from the orphans court of Charles county, in Maryland, letters of administration on the personal estate of GEORGE DENT, late of Charles county, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the first day of January next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this thirteenth day of May, in the year of our Lord one thousand eight hundred and three.

WILLIAM DENT, Administrator
of GEORGE DENT.

THIS is to give notice, that the subscriber, of Anne-Arundel county, in the State of Maryland, hath obtained from the orphans court of Anne-Arundel county, in Maryland, letters of administration on the personal estate of EDWARD GWINN, late of Anne-Arundel county, deceased. All persons having claims against the deceased are hereby warned to exhibit the same, with the vouchers thereof, to the subscriber, at or before the fourteenth day of October next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand, this 14th day of April, 1803.

ACHSAE GWINN, Administratrix.

MISFORTUNES of various kinds, together with the harassing disposition of my creditors, who are continually burthening me with heavy costs, hath at length reduced me to the necessity of surrendering my property for the benefit of my creditors; I therefore hereby give notice, that I intend to petition the next general assembly of Maryland for the benefit of the act respecting insolvent debtors.

May 17, 1803. SAMUEL EVANS.

THE subscriber returns his sincere thanks to his friends and customers for the liberal and generous support he has hitherto experienced, and begs leave to inform them, that he has opened his STORE and PORTER CELLAR, in the house lately occupied by THOMAS ROGERS, Esq; opposite the south corner of the episcopal church, where he hopes, by the goodness of his liquors, &c. and desire to please, to merit a further continuance of their favours, which will be gratefully received by their most obedient and very humble servant,

HUGH MAGUIRE.

Annapolis, May 11, 1803.

In CHANCERY, May 5, 1803.

Mary Peach, Administratrix of Richard Williams, vs.

Rebecca, Elizabeth, and Richard Williams, and Isaac James, and Elizabeth his wife.

THE object of the bill is to obtain a decree for the sale of the interest of the defendants in two tracts of land in Prince-George's county, called BEAVER DAM NECK, and part of PARCEL ENLARGED, for the payment of the debts of Richard Williams, deceased, which from him descended to the defendants his heirs; the bill states that the defendants have removed out of the state of Maryland; it is thereupon adjudged and ordered, that the complainant, by causing a copy of this order to be inserted three times in the Maryland Gazette before the tenth day of June next, give notice to the defendants to appear here in person, or by a solicitor, on or before the second Tuesday of October next, to shew cause, if any they have, wherefore a decree should not pass as prayed.

True copy, J. J. Howard,
Telf. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

In CHANCERY, May 6, 1803.

Robert Sewall,
against

Charles Sewall, Nicholas Sewall, Eleanor Pye, Thomas Rogison, and his wife Alice, Lewis Taney, Charles Henry Taney, Cestitia and Eliza Alice Taney.

THE object of the bill filed in this cause is to obtain a conveyance for a tract of land, called MATTAPONEE SEWALL, and other lands thereto adjoining, which Henry Sewall, ancestor of the defendants, now deceased, contracted for with the complainant, by his contract in writing, dated on the 17th day of October, 1801; the bill states that Lewis Taney, one of the defendants, resides out of the state of Maryland; it is thereupon, on the motion of the complainant, ordered and adjudged, that he cause a copy of this order to be inserted in the Maryland Gazette once in each of three successive weeks before the 3d day of June next, to the intent that the absent defendant may have notice of the present application, and of the substance and object of the bill filed in this cause, and may be warned to appear in this court in person, or by a solicitor, on or before the 1st Tuesday of October next, to shew cause, if any he hath, why a decree should not pass as prayed.

True copy, J. J. Howard,
Telf. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

NOTICE,

To the public of Maryland.

THERE will be a petition preferred to the next general assembly of this state for a law to pass for a road to be laid off from a landing on the north side of Severn river, commonly called and known by the name of JUMPER'S HOLE, along through the neighbourhood by the widow Mary Johnson's, and from there the most convenient route to a landing known by the name of ASHPAW'S LANDING, on the east side of a fork of Curtis's creek, called MARLEY CREEK, and for to make the aforesaid landings public.

NOTICE.

THAT the subscriber, of Charles county, in the State of Maryland, hath obtained from the orphans court of said county, letters of administration on the estate of RICHARD ROBY, late of Charles county, deceased. All persons having claims against said estate are hereby requested to bring them in, legally authenticated, to the subscriber, on or before the fourth day of July next, or they may otherwise by law be excluded from all benefit of said estate. Given under my hand, this 4th day of January, 1803.

ANN ROBY, Executrix.

NOTICE.

ALL persons having claims against the estate of THOMAS POWER, late of Saint-Mary's county, deceased, are hereby requested to apply on or before the 1st day of August next, and receive their second and last dividend. Given under my hand, this 7th day of May, 1803.

JOSIAH B. GRINDALL, Administrator.

TO THE PUBLIC.

I TAKE this mode of informing those who may have property for sale, that I will act as auctioneer, on application. My experience and ability in that line may be known on inquiry.

C. MILLS.

Annapolis, August 17, 1803.

Nottingham, April 16, 1803.

I HEREBY certify, that Mr. HENRY WARING brought before me, a justice of the peace for Prince-George's county, as a trespassing stray, a grey HORSE, about twelve years old, fourteen hands high, paces, trots, and canters, has no perceivable brand, shod before. Given under my hand, the day and year above written.

ROBERT BOWIE.

The owner of the above horse is desired to come, prove his property, and take him away.

HENRY WARING.

EDUCATION.

THE subscriber begs leave to inform the citizens of Annapolis, and the public generally, that on Monday the 16th inst. he proposes to open an ACADEMY in a large and spacious room of the house he now occupies, opposite the south corner of the episcopal church, for the sole purpose of teaching young ladies orthography, English grammar, writing, arithmetic, geography, &c. also drawing and French, if required; he hopes the utility of this institution will be more satisfactorily evinced by the improvement of his pupils in literature, as well as morality, than pompous professions, which is the sincere wish of the public's most devoted, and very humble servant,

HUGH MAGUIRE.

N. B. For terms, &c. apply as above.
Annapolis, May 11, 1803.

In CHANCERY, May 10, 1803.

THOMAS L. SOTHORON, an insolvent debtor, of Charles county, entitled to the benefit of the last act of the general assembly for the relief of fundry insolvent debtors, being this day, by the sheriff of said county, brought before the chancellor, in consequence of an order this day passed, and having, before the chancellor, taken the oath by the said act prescribed for delivering up his property, &c. it is thereupon ordered, that the said Thomas L. Sothoron appear before the chancellor, in the chancery-office at 10 o'clock, on the third day of September next, for the purpose of answering such interrogatories as his creditors, or any of them, shall then and there propose to him, and that the said Thomas L. Sothoron shall give notice of the said time and place for his answering aforesaid, and for their appearing, to propose interrogatories, and for recommending a trustee for their benefit, by causing a copy of this order to be inserted at least three weeks successively, before the third day of June next, in the Maryland Gazette.

True copy, J. J. Howard,
Telf. SAMUEL HARVEY HOWARD,
Reg. Cur. Can.

NOTICE,

To the Public of Maryland.

THERE will be a petition preferred to the next general assembly of this state, for a law to pass for a road to be laid off from a large white oak tree, on the fourth side of the main road leading from the city of Annapolis round the head of the Severn river to the city of Baltimore, standing at the lower end of Richard Dorsey's, (of Caleb) lane or plantation, next adjoining to a plantation belonging to Charles Carroll, of Carrollton, Esq; along up through the neighbourhood on the north side of South river, in Anne-Arundel county, by Jacob Waters's mill and the South river meeting house, and the neighbourhood of the Mr. Hopkins's to a fording place on the main branch of Patuxent river known by the name of Aliton's Ford, and from there the most convenient route through Prince-George's county, by or through Mr. Benjamin Ogle's plantation, known by the name of Belle-Air, to a small town in the said county called Bladensburg, at or near the head of a creek of the river Patowmack, called and known by the name of The Eastern Branch.

April 14, 1803.

THIS is to give notice, that the subscriber hath taken out letters of administration on the estate of JOHN DENT, late of Anne-Arundel county, deceased, therefore all persons who have claims against the said deceased are requested to bring in the same, proved according to law, and all those who are in any manner indebted to the estate are requested to make payment, to

ELEANOR DENT, Administratrix.

April 27, 1803.

To the Voters of Anne-Arundel county and the City of Annapolis.

GENTLEMEN, ENCOURAGED by the solicitation of a number of my friends, I respectfully beg leave to inform you, that I intend offering myself as a candidate for your suffrages at the ensuing election of a sheriff of this county, and to assure you, should I be fortunate enough to meet with your approbation, that every exertion shall be made to give general satisfaction, and to prove myself worthy of your confidence and support.

As it is my wish to avoid egotism, and as few tasks can be imposed on a man more disagreeable than that of becoming his own encomiast, I shall therefore forbear making any farther professions on the score of abilities, than to observe, that I have acted for sometime past as deputy to Mr. John Welch, the late, and to Henry Howard, Esquire, the present sheriff, and have thereby, I flatter myself, acquired a competent knowledge of the duties incident to the office.

ROBERT WELCH, of BEN.

In COUNCIL, ANNAPOLIS, April 16, 1803.

ORDERED, That the act to alter, change and abolish, such parts of the constitution and form of government as relates to the establishing a general court and court of appeals, be published once in each week, for the space of three months successively, in the Maryland Gazette, at Annapolis; the Baltimore American, the Telegrapher, the Federal Gazette, at Baltimore; the National Intelligencer; Mr. Smith's paper, at Easton; the Republican Advocate, at Frederick-town; and Mr. Grier's paper, at Hagerstown.

By Order,
NINIAN PINKNEY, Clerk.

An ACT to alter, change and abolish, such parts of the constitution and form of government as relate to the establishing a general court and court of appeals.

BE it enacted, by the General Assembly of Maryland, That from and after the first day of March, eighteen hundred and four, there shall be a court of appeals, composed of three persons of integrity, and sound judgment in the law, who shall be styled in their commissions Judge of the Court of Appeals, whose judgment shall be final and conclusive in all cases of appeal from the court of chancery, county court or orphans court; and that the court of appeals shall hold two sessions on the western shore and two on the eastern shore in each year; at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That from and after the first day of March, eighteen hundred and four, this state shall be divided into five judicial districts, viz. Saint-Mary's, Calvert, Prince-George's and Charles counties, shall be the first district; Cecil, Kent, Queen-Anne's and Talbot counties, shall be the second district; Anne-Arundel, Baltimore and Harford counties, shall be the third district; Caroline, Dorchester, Somerset and Worcester counties, shall be the fourth district; and Washington, Frederick, Montgomery and Allegany counties, shall be the fifth district; and that there shall be appointed for each of the said districts two persons of integrity, and sound judgment in the law, who shall reside in the district for which they shall be appointed, who shall be styled in their commissions District Judges of the county courts in such district; and there shall be appointed for each of the counties of this state one person of integrity, experience and knowledge, resident of the county for which he shall be appointed, who shall be styled in the commission Associate Judge of the county court of the county for which he shall be appointed; and the said district judges in their respective districts, together with the said associate judges in the respective counties, shall compose the county court; and the county courts so established shall have, hold and exercise, all the powers, authorities and jurisdictions, that the general court and county courts of this state has heretofore held, used and exercised, except the appellate jurisdiction of the general court; and that the county courts shall hold their sessions in the respective counties at such times and places as the future legislature of this state shall direct and appoint.

And be it enacted, That if this act shall be confirmed by the general assembly, after the next election of delegates, in the first session after such new election, as the constitution and form of government directs, that in such case this act, and the alterations and amendment of the constitution and form of government therein contained, shall be taken and considered, and shall constitute and be valid, as a part of the said constitution and form of government, to all intents and purposes, any thing in the said constitution and form of government contained to the contrary notwithstanding.

And be it enacted, That all and every part of the constitution and form of government that relates to the court of appeals, or the general court, as now established, or to the judges thereof, or that is in any manner contrary to, or inconsistent with, the provisions of this act, be and are hereby declared to be repealed and abolished, on the confirmation hereof.

To the Voters of Anne-Arundel county and the City of Annapolis.

COMING forward as a candidate for the office of sheriff of Anne-Arundel county, with respectful deference I offer myself to fill the important station, and solicit their suffrages; at the ensuing election, in my favour; should my wishes in this instance be realized, I sincerely promise a strict attention to impartiality, legality, and assiduity, and the public shall find in my attention to the discharge of the duties of the office a grateful return for the confidence they may repose in me.

And remain their obedient servant,

ISAAC DORSEY.

Will be SOLD, at private SALE,

THE whole or any part of that valuable plantation, on the north side of Severn river, now occupied by Mr. John McCubbin; nothing need be said as to the soil and other advantages, &c. of this place, as it is well known to be one of the richest and best farms in this state. As I shall be in or near Annapolis for two or three weeks, any application by letter, or otherwise, will be attended to.

April 29, 1803.

JOHN HESSELIUS.

ANNAPOLIS:

Printed by FREDERICK and SAMUEL GREEN.