The National Intelligencer, AND WASHINGTON ADVERTISER.

VOL. I. WASHINGTON CITY, PRINTED BY SAMUEL HARRISON SMITH, NEW-JERSEY AVENUE, NEAR THE CAPITOL. N. V.

FIVE DOLLS. PER ANN. MONDAY, OCTOBER 26, 1801. PAID IN ADVANCE.

REMARKS ON LIBELS,

Occasioned by the late presentment by a Grand Jury, of the Editor of the National Intelligencer for an alleged Libel against the Judiciary.

THE present case is a plain one, which can only be truly decided by the *great and general principles*, on which our governments have been the first to establish, and which, it is to be hopeid, they may be the last to abandon. It is not to be decided by a reference to the precedents of common law, but by the constitution and laws of our own country.

If the publication whereon the presentment was founded, be a libel, it must be either under the constitution of the United States, or the laws of Congress; or under the constitution of Maryland, or the laws of its legislature.

The constitution of the United States says—

"Congress shall make no law abridging the freedom of speech, or of the press."

The constitution of Maryland says—

"That the liberty of the press ought to be inviolably preserved."

Thus it appears that the constitution of Maryland declares, "that the liberty of the press ought to be inviolably preserved;" and the constitution of the United States declares, that "Congress shall make no law abridging the freedom of speech or of the press."

The liberty of the press, then, may be considered as sacred.

Let us enquire in what this liberty consists, so far as the enquiry relates to the present case.

It is altogether foreign to our purpose to define the limits of the press with respect to *personal or private* character. The animadversions charged as libellous do not apply to *private*, but to *public* character. It is the *officer*, and not the man, they attack. It is the discharge of a *public duty* to which they exclusively apply. To whatever degree, or whether in any degree, the press has a moral right to investigate private character, it is unnecessary here to enquire; for even the private character of the judges, so far as it might elucidate their public duty, is not directly or indirectly touched.

The true enquiry is, how far we may speak, or publish, or cause to be spoken or published, *our opinions* of the public measures of public men.

I reply, that to this right, abstractly viewed, there is no limit.

Laws may and do punish the *manner* in which we express our opinions. Thus they inflict a punishment for obscene or blasphemous language; but the punishment is inflicted is not for the ideas conveyed, but for the *correct and vicious terms* in which they are conveyed. Thus, if a writer in the National Intelligencer, or in any other print, should applaud as wise and virtuous the public and private deportment of all the judges in the universe, and should express this approbation in so obscene and indecent, he might be called before the bar of justice to answer for a violation of the laws of his country, and he might be punished, but the punishment would not be for the eulogium, but for the words in which it was couched.

It will be remarked, that this right for which I contend, as no otherwise limited than as I have stated, relates to the free expression of *opinions* on the measures of public men. I say of *opinions*; for it must be again noticed that the present enquiry need not extend so far as to determine how far facts relating to public measures, whether true or false, may with impunity be published. I will not say that our laws cannot, or even that they at present do not punish publications which wilfully falsify the proceedings of public men, which unlawfully affect their to be fact which is not fact, and deny that to be fact which is fact. For instance, if the Editor of a newspaper, first that for a particular executive act, of the Chief Magistrate, there exists no law that warrants or directs it; if such "law is informed that fact, and it does exist, and its very terms, as clear a day light, are laid before him; and if, notwithstanding, he persevere in contending the truth, if he still denies the existence of the law, and charges the President with usurping power; I will not say whether, under such circumstances, our laws may not or do not punish the calumniator. Yet, almost every day's occurrence brings to our ears some such calumny against the Chief Magistrate, without, however, our hearing at the same time that the writer or the printer is charged with a libel by him though the case be far much stronger than the present one. I will not attempt to assign a reason for this, which might perhaps be erroneous; but I will not suppress what, in my opinion, is the truth; the Chief Magistrate is above the influence of libels they pass by him, as the Sirocco of Italy passes by the, Alps.

But this enquiry need not be further prosecuted. The matter charged as libellous, states no facts; it only infers opinions from facts.

Whatever then these opinions may be, they are couched in term neither indecent or blasphemous, it was the right of the writer in the National Intelligencer, to make them, and of the printer to publish them.

As this right has been, and may be, fully urged, disputed, I will state concisely the grounds on which it rests.

A republican government is one in which the supreme end of the ruler should be the good of the people. From the people is received all the power he possesses, and every moment of his existence he is subject, in one way or other, to a deprivation of this power by the people. Whether his political conduct be virtuous and enlightened, or vicious and weak, as far as relates to his continuance in office, must be, at the ultimate judges. Frequently, and at stated periods, the people are called upon to judge; and their judgment is enforced, either directly in the choice of immediate representatives, or indirectly through them, by impeachment, and the passage of laws, which affect executive or judiciary magistrates—In order to render this right of the people, in its extensive, a blessing instead of a curse, they must be informed of what their rulers do, what they ought to do, and the general grounds on which they act or decline acting. All this information is essential to the forming a correct judgment on the merit or demerit of public agents, and whether they ought to be further continued, or ought to be deprived of that which they possess. This information can only be obtained in two ways; by *speaking*, or *publishing* freely our sentiments; for no one will question the inability of the great mass of the people of any nation to be enlightened without one or other, or both of these means. In our country we believe both to be necessary, and particularly the liberty of the press. There is not a republican citizen among us who does not consider the liberty of the press as the palladium of his rights. How is this liberty exercised, or how can it be exercised, otherwise than in approving what is right in the measures of public men, or in censuring what is wrong? Public measures may be merely fiatous, but disconnected with the measures which induced them, and the effects they are calculated to produce, the statements are mere capriccious, which impart no ability to judge, where the ability existed too previously.

Now, it seems, (I know not why according to the tenets of those who remember it) that public measures, whether good or bad, may be indiscriminately approved, without incurring him who approves them a punishment. If a government, or any part of a government, shall invade the rights of the people, oppress them with heavy tax, violate the constitution, provoke his particular enemies, and even deprive them of their properties and lives, it may have, trembling with fear, or animated by the prospect of reward, may be lauded to its praise. The nation may curse, but the government will protect him. Let it be supposed that I say these remarks to the government of the United States, people them only to the opinions which suport such illegitimate principles.

However unworthy, such servile adulation may be, and however deplicable in our eyes he may be who practifes it, and further however inconsistent in principle those men are who would fetter such a wretch from punishment, while they would consign to punishment the individual who virtuously reproved the vices or errors of government; still, it is not my ambition to rank myself among those who would forcibly drag him before the bar of justice. I would rather fay, let him follow his own course. Suffer the Prefs to remain free, and his errors will be impotent when compared by truth.

This brings me to the second point, viz. the right of the Prefs to *cenisure* what is deemed wrong.

This cenisure is itself either just or unjust. I do not suppose on this occasion any one will be found to fay (though on other occasions such have been found) that it just; it is not the right of the prefs to express it. I shall therefore pass over this branch of the right as undisputed, and examine the other, viz. the right of the prefs to express unjust cenisure.

There is certainly, in the measures of all governments a right and a wrong. But whether true or false, remark may be, abstractly considered, when we come to decide in every particular case what is right, and what is wrong, how widely do we differ? As we, in truth, even agree! For instance, let any one of the same political belief believe all the measures of the general or of the state government to be as wife as they might have been? If they do not, it is plain that they, and those who entertained those measures, think differently; for they as legislators were morally bound to do what they considered to be for the benefit of our constitution the whole. Again, has every man precisely the same opinion of the degree of wisdom of each measure? On the contrary, were each individual to enquire into all that has been done by the same government, we would not one man could find that right which mother deems wrong, and would not every one find himself holding different opinions of the degree in which it ought to be were good or bad. Surely he would; and this familiar influence of convince us, that we may entertain different, even opposite opinions of the same men and the same measures; and that we may notwithstanding, be equally upright. Do not our very elections, so often repeated, establish this truth beyond doubt, where a dozen, a very great nearly as many votes are given for one man, as for another, and where the public safety is emphatically declared, and sincerely believed by many, to depend upon the preference of one candidate to the other. This influence is sufficient, did not a thousand others preclude themselves, to demonstrate the absurdity of *exacting* a uniform belief. All nature as at war with such an attempt; nor can it exist where liberty has not extirpated every germ of mind?

If then all of us differ in our political, as we do in our opinions, who shall be the arbiter of right and wrong? Those in power may fay we will be the judges; but the people will not hesitate to reply, "Having given you no such power you do not possess it. For if you did you might do it upon your not our representatives, but our tyrants."

The whole of these remarks centre in one grand result: *Inasmuch as governments may err, every citizen has a right to oppose an error in his opinion committed by them.* I fay in *his opinion*. For he, are not I or any other man, has the right of *judging for him*. We have the right of judging for ourselves, we have the right of cenisuring him; we have the right of reveiling that cenisure; but we have not the right, nor has the government the right of punishing him.

Of the existence of this right all the achieves of our councils, the minutemen, the cream of public opinion, furnish proofs. From its vigorous assertion sprang our national independence, the change in our political systems from monarchic to republican, the establishment of our federal constitution, under which we hange & energetic protection we live and prosper, and all the national glory with which these splendid acts have encompassed us. All these measures, without which we might now, and probably would be involved in external and internal war, groaning under slavery, and oppressed by taxes, sprang from the right of the citizen boldly to express his opinions of public men and public measures, however they differed, as indeed they actually did differ, from those embraced at the time by the government.

And let me add, that all our present happiness is to be traced to this source, so it will depend all our future prosperity.

This is the liberty of the press for which I contend. This is the liberty of the press which public opinion should protect. This is the liberty of the press, for the establishment of which our soldiers bled and our statesmen toiled.

(To be concluded in our next.)

PUBLIC SALE.

The House and Lot occupied by the subscriber near the Navy-Yard, will be sold at public Vendue, on the Capitol, on Monday the 26th inst at 12 o'clock at noon.

This beautiful situation having been for some time exercised in this paper, any thing further on the subject is deemed unnecessary, suffice it to say it is preferable to any in the neighborhood, with view to business, which may be done at any time prior to the day of sale.

The terms will be the day, and the terms will be made known at the time and place of sale, or by application to the subscriber previous thereto. Half the money to be had at farthest in thirty days after the sale.

At the same time and place a small parcel of household furniture.

THOMAS TINGEY.

Washington Oct. 12, 1801. eotf

For Two handsome well finished three story brick houses on Greenleaf's Point, to rent on moderate terms.

POST-OFFICE.

WASHINGTON CITY, OCT. 7, 1801.

The great Northwest in Mail which includes the following Post Offices will be closed at this office every Monday at 8 A. M. and Friday at 5 P. M. viz.

Bedford, Pa.	Lexington, Ky
Boonsboro, Ky.	Marshall, N. W.
Brook C. H. Va.	Maysville, Ky.
Connosburg, Pa.	New Lancaster, N.T.
Chambersburg, Pa.	Pittsburg, Pa.
Chillicothe, N. T.	Somerset, Pa.
Clarksburg, Md.	St Clairville, N. T.
Frankfort, Ky.	Wheeling, Va.
Fredericktown, Md.	Washington, Pa.
Greencastle, Pa.	Washington Ky.
Greensburg, Pa.	Wheeling, Va.
Hagerstown, Md.	Zanesville, N. T.

Mails for other northwestern post-offices will be made up as usual, every Friday at 5 P. M.

The mail for Unity Town, Brookville, Mills ville, Howard's Mill, Wright's Mill and Taney Town Maryland, will be closed at this office every Tuesday at 5 P. M.

THOMAS MONROE,
Postmaster.

October 9 eo3t

For Sale,

At the Store lately occupied by Mr. F. Mason near the Navy Yard, opposite Messrs King & Dawkins's Lumber Yard

Cognac brandy, Holland gin, Wed-India and N. England rum, Spanish brandy, cherry rum, brown sugar and loaf sugar, gunpowder, imperial, hyson, hyson skin and souchong teas, green coffee, pepper, allspice, nutmegs, ground ginger, the blue, indigo, starch, Spanish segars, mould and dip candles, best wax, white and brown soap in dito, foal leather, middlesex bob table cotton, a few thousand weight of Rock, Hand cheese, more coarse Rock, apples in barrels, a quantity of onions, &c. &c.

George-Town October 21. 1801. 1aw1w

THOMAS CARPENTER,

TAYLOR,

Has just received a handsome assortment of Cloths, Cassimeres, Sattinadoes, &c.

On the Shortest Notice.

GENTLEMEN who favor him with their orders, may rest assured of strict attention, and the best of workmanship and materials, and on reasonable terms.

N. B. Military and Naval Uniforms, and Ladies' Habit made with elegance.

City of Washington, between the President's House and the new buildings, Pennsylvania Avenue.

October 21, 1801. 1aw3w