It has conferred legal rights which cannot be refumed.

The difcretion of the executive is to be exercifed until the appointment has been made. But having once made the appointment, his power over the office is terminated in all cafes, where, by law, the officer is not removable by him. The right to the office is *then* in the perfon appointed, and he has the abfolute, unconditional, power of accepting or rejecting it.

Mr. Marbury, then, fince his commiffion was figned by the Prefident, and fealed by the Secretary of State, was appointed; and as the law creating the office, gave the officer a right to hold for five years, independent of the executive, the appointment was not revocable; but vefted in the officer legal rights, which are protected by the laws of his country.

To withhold his commiffion, therefore, is an act deemed by the court not warranted by law, but violative of vefted legal right.

This brings us to the fecond enquiry; which is,

2dly. If he has a right and that right has been violated, do the laws of his country afford him a remedy?

The very effence of civil liberty certainly confifts in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the firft duties of government is to afford that protection. In Great-Britain the King himfelf is fued in the refpectful form of a petition, and he never fails to comply with the judgement of his court.

In the 3d vol. of his commentaries, p. 23, Blackftone ftates two cafes in which a remedy is afforded by mere operation of law—

'In all other cafes,' he fays, 'it is a 'general and indifputable rule, that 'where there is a legal right, there is 'alfo a legal remedy by fuit or action 'at law, whenever that right is invaded.'

And afterwards, p. 109 of the fame vol. he fays, 'I am next to confider 'fuch injuries as are cognizable by the 'courts of the common law. And herein I fhall for the prefent only remark, 'that all poffible injuries whatfoever, 'that did not fall within the ecclefiaftical, military, or maritime tribunals, 'are for that very reafon, within the 'cognizance of the common law courts 'of juftice; for it is a fettled and invariable principle in the laws of England, 'that every right when withheld, muft 'have a remedy, and every injury its 'proper redrefs.'

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly ceafe to deferve this high appellation, if the laws furnifh no remedy for the violation of a vefted legal right.

If this obloquy is to be caft on the jurifprudence of our country it muft arife from the peculiar character of the cafe.

It behoves us then to enquire whether there be in its compofition any ingredient which fhall exempt it from legal inveftigation, or exclude the injured party from legal redrefs. In purfuing this enquiry the firft queftion which prefents itfelf, is, whether this can be arranged with that clafs of cafes which come under the defcription of *damnum abseque injuria*—a lofs without an injury.

This defcription of cafes never has been confidered, and it is believed, never can be confidered, as comprehending offices of truft, of honor or of profit. The office of juftice of peace in the diftrict of Columbia is fuch an office; it is therefore worthy of the attention and guardianfhip of the laws. It has received that attention and guardianfhip. It has been created by fpecial act of Congrefs, and has been fecured, fo far as the laws can give fecurity to the perfon appointed to fill it, for five years. It is not then on account of the worthleffnefs of the thing purfued, that the injured party can be aledged to be without remedy.

Is it in the nature of the tranfaction? Is the act of delivering or withholding a commiffion to be confidered as a mere political act, belonging to the executive department alone, for the performance of which, entire confidence is placed by our conftitution in the fupreme executive; and for any mifconduct refpecting which, the injured individual has no remedy.

That there may be fuch cafes is not to be queftioned; but that every act of duty, to be performed in any of the great departments of government, conftitutes fuch a cafe, is not to be admitted.

By the act concerning invalids, paffed in June, 1794, vol. 3. p. 112, the Secretary at War is ordered to place, on the penfion lift, all perfons whofe names are contained in a report previoufly made by him to Congrefs. If he fhould refufe to do fo, would the wounded veteran be without remedy? Is it to be contended that where the law in precife terms, directs the performance of an act, in which an individual is interefted, that the law is incapable of fecuring obedience to its mandate? Is it on account of the character of the perfon againft whom the complaint is made? Is it to be contended that the heads of departments are not amenable to the laws of their country?

Whatever the practice on particular occafions may be, the theory of this principle will certainly never be maintained. No act of the legiflature confers fo extraordinary a privilege, nor can it derive countenance from the doctrines of the common law. After ftating that perfonal injury from the king to a fubject is prefumed to be impoffible, Blackftone, vol. 3. page 255, 'but injuries to the rights of property 'can fcarcely be committed by the 'crown without the intervention of its officers; for whom, the law, in matters 'of right, entertains no refpect or delicacy; but furnifhes various methods of 'detecting the errors and mifconduct of 'thofe agents, by whom the king has 'been deceived and induced to do a temporary injuftice.'

By the act paffed in 1796, authorifing the fale of the lands above the mouth of Kentucky river (vol. 3d. p. 299) the purchafer, on paying his purchafe money, becomes completely entitled to the property purchafed; and on producing to the fecretary of ftate, the receipt of the treafurer upon a certificate required by the law, the prefident of the United States is authorifed to grant him a patent. It is further enacted that all patents fhall be counterfigned by the Secretary of ftate, and recorded in his office. If the fecretary of ftate fhould chufe to withhold this patent; or the patent being loft, fhould refufe a copy of it; can it be imagined that the law furnifhes to the injured perfon no remedy?

It is not believed that any perfon whatever would attempt to maintain fuch a propofition.

It follows then that the queftion whether the legality of an act of the head of a department be examinable in court of juftice or not, muft always depend on the nature of that act.

If fome acts be examinable, and others not, there muft be fome rule of law to guide the court in the exercife of its jurifdiction.

In fome inftances there may be difficulty in applying the rule to particular cafes; but there cannot, it is believed be much difficulty in laying down the rule.

(To be Continued.)

Twenty Dollars Reward.

Lost on Thursday afternoon,

A RED MOROCCO POCKET-BOOK,

IN which were feveral Notes of the Bank of Difcount and Depofit, Wafhington, and one twenty dollar Manhattan Bank Note, befides fundry papers, valuable only to the owner. It was loft between the Capitol and the lower Ferry, over the Eaftern branch—The above reward will be given for returning it to its former owner,

THOMAS CARPENTER.

City of Wafhington, March 21, 1803. 3t.

THE ARABIAN HORSE

The DEY of ALGIERS,

WILL ftand this feafon at Mount-Air, near Pifcataway in Maryland, and will cover at Forty Dollars the feafon, and one Dollar to the Groom (commencing the 10th of March, and to end the 1ft of Auguft) the money to be fent with the Mares.

This beautiful animal was brought from Arabia, in the year '98, at four years old, by the late grand Bailiff Fromm of Pruffia, into that kingdom, and was purchafed at the fale of the Bailiff's Stud, after his death, at Fehrbellen in '99 by Lieutenant General Frederick Baron of Diemar, by whom he was fent to Hamburg to Col. Swan, whence he was by that gentleman fhipped to America: to atteft which, and to prove him to be a genuine Arabian horfe, original certificates are in my hands, and may at all times be feen.

The DEY is of full ftature for his race; he meafures exactly fourteen hands two inches and an half. His color is nearly white, with a few brown fpots dafhed over his neck and fhoulders. In figure and bone, it is believed he will ftand the teft of the beft judgment. He is only eight years old the coming Spring. He is of fine prefence and carriage, and remarkably vigorous and active.

I have excellent and extenfive pafturage well fenced, adjoining the ftand, at 50 cents per week. Great care fhall be taken of mares, and every juftice done them with the horfe—but I will be anfwerable for no accidents or efcapes. If gentlemen at a diftance choofe to fend fervants with their mares, they fhall be provided for on reafonable terms

EDWARD EDELIN.

March 21. 1aw8w

In the case of RICHARD WILLSON,

AN INSOLVENT DEBTOR.

IT is ordered that three months from and after the firft day of April next, be limited and appointed for the creditors to bring in and exhibit their claims to the Truftee, and that a copy of this order be publifhed once in each week, until the firft day of July next in the National Intelligencer, and the Wafhington Federalift.

Copy Teft.

URIAH FORREST, Clerk
Of the Circuit Court of the Diftrict of Columbia, for the County of Wafhington.

ALL perfons indebted to the above infolvent debtor, are notified to pay the fame, and all creditors thereto, will exhibit their claims to

THOMAS CARPENTER.
Truftee to the eftate of Richard Willfon.

March 21, 1803.

FOR SALE,

A Blackfmith, who is a prime workman, and his WIFE, an excellent Wafher and Ironer. Enquire of the Printer.

Feb. 21. 3t.

WASHINGTON CITY.

MONDAY, March 21, 1803.

Though two weeks have elapfed fince Congrefs terminated its fittings, much interefting matter remains to be noticed befide that already publifhed. Some of the moft interefting debates of the feffion, including the animated difcuffions in the Senate refpecting the Miffiffippi, will be prefented at an early day, with a number of important ftate papers, the length of which has hitherto prevented their infertion. A complete unbroken detail of the proceedings of the feffion fhall always be given in this paper.

The votes of 13 towns in New-Hampfhire for Governor, give Mr. Gilman 1387—Mr. Langdon 1273. There is the greateft probability that Mr. Gilman is re-elected.

It has long been an important object with the United States to obtain a peace regulation in Portugal admitting our flour into its markets. We have now the pleafure of publifhing official information of fuch regulations on the fubject, for which, it is believed that much credit is due to the judicious reprefentations and ftrenuous exertions of Mr. Jarvis, the American Conful at Lifbon.

It is underftood that a fmall duty is laid on flour; but the difference between that and the tax on wheat in the corn market is computed at 30 cents only more on a barrel of flour than is paid on five bufhels of Wheat.

HAVING carried to the auguft prefence of the Prince Regent, my mafter, the laft office that you directed to me, relative to the introduction of flours coming from the ports of the U. States of America; and H. R. H. wifhing to facilitate as much as can be compatible with the protection with which we promote the culture of this kingdom, and the induftry of our fubjects, the exportation of articles of the product of the territory of the United States of America, in the certainty that the articles of the production of the Portuguefe territory will equally be favored by the United States of America, H. R. H. was pleafed to command to expedite the neceffary orders, that foreign flour may be admitted into this kingdom, paying the duty of forty reis per alquier; which I have the honor to participate to you for your intelligence, and that you may make from this communication the ufe that you think convenient. God guard you.—Palace of Samora, 7th February, 1803.

Your very affured fervant,
(Signed)
D. Joao de Almeida de Mello de Castro.
Mr. W. JARVIS.

The following is the official order, removing the late fevere quarantine regulations impofed in Portugal.

D. Joao de Almeida de Mello de Caftro, offers his compliments to Mr. William Jarvis, and has the fatisfaction to communicate to him, that in confequence of the news received by this Court, his Royal Highnefs the Prince Regent his Mafter, was pleafed to direct the expediting the neceffary orders, that all veffels that may arrive from the ports of the United States of America, fhould be immediately admitted to trade; and a free entry of all the articles they may bring on board; if not any figns appear in their crews and in their bills of health, of any contagious diforder.

Palace of Samora,
February 8th, 1803.

An act has paffed the legiflature of New-York, changing certain provifions of the incorporation of the city of New-York: The moft important alteration is that, which in correfpondence with our political inftitutions, extends the right of fuffrage for aldermen and members of the common council.

Judge Kent, a member of the council of revifion, and a *firm* federalift, *has declared these alterations* UNCONSTITUTIONAL; and has attempted to eftablifh the abfolute inviolability of charters!

The following is a proteft of General Knox, a member of the Maffachufetts legiflature, againft the act incorporating a new Bank in that ftate. Though, in our opinion, the proteft does not take the ftrongeft ground, yet we believe the oppofition to the participation of government in private purfuits is very correct. The fubject claims much attention; and the effects of fuch interferences ought to be fully expofed. Whatever temporary good they may do, it is the conviction of the writer of this article, founded on much reflection, that they are infractive of the characteriftic principles of our polity, and will be productive of great ultimate injury.

PROTEST.

The fubfcriber begs leave to diffent and proteft againft that fection of the act incorporating the Bofton Bank, which makes the Commonwealth partners with a banking company, for the following reafons:—

Ift. Becaufe the meafure tends to impair the confidence, in the impartiality and purity of a republican government. Preferences will be given by the commonwealth to its partners, and the natural confequence will probably follow, that new inftitutions will be frowned upon, and denied, by future legiflatures, on the ground of diminifhing the profits of monopoly of which the commonwealth participates.

2d. Becaufe the meafure difcovers and eftablifhes a fpirit of avarice in the fources of the government. The extenfion of this fpirit muft debafe the elevated tone of patriotifm and vigour of mind, which alone can continue a Republic. It exhibits the defire of obtaining, by a fort of money brokerage, more than 6 per centum intereft, eftablifhed by the laws. Government fhewing this difpofition, will of courfe excite the fame defire in individuals. A character of avarice and ufury thus fixed, will blaft the faireft hopes of freedom, ever opened to the view of the human race.

3d. That a reduction of the intereft of money to *five* or *four* per centum would give animation and vigour to the agriculture, manufactures and commerce of our country. That, on the contrary, the raifing the intereft of money, by eftablifhing a monopoly of banks, by contract with the government, is injurious to the public profperity, and muft inevitably fix imputations, degrading to a free government.

4th. Becaufe the legiflature have impofed on their partners, a fpecies of paper, the principal of which muft remain inert and incapable of ufe and activity, or of transfer, contrary to the true fpirit of banking principles—while this nominal capital appears to encreafe the folidity of the bank, it adds difeafe and debility to its operations. The act of incorporation provides that the bank fhall never owe more than double the amount of its capital ftock, actually exifting in their vaults in gold and filver—if therefore the operations of the gold and filver capital fhall gain more than fix per centum profit, which, confidering the multiplicity of banks, is highly doubtful, the furplus is to be paid to the government, in proportion to the paper they depofit.

H. KNOX.

March 3d, 1802.

A late Vermont paper mentions that general Lewis R. Morris has declined a re-election to Congrefs, and that Amafa Paine will be fupported in his ftead by the federalifts of his diftrict. James Elliot, is the democratic candidate for the fame diftrict.

The following refolutions have paffed the houfe of affembly of New-York, in committee of the whole, relative to electors of Prefident and Vice-Prefident.

Refolved, as the fenfe of this committee, that, by a fair conftruction of the conftitution of the United States, electors of Prefident and Vice-Prefident may be chofen by the people.

Refolved, as the fenfe of this committee, that a committee be appointed to bring in a bill for dividing this ftate into nineteen diftricts, for chufing the electors of Prefident and Vice-Prefident.

Capt. Gardner, of the fhip America, in 30 days from Lifbon, informs us, that on the 10th of February (the day before he failed, a Britifh packet had arrived at Lifbon in 7 days from Falmouth, with intelligence that the French *Senatus Consultum* had refufed to confer on Bonaparte the title of "EMPEROR OF THE GAULS." News had alfo reached Lifbon, that American veffels were excluded from the port of Cadiz in confequence of new regulations in the Spanifh fyftem of quarantine. N. Y. Pa.

By a recent order of General Rochambeau, no veffel under feventy tons burthen will be admitted into the ports of St. Domingo. This regulation has been occafioned, by the detection of feveral fmall veffels being engaged in an unlawful commerce with the brigands.

From the Aurora.

A Report was prevalent yefterday, that New-Orleans had been *opened* by order of the Intendant, about the middle of February. The report appears to have arifen from letters from New-Orleans having been received by a fchooner arrived at this port yefterday from Natchez; we have feen letters to the 15th from New-Orleans which make no mention thereof, and which contain no other information than the price of a few articles of produce. The following order was iffued by the Intendant on the 5th February:—

DON JUAN VENTURA MORALES,
INTENDANT, &c. OF THE PROVINCE OF LOUISIANA.

Conformably to the refolves of the council of finance, held this day, I permit the introduction into this capital of flour, falted meat, and other provifions, brought in flat boats and other veffels from the American fettlements of the Ohio, under the condition, that on the landing of the fame, the duty of fix per cent. as eftablifhed by the royal order of the 24th of April, 1794, relating to faid articles, will be exacted.—And that whatever may not be confumed in the province, will be fubject to the cuftomary duties on exportation which is to be effected folely to Spanifh veffels, and for the foreign ports with which by the exifting royal order, this colony is allowed to trade.—And that this may be made public, I have ordered that copies of the prefent be affixed to the cuftomary places of this city. New-Orleans, February 5th, 1803.

New-York, March 14.

By Captain Seton, of the fhip Betfey, from Leghorn, we have received an official account of feveral Tripoline cruizers, under the command of a renegade by the name of Lifle, being at fea. The following is the letter of the American Conful, addreffed to the Captains of veffels at Leghorn:

"*Leghorn, 24th November*, 1802.

"GENTLEMEN,

"I have this day received official intelligence, that Renegade Lifle, the Tripoline Commodore, was on the 21ft ult. ready for fea, with a fquadron confifting of a Xebeck of 10 guns, one do. of 14 and a Kirlengieti of 14. That on the 9th of faid month, a Xebeck of 14 guns failed on a cruife; and that a Kirlengieti and a Polacre of eighteen guns each and a Xebeck of 16, were alfo ready and preparing for fea. It is conjectured that Lifle, the commodore, with his fquadron, intend to pafs the Streights. He has dreffed his people in fhort blue jackets, overalls, and hats, for a decoy.

"I am refpectfully,
Your obt. humble fervant,
TH: APPLETON, *Consul*."

Paris, Jan. 13.

It is fuppofed *Bonaparte* will declare his fucceffor at the fame time, when he affumes to himfelf the Imperial Title. His Nephew, the fon of his brother Louis, will be named heir to the Empire. His brother Jofeph, with Generals Murat and Muncy, M. Cambaceres, and the Chief Juftice, are to form a Council of Regency. The Prefidents of the Council of State, and a certain number of the Members of the Senate, are to form a college of Princes. The heads of the Dutch, Swifs, and Italian Republics are to be the great officers of the Imperial houfehold. Such are the deftined changes in the government.

TO COUNTRY SUBSCRIBERS.

Subscribers, who have not complied with the fundamental term of this paper, the payment of their annual subscription in advance, are respectfully informed that unless this shall be soon done, the Editor will be under the disagreeable necessity of ceasing to transmit their papers.

NOTICE.

This is to give Notice, that the Subfcribers of Wafhington City, have obtained from the Orphan's Court of Wafhington County, in the Diftrict of Columbia, letters of Adminiftration on the perfonal eftate of JOHN M'CARTY, late of the City and County of Wafhington deceafed—All perfons having claims againft the faid deceafed are hereby warned to exhibit the fame with the vouchers thereof to the fubfcribers, at or before the 26th day of Auguft next, they may otherwife by law be excluded from all benefit of the faid eftate.

Given under our hands this 24th day of February A. D. 1803.

REDMOND BARRY, }
MICHAEL SCOTT. } Adm

N. B. Such perfons who have in their poffeffion, books or other property of the deceafed will pleafe to deliver them to the adminiftrators without delay.

R. B.
M. S.

taw3w.

FOR SALE.

A TRAT of Land on Aquia Creek in the County of Stafford and ftate of Virginia, containing 105 acres—it joins Mr. Daniel C. Brent's Richland tract, is one mile from Potomac river, 12 from Fredericfburg, and 48 from the City of Wafhington. The Land is level and the foil of a good quality, it is uncommonly well adapted to the growth of wheat and Indian corn, it has on it an overfeer's houfe, a good barn and fome other fmall houfes, a good apple orchard, a ftone quarry on the bank of the creek from which ftone may be conveyed to market at lefs expence than from any other in that part of the country; eight or ten acres of valuable meadow land, and feveral of the beft fifhing fhores on that creek, one of which, and four acres of land are rented for 22 pounds per annum. On the oppofite fide of the creek are large banks of the richeft fhell marl, by which the whole of this land might with little expence, be rendered very fertile it being nearly furrounded by the creek—the marl might be carried in boats to almoft any part of it. The tract is fuppofed to have a fufficiency of timber on it, but fhould the purchafer wifh it, he may be fupplied with any quantity of the proprietor's wood land on the oppofite fide of the creek, not exceeding fifty acres at a moderate price. The facility of conveying produce to Alexandria and the City of Wafhington from this farm muft render it an advantageous poffeffion to any perfon refiding in either. For terms apply to Mr. PHINEAS JANNEY of Alexandria or to the editor of this paper.

Feb. 28. 2aw3w.

There is due for your subscription dollars cents from to

and there will be due on dollars cents in advance from to