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AND

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FIVE DOLLS. PER ANN. | FRIDAY, MAY 13, 1803. | *PAID IN ADVANCE.*

The fubfcriber has for fale,

A QUANTITY OF

Claret in bottles, | Jamaica Spirits,
Anchovies in boxes, | Whifky in barrels,
Capers in ditto, | New-England cheefe,
Olives in ditto, | Imperial Tea in chefts,
Olive Oil in ditto, | Butter in Firkins,
Sugar in hhds, & bls | &c. &c.

WILLIAM BRENT.

Wafhington, May 11. tf

Carpenters and Labourers Wanted.

Wanted to work on the Bridge over the eaftern Branch of Potomak, a number of rough Capenters, alfo a number of labourers by the month, to whom employment will be given during the whole of the fummer. Their wages will be paid monthly, and the beft prices will be given. Application to be made to the Subfcriber.

WILLIAM BRENT.

Treasurer of the Eastern Branch Bridge Company *April 18th. ep 3w.*

FOR SALE OR RENT,

THAT elegant three ftory BRICK HOUSE on the corner of Falls & Frederick ftreet in George Town, lately occupied by Mr. PICHON.

Likewife,

THE two well finifhed three ftory BRICK HOUSES, adjoining that occupied by MR. SAMUEL H. SMITH, Printer, on the Pennfylvania Avenue, eaft of the centre Market Houfe, City of Wafhington—Apply to

GEORGE THOMPSON,
George Town.

Geo. Town, Oct. 20. tf.

THOMAS CARPENTER, TAYLOR.

HAS Juft received by recent arrivals at Philadelphia, from England, and the Eaft Indies, a handfome affortment of SPRING and SUMMER GOODS, of the beft quality, alfo Patent water proof Cloth's and Caffimere's, fuperior NAVY BLUE and other colours; handfome NAVY & FASHIONABLE BUTTONS, &c,

Gentlemen of ARMY, NAVY and FASHION ferved with expedition and tafte.

New Jerfey Avenue, feventh houfe from Capitol Square and Pennfylvania Avenue near the Prefident's fquare.

April 13 1803. tf.

TO LET,

And be entered upon immediately, three well finished BRICK HOUSES,

NEARLY oppofite Morin's Tavern, on Twelfth ftreet very near Pennfylvania Avenue, built for the WASHINGTON BUILDING COMPANY.

The Houfes will be rented on very reafonble terms.

Apply to THOMAS CARPENTER near the Prefident's Square. eptf.

Dec. 1ft.

Plank & fcantling for cash.

Wanted for the Eastern Branch bridge, a quantity of the best HEART YELLOW PINE plank and scantling, viz.

2000 feet running, of 5 by 6 inches in lengths of 5 f. 3 inch.—10 f. 6 inch —15 9 inch. or 21 feet.

3400 feet running of 5 by 6 inch. in lengths, from 17 f. 6 inch. to 26 f. 6 inch.

3250 feet runing of 2 inch plank 8 inch. wide and 4250 feet running of 4 by 4 inch. in lengths of 8 f. 6.—17 f. 0 inch. or 25 6 inch. as moft convenient.

Alfo 50,000 feet 4 inch plank in 17 feet lengths.

The whole muft be found and entire heart —Apply fpeedily to

WILLIAM BRENT.

Treasurer to the Eastern Branch bridge company.

Capitol Hill May 4 1803. ep2w.

To be sold positively at public sale, on Tuesday the 26 of May, on the premises.

THE Subfcriber's life-eftate in the Walnut Tree Farm, fituate on the river Potomac, about 4 miles below Alexandria. The farm confifts of about 360 acres. The buildings and improvements very good, and the fifhery attached to it very valuable.

Alfo will be fold at the fame time and place, a number of horfes, cattle, and fheep, and a variety of farming utenfils as well as a quantity of houfehold furniture, confifting of mahogany tables, bureaus, bedftead, chairs &c.

The terms cafh, for all fums under one hundred dollars; and for all fums above, approved notes negociable in the banks of Alexandria or Columbia, at 60 and 90 days.

TOBIAS LEAR.

May 4, 1803. ep24M.

CHARLES VARDEN,

TAYLOR,

FROM PHILADELPHIA.

HAS received from Philadelphia an elegant affortment of the beft quality Superfine Cloths, Caffimeres, Silk florintine, Black and fancy filk moleskin velvet, white & figured Marfelles, Swandowns, Toilinettes, Velvetteens, Fancy cords, Coating, &c.

With a variety of other articles fuitable for the winter feafon.

N. B. Ladies Habits, Regimentals and Navy uniforms made in the firft ftyle of fafhion.

New-Jerfey Avenue, the fecond Houfe from the Capitol Square.

December 8, 1802. tf.

PARIS, Feb. 21.

ACT OF MEDIATION

Made by the Firft Conful of the French republic, between the parties which divide Switzerland.

7. Each commiffion fhall affemble on the 10th of March, at the chief place of the canton, and notify its affembling immediately to the prefect.

8. Within 24 hours after that Notification, the prefect fhall tranfmit to the commiffion, the papers of adminiftration.

9. In thofe cafes which may require inftructions, or fpecial authorities, the commiffions fhall addrefs themfelves to the Landamman of Switzerland.

10. On the 15th of April the conftitution fhall be put into a ftate of activity, in order that on the 1ft of June each canton may elect its deputies to the Diet, and prepare their inftructions, and on the firft Monday in July, in the prefent year the Diet fhall affemble.

11. The affairs pending before the fupreme tribunal fhall be carried to the tribunal of appeal of the Canton in which the parties refide. The fupreme tribunal fhall ceafe all its functions on the 10th of March.

12. The Helvetic troops, at prefent in the pay of Switzerland, who fhall not be employed by the firft of May by the cantons, fhall be taken into the fervice of France.

13. No profecution fhall be carried on for crimes relating to the revolution, committed, or pretended to be committed, either by individuals, or in the exercife of any public function.

The diffolution of the central government, and the reinftatement of the fovereignty in the Cantons, requires that there fhould be a provifion made for the difcharge of the Helvetic debt, and of the difpofal of the property declared national.

We, in our faid quality, and with the referve before expreffed, appoint as follows—

Art. 1. The property heretofore belonging to the convents fhall be reftored to them, not only the property fituated in the fame canton but alfo in any other.

2. The adminiftration of national property other than that heretofore belonging to Berne, in the cantons of Vaud and Argovia, is proviforily tranfmitted to the Cantons to which it belonged. The documents refpecting the claims of Berne, fhall be provifiorily tranfmitted to thofe commiffioners appointed by the Cantons of Berne, Vaud, and Argovia.

3. In each Canton burdened with debts anterior to the revolution, there fhall be affigned funds for their funding or difcharge out of what remains of the property heretofore belonging to the Canton.

4. There fhall be re-conftituted for each city a revenue proportioned to its municipal expences.

5. The national debt fhall be liquidated, to which purpofe all claims fhall be appropriated. If the debt exceeds the amount of the credit, the excefs fhall be divided amongft the Cantons, in a proportion according to what remains of their ci-devant immoveable property, after the difcharge of the Cantonal debts anterior to the revolution, and the recompofition of the patrimony of the cities.

6. The moveable and immoveable property which fhall remain after the formation of the communal funds, the difcharge of the Cantonal and national debts, fhall return to the poffeffion of thofe Cantons to which it had belonged. The property which fhall remain in the Cantons of Vaud and Argovia fhall belong to them. What may remain of the claims of Berne, fhall be equally diftributed amongft the Cantons of Berne, Vaud and Argovia.

7. A commiffion compofed of five members, namely, the citizens Stapfer, minifter of the Republic Kufter, ex-minifter of the finances, Raemy, ci-devant chancellor of Fribourg, and at prefent member of the adminiftrative chamber, Sutzer, of Winterthur, Helvetic deputy, Laurent, mayor of Lucerne, prefident of the adminitrative chamber, fhall determine the extent of the wants of the municipalities, and of the funds neceffary for re-conftituting their revenues, fhall liquidate the debts of the canton and the national debt, fhall affign to each debt the funds neceffary to operate its difcharge, and fhall determine the property which fhall return into the poffeffion of each canton.

8. It fhall publifh the refult of its labors with refpect to the debts on the 10th of May, and with refpect to the revenues of the cities and the patrimony of the cantons on the 10th of June: It fhall fend the refult of each labour to the firft Landamman of Switzerland, & to each canton, for the purpofe of being carried into execution.

9. The commiffion fhall affemble at the chief place of the Directorial canton, and fhall remain there till the end of its labours.

The prefent act, the refult of long conferences, between wife men and friends of virtue, appears to us to contain thofe difpofitions which are moft proper to enfure the peace and happinefs of Switzerland. As foon as they fhall be executed the French troops fhall be withdrawn.

We recognize Helvetia, conftituted conformably to the prefent act, as an independent power.

We guarantee the federal conftitution and that of each canton, againft the enemies of the tranquility of Helvetia, whomfoever they may be, and we promife to continue thofe relations of beneficence which for fo many ages have united the two nations.

Made and done at Paris, 19th Feb. 1803.

(Signed) BONAPARTE.
The Secretary of State.
(Signed) HUGUES B. MARET.
The Minifter for Foreign Affairs.
(Signed) C. M. TALLERAND.
The Minifter for Foreign Affairs of the Italian Republic.
(Signed) J. MARESCALCHI.

The prefent act has been tranfmitted by the fenators commiffioners underfigned, to the ten Swifs deputies underfigned, at Paris, 19th Feb. 1803.

(Signed)	Signed)
Barthelemy	*Louis D'Affry,*
Roederer,	*Pierre Glutz,*
Fouche,	*Emmanuel Jauch,*
Demeunier,	*H. Monnot,*
	Reinhard,
	Sprecher Bernys,
	P. A. Stapfer,
	Paul Ustery,
	R. De Watterville, de Montbenay.
	Y. Von Flue.

From the VIRGINIA ARGUS.

The mandamus in the supreme court.

To the Chief Juftice of the United States.

No. V.

The opinion. ftates that " the commiffion being figned, the fubfequent duty of the Secretary of State is prefcribed by law, and not by the will of the Prefident. He is to affix the feal of the United States and to record it."

It is true that " the fubfequent duty of the fecretary is prefcribed by law," but the fame authority that prefcribed this duty gave the Prefident a controuling power, in the conftruction of that duty. For by the act of Congrefs, conftituting the department of foreign affairs, (afterwards tranflated into the department of ftate,) the Secretary is directed to conduct the bufinefs of his department " in fuch manner as the Prefident of the United States, fhall from time to time order or inftruct."

I will bring the cafe to your own door. The duties of your circuit clerks are prefcribed by law. Many of them are directed to be performed in vacation, when no court exifts to controul them. Yet, fir, is it not known to be the eftablifhed and legitimate practice, for you to controul and correct them? Was the power to quafh his writs and executions every doubted?

Again, the report fays, " When they are figned and fealed, the order for their being recorded is given, and whether inferted in the book or not they are in law recorded." [Cannot the fame legal magic that records, tranfmit the commiffion?] The law orders your clerk to record your judgments when pronounced. From that moment then they are in law recorded. Now, fir, you know that " whether inferted in the book or not," you have, and all courts exercife unqueftionable power to unrecord them at difcretion, at any time before they become operative, and that even if execution be, for fpecial reafons, iffued during the term, you may for good caufe fuperfede it.

There is no ftatute authorifing this, but it refults neceffarily from the relation between principal and clerk. " Secretary" is only another name for " clerk;" they equally imply fubordination and fubjection of office. The only difference betwen the law of clerks, is, that the former is fubjected to the will of his fuperior, by ftatute and implication, both, and the latter by implication only. The reafon, of the various ftatutory directions to the clerks and Secretary, and not to the courts and Prefident to be by them given over, was, that the former might not be obliged to harrafs the latter upon every petty occafion of duty for a fpecial order, as a previous warrant to the act. The province of the higher powers are to devife, and that of the inftruments to execute. If the executing agent was not under the revifion of the devifing power, the agent might become fuperior to the principal by thwarting his meafures in the execution at pleafure.

If the law fhould prefcribe a duty on the Secretary, wholly, unconnected with an executive act (chufing rather to err in favour of your reputed judgement than againft it,) I am not prepared to fay, that the Prefident could regulate his conduct notwithftanding the generality of the words of the act conftituting the department of foreign affairs. Of this nature are the duties marked out by the acts of Congrefs cited in the report. They are cafes no way appofite to the one in queftion; where the fealing and recording were incidental to an executive duty.

But it might be fafely admitted, that the fealing and recording of the commiffion were every way independent of the Prefident's will.

The report fuppofes the duties of the Secretary, in fealing and recording, not to be guided by the will of the Prefident, becaufe they are prefcribed by law. The implication is, that if they were not prefcribed by law, they would be fubject to the will of the Prefident. All duties then not prefcribed by law, are fubject to the will of the Prefident, by the admiffion of the report. [The ftatute, as I have fhewn, makes every duty fubject to that will without exception Let the ftatute, though be relaxed to quadrate with the opinion reported.] It is exprefsly admitted that as to the delivery of the commiffion fought after by the rule, " the acts are filents." This is not a duty of the Secretary then prefcribed by law, and cannot come within the limits of the exception faid to be taken by the court. The retention or delivery therefore forms a part of the bufinefs that muft be conducted in the words of the act, " in fuch manner as the Prefident of the United States fhall from time to time order or inftruct."

The favorite idea throughout the report is, that there is more danger in trufting the Prefident than his Secretary. A herefy in the theory of government, difarmed of its terrors by nothing but its extravagance.

But let the Secretary have the fuperiority, and fuppofe an obfcure individual to execute an inftrument, merely conferring a power on a perfon with whom no contract had been made, and that the law fhould enjoin the Secretary of State to record it without more. Who would have the right to the original, the Secretary?

Thus, fir, on every principle, and in all the colors that Cameleon forcery can turn the fubject, you are by the report, (not by me) made " to intrude into the cabinet, and to intermeddle with the prerogative of the executive," even at the moment you were exploding the right.

LITTLETON.

No. VI.

It is true, fir, that fome point of time muft be taken when the power of the executive over an officer, not removable at his will, muft ceafe.

There are four points of time to be confidered.

1ft. On the appointment.

2nd. On the figning of the commiffion.

3rd. On the delivering of the commiffion, and

4th. On the qualification.

The report fays, " that point of time muft be when the conftitutional power of appointment has been exercifed; and this power has been exercifed when the laft act required from the perfon poffeffing the power has been performed. This laft act is the fignature of the commiffion."

The courts are formed to give judgments. The law directs the prefiding judge to fign the judgments of each day.

Now fuppofe the enquiry to be as to " the point of time when your power over a caufe fhould ceafe." And fuppofe I were to venture in the language of the opinion thus: " that point of time muft be when the conftitutional power of judging has been exercifed; and this power has been exercifed when the laft act required from the perfon poffeffing the power has been performed. This laft act is the fignature of the judgment."

If I were fo to force your patience, you would probably commit me for ftupidity, and have my licence revoked. It is every day's practice to erafe, alter, change and refcind judgments fo figned " for reafons appearing to the court" within the term.

In the 21ft paragraph of the report, the appointment is, by labored argument, eftablifhed to be an act entirely diftinct from the commiffion. The latter is taken to be mere evidence of the former. The act of appointment muft precede the evidence of it; confequently " the conftitutional power of appointment is exercifed" and muft of courfe, according to the firft propofition of the recited paffage be determined before the commiffion is fairly thought of. If the appointment confifts in an act of volition (and it muft confift in volition, if the commiffion be not a conftituent part of it) the very firft prefidential refolve concludes him forever. In vain may he then difcover that he has been foully deceived, and that the meditated promotion will bring imbecility, vice, or even treafon into the bofom of the ftate. " The time for deliberation is then paffed. He has decided. His judgment on the advice and confent of the fenate, concurring with his nomination, has been made, and the officer is appointed!"*

The firft propofition of the fentence tranfcribed at the head of this number, has taken its ftand againft the two that follow after; and thofe two have arrayed themfelves, within the lifts, for a trial of ftrength with the propofition feparating the act of appointment from its evidence. Let us continue to look on upon this tournament of propofitions. They are, to be fure, of the clumfy, booby fort, feemingly in competition for which fhould do the worft; but it really is for which fhall do the beft. Amufement in the ludicrous will afford us fome comfortable refpite, and the gratification of an idle curiofity cannot offend.

If the prefident's power ceafes immediately on the appointment, or awaits the evidence of it only, principle would acknowledge the former. The prefident might in the lack of evidence of the difpofition of power, cheat the country into a refumption of it; but that refumption would be as illegal and difhoneft without evidence, as with it. It may fuit the morality of one habituated to jefuitifm, with mifchief in his heart and moderation on his tongue, to meafure the rectitude of his actions by the evidence furnifhed for their inveftigation. But the firft magiftrate of a great empire is not to become a jogler in prerogative, or a privileged prowler in fraud and turpitude.

So the firft propofition out-tilts all the reft.

In the report the point of time, on the delivery of the commiffion for the Prefident's power to ceafe, is adverted to. It makes you fay " It has been delivered " when executed, and given to the fe- " cretary for the purpofe of being fealed " recorded *and transmitted to the party*." The witches of Yore could cut capers thro' key-holes, yet their craft was fure to defert them, when encountered by the executioner's arm. But the wand of fiction is imbued with a fubtility that never fails to elude the moft alert and deadly of its foes. It touches its tallifman, law, nature and reafon are paralyfed in the enchantment. When I afked in the laft number, whether the fame legal magic that recorded, without hand, pen or paper, could not complete the work, by tranfmitting the commiffion,

* 29 para. of the report.