it was not ex-[illegible] and that I should be answered so soon.

The application of the last sentence under inverted commas, to the question in debate, was left for others to make. The language used is studiously equivocal. Was the commission delivered to the secretary "to be transmitted to the party?" If it was, that delivery to the secretary, is said by the report to have been a delivery to the party. Wherefore, then, all this bother about the non delivery of the commission? Was the mandamus to do that which had been done? If the commission was not delivered "to be transmitted to the party," it must be admitted that there was no act of delivery to the party. Whether it was delivered *so to be transmitted* or not, is not determined but by insinuation. Give the insinuation the force of assertion, and the assertion, the authority of proof. A delivery then to the secretary to be transmitted to the individual, is an irrevocable delivery to the latter. How irrevocable, if the secretary acts in agency of the president? Every principal may supersede his agent or annul his powers before execution. The president may depose his secretary and do his business, or confer the office anew.

But if the secretary is not the president's agent of Wm. Marbury, so as to make a delivery to the agent a delivery to *that* principal, the rule was entitled wrong. It should have been against "James Madison, attorney in fact for Wm. Marbury," and not against "James Madison, secretary of state for the United States."

LITTLETON.

No. VII.

IN *general* the creature is dependent on the creator. The President creates officers, and thence has the attendant power of destroying them. Neither the constitution or the statutes directly confer the displacing power, but it results from his right of appointment. If the person appointed has gone into the occupancy of office, a motion is necessary—if he has not gone into the occupancy, nothing more is required than to annul the appointment or commission. This is the theory conformed to in the practice of the Washington and Adams administrations to the satisfaction of all parties.

This resulting power of removing from office would be here, as it was formerly in England universal over the officers of the executive appointment, not excepting those of a judicial nature, had not the law itself interposed such exception. The Columbia act of 1801 provides for the continuance of the justices in office for five years. This forms a restraint on the President's power, but the restraint on it must be limited by the terms imposing it. There must be no interruption to the continuance of the men in office. Until the officer elect begins in his office he cannot *continue* in office—until that beginning in office [which can never be until his qualification] the inherent powers over the appointment and commission must remain.

No law is found to limit the President's authority further. And on the same principles, and for the same reasons that he can revoke the commission of any ministerial appointment, he can revoke one in the judiciary before qualification. Till then the person commissioned is not an officer, and it is nicknaming him to call him one. The tenure of the judge's office is consecrated to secure his independence in the performance of official acts in general, and particularly to prevent a prostration of office to Executive influence. But until there is an investiture of office it cannot be either dependent or prostrated.

To declare the tenure of office a safeguard to that which was not commensurate with the office, is a solecism offensive to common sense.

If the President has not his inherent power over a judicial commission till complete induction into office;—if he is not to be allowed, as in other cases till this period to probe and correct his own errors;—of all the appointments to be made by him, those in the judiciary (where it is of treble importance to have the best election) are likely to be the worst. Until the appointment is divulged, there is no certainty of correct information in the cabinet respecting the qualities of the candidate. When it is promulgated, enquiry is excited—the moral and intellectual character is investigated, and if the President finds that he was upon the brink of filling a great law office with a sot or a beast, he may (as it is said Mr. Adams did in the case of one of the applicants) run his pen through the name of the person in whom he had been deceived.

If this were not the law, woefully improvident would the makers of the federal constitution have been. They would have left it in the power of any three men commissioned as judges of your court to suspend its functions for their lives without responsibility. Of anti-federal principles, they might choose to put their commissions in their pockets, and obstinately persevere in neither accepting or rejecting. The applicant himself has neither accepted or rejected. Remember, that the opinion affirms his appointment to have been complete and irrevocable—that whether his commission was inserted in the book or not it was in law recorded—that a copy of that record, if the original never came to hand, would be evidence of the appointment. That his title to the original or copy was complete—that livery was not necessary to the appointment, and it is insinuated that if livery were necessary it was made. Marbury is made to have been an officer complete for more than two years without accepting or rejecting, and his right yet to accept or reject is maintained. If the election in this acceptance or refusal can last for 2 years, it may last for an age, in the case of a judge. Thus the supreme court might be without a quorum of judges and the holders of the commissions no way liable to impeachment or amenable to the laws, while the qualified judges would be in sinecures.

CONCLUSION.

The opinion is reported to have drawn to a focus, in 'This is then a plain case for a mandamus;' and again, that there was a violation of the applicant's right 'for which the laws of his country afforded him a remedy.'

The process of the circuit courts cannot run into the district of Columbia. The county court of Washington is the only court of original jurisdiction there. The acts of the Executive government are then subject to the scrutiny and controul of this little pipowder court. The idea is too ridiculous to excite alarm, disgust or even merriment.

LITTLETON.

FIRST LEGION.

ATTENTION!

AT a Legionary Court of Enquiry, held on the 15th day of March last, in obedience to a law passed at the last session of Congress, intituled, "An act more effectually to provide for the organization of the Militia of the District of Columbia," ordered that the following be the Uniform to be worn by all non-commissioned officers and privates belonging to the battalion companies of the first Legion while on duty, viz. A DARK BLUE COAT of ordinary length, WHITE VEST, WHITE BREECHES and WHITE STOCKINGS, or WHITE PANTALOONS and WHITE STOCKINGS or WHITE OVERALLS, with SHOES and ROUND BLACK HAT: which Uniform having been approved by the Brigadier General, is now published by order of the said court.

Wm. D. BEALL, Clerk of L. C. E.

Sec. 27. And be it further enacted, That all non commissioned officers and privates, belonging to battalion companies, shall appear while on duty, uniformly clothed, the color and fashion of which uniforms to be determined on for the respective legions, by the first legionary courts of enquiry which shall be held, and to be approved of by the Brigadier General; provided the expence of the same, additional to that of usual, ordinary, and cheap clothing, does not exceed five dollars for each person, and every such non-commissioned officer, or drummer, or fifer, or private, appearing at any muster held after three months from the time that such uniform shall have been determined on, and the order relative thereto shall have been published in some newspaper within the legionary district, and not wearing the same, shall be fined five dollars for each offence, unless he can make it appear to the satisfaction of the court of enquiry of the battalion to which he may belong, that he was unable to equip himself.

WASHINGTON THEATRE.

The Subscribers to the THEATRE are requested, according to a resolution of the Theatre Committee, to pay the first instalment of their subscription money (being one fifth or ten dollars on each share,) into the hands of John P. Van Ness, by the tenth inst.—Punctuality is expected.

PROPOSALS,

Will be received until the 15th inst. for supplying all the materials, necessary for building the Theatre—They must be sealed and directed to Major *John P. Van Ness*, who will receive them and give information to applicants for contracts of the quantities of each article necessary for carrying on the plan.

THE subscriber informs his friends and the public at large, that he intends commencing the practice of Medicine, and has situated himself on Pennsylvania Avenue opposite Mr. Duane's book store, where a constant attendance will be given, and every attention paid to those whose cases may be committed to his care.

JOHN WILLIS.

Washington May 4.

ep6t.

All persons having claims or demands of any nature against the subscriber, are requested to exhibit their accounts, without delay, to JOHN HEWIT or RICHARD FORREST, Esqrs. of the city of Washington, who are authorised, in my name, to adjust and settle the same; and all persons indebted to me are requested to make payment to either of the gentlemen above named.

SAMUEL BLODGET.

March 30. tf

WANTED,

One or two Boys to learn the BOOT and SHOE-MAKING Business.—Apply to *JOHN CROOKSHANK.*

George-Town, Jan. 19, 1803. tf.

WASHINGTON CITY.

FRIDAY, MAY 13.

In the Philadelphia Gazette of the 9th inst. there is detailed a statement of intelligence from the Mediterranean in relation to our situation with the Barbary powers, which contains a mixture of truth and error.

The following contents of letters received from Algiers, as late as the 21st of February, exhibit, we believe, the most authentic information.

The specie sent by the government of the United States to the Dey of Algiers had been rejected by him, and naval stores demanded, conformably to our stipulations. The Dey threatened that unless this request was complied with war would be declared against the United States.

We understand that the Dey possesses the right of demanding stores: and that in consequence of the requisition effectual measures have been taken by the government to furnish them.

On the 9th of January the Dey declared war against France and Denmark, and ordered the consuls of those nations to depart from Algiers; but on the next day intimated to them that they might remain for some time. The Dey, at the same time, revoked the pacific arrangements made with France in August last, and demanded consular presents and two hundred thousand dollars. In consequence of these measures all the French merchants had left the Regency.

In July the Dey demanded one hundred thousand dollars, as an extraordinary present, from Denmark, who applied to Bonaparte, who instructed the French agent to interpose, at which the Dey was extremely indignant. A commodore from Denmark was expected at Algiers, and it was supposed that the claim of the Dey, would in part, be complied with.

Half of the sum stipulated to be paid by Spain had arrived; and the remainder was expected, with an additional present of 40,000 dollars. In addition to this, the Dey demands a ship of war to go on his affairs up the Levant, and forty brass cannon.

One hundred and forty five thousand dollars is demanded of Great Britain for runaway slaves, without renouncing an old claim for 187,000 dollars.

On the 30th of January the corsairs were all in port.

On the 21st of February there arrived at Algiers a Spanish frigate, and consul, with presents to the value of 55,000 dollars, and specie to the amount of 100,000 dollars.

Two corsairs were expected to sail on the 22d of February.

[From the above statement it appears that the United States are comparatively well treated by the Dey; and that there is reason to expect that either from motives of respect or fear he will refrain from disturbing our peace.]

It is with much pleasure we announce the commencement yesterday of the erection of the BRIDGE *over the* EASTERN BRANCH, under the superintendance of *Timothy Palmer* of Newbury Port. It is contemplated to complete it in October next.

The following awkward attempt at wit of a federal print exhibits the deplorably depressed state of federalism in the state of New-York, where, we have been very lately told, the sun of federalism was rising!

'*John Taylor*, Esq. is elected a senator for the eastern district, and colonel *Broome* for the southern. '*Par nobile fratrum.*' When the whole senate being purely democratic, meet, they will not only constitutionally but truly constitute 'a court of errors.'

We insert from the Aurora a well merited eulogium on general STEVENS THOMPSON MASON, whose untimely death every patriot will mourn. The tribute to his talents is not unmeaning common place, but characteristic delineation. The loss which the people of America sustain is great; but that loss will be mitigated by a recollection and imitation of his virtues. Those virtues, and the good they effected, demand the pen of one who, feeling as he felt, and thinking as he thought, in the important concerns of public life, shall be able to raise a monument to his memory founded on the imperishable patriotism of his countrymen.

Our illustrious citizens are leaving the scene; and it is to be feared that owing to the supineness of biography posterity will learn little beyond the outlines of their character; whereas their services, while they present to genius the best subjects for description, demand a full and faithful detail—Let us hope to receive before long a copious biography of the subject of these remarks.

Ludicrous Federal mistake.

The Frederick town Herald, a federal print, after giving the debate in the House of Representatives on Mr. Griswold's resolution respecting the report of the commissioners of the sinking fund, observes:

"We cannot close these remarks, without paying a tribute of justice to Mr. Bronson, one of the Editors of the *Gazette of the United States*, to whom the public are indebted, for this report of the debate on Mr. Griswold's resolution. The precision and correctness, with which the different *calculations* are reported, and the clearness and force with which the arguments, on this complicated subject, are stated, exhibit at once the accuracy and attention of the reporter, and the knowledge and judgment of the politician."

Now it happens, unfortunately, for the subject of this eulogium that he was not present during the debate. The Editor of the National Intelligencer was the only reporter in the House.

MILITIA OF COLUMBIA.

On Saturday last the 1st Battalion (consisting of four companies of Infantry, Capt. Brent's company of Horse and Capt. Patterson's company of artillery) of the 1st. Legion of the Militia of the District of Columbia, commanded by *Major Van Ness*, underwent a review of inspection agreeably to the law of the United States for their organization.

After the inspection was gone through by *Major Wingate*, the Inspector, accompanied by *Major Van Ness*—The troops were formed into Platoons and, after having marched by the President's house (where they had the honor of saluting him, accompanied by the heads of departments, and several other gentlemen) through the most pleasant parts of the City, they returned to the Field of Parade—The manner in which the various operations of the day were conducted was honorable to the officers and men: and it was gratifying to a crowd of spectators, to witness their improvement in discipline and appearance. It was with great pleasure that upon this occasion we saw many of our most wealthy and respectable citizens in the ranks, armed and equipped as the law directs.

The Weather.

We have recently experienced for several days an unprecedented coldness of weather; having had the uncommon spectacle of a fall of snow in May, and ice of considerable thickness having been formed for several successive nights—The same weather appears from the following statement to have occurred at a considerable distance.

Philadelphia, May 9.

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, of 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 fourth of May, in the year 1771 or 1772, which destroyed the greater part of the early fruit.

New-York, May 9.

The cold for some days past has been uncommonly severe fore the season. At Greenwich, in the neighborhood of the state Prison, on Friday evening, ice was found a quarter of an inch thick; and yesterday morning we had a very severe storm of hail, rain and snow—a circumstance hardly ever remembered to have occurred in this city in the month of May.

For the National Intelligencer.

Mr. Smith,

In addition to the information lately given by the Spanish Minister to our Government, that the King of Spain had transmitted orders for the immediate restoration of our right of deposit at New-Orleans, I have had the satisfaction to learn, from an authentic and undoubted source, that our government was at the same time assured, *that all our rights under the Spanish treaty were secured to us in the cession of Louisiana to France.* When to this it is added, that the public have been informed, though not officially, that France recognizes our rights under that treaty, who can doubt the policy, the wisdom and the justice of the present administration, or who can doubt the madness, if not the iniquity of the leaders of opposition, in their attempts to drive us into a war with France and Spain? For such must have been the consequence of our seizing upon New-Orleans. The latter would have taken arms for the purpose of putting France into possession of Louisiana agreeably to the treaty of cession, and the former, proud of her victories to avenge the insult offered to her by our usurpation of a right which she had acquired under that cession.

The time has now arrived in which the citizens of this country must appreciate the foresight and the conciliatory disposition of our executive.

France and England, if they have not already entered the lists of contention, are on the eve of a recommencement of hostilities. How far the ravages of their mutual enmity may extend, or how long the flames of this new conflict will continue to desolate the world, time only can determine. It is very happy for us that the present administration of our government did not think the unauthorized act of a subordinate officer of the crown of Spain, was sufficient reason for the declaration of war. For had they unwisely adopted the measures recommended by the opposition, we should now be involved in an European contest, a long and bloody war with France and Spain, would have been the result. We might now be driven to the necessity of forming an alliance offensive with Great Britain. She would have have been our ally: we must have submitted to be governed by her destinies, and bled at every pore to gratify her ambition.

Such a connection with Great Britain was undoubtedly foreseen by the opposition. They perceived that an act of hostility on our part against Spain, would be a prelude to a rupture between France and England, and would most likely accelerate that event. Our aid in the contest would not have shortened its duration—And we, who ought to despise the sanguinary policy of other governments, should have helped to swell the tide of human misery, and prolong the period of its existence. But by the wisdom of the administration we have manifested to the world that "*peace*," is the motto of our national character. We can now stand aloof from the scene of controversy, and behold with calmness the breaking of the tempest. Standing on the high ground of neutrality, we can derive to ourselves all the benefits of the war without feeling its calamities. If our object be the acquisition of territory on the Mississippi for the purpose of securing a deposit for the produce of the western country, we have now an opportunity of negociating with effect. France, to whom the right of possessing Louisiana now belongs, will probably be willing to dispose of an unproductive part of her territory for a pecuniary consideration. She will be immediately benefited by the negociation, and we shall acquire a place of deposit free from foreign control, without the necessity of sacrificing the lives of our citizens, and without imposing upon them any additional burdens. But should this not be the case, we have reason to felicitate ourselves, that we have already acquired by a pacific policy, what, perhaps we should not have obtained by the expenditure of millions, and by years of hostility and bloodshed. Every ground, upon which the opposition attempted to urge us into a war, is removed. That the act of the Intendant was unauthorized by the crown of Spain, is proved by the immediate orders which were issued by the Spanish King for the restitution of our right of deposit. That France will not disturb us in the enjoyment of that right is manifested by the terms under which she accepts of the cession of Louisiana, and by her own acknowledgment that she is bound by the treaty between us and Spain.

CURTIUS.

CONSULATE OF SPAIN,

Baltimore, May 9, 1803.

THE undersigned, his catholic majesty's consul for the state of Maryland, hereby gives public notice to those whom it may concern, that, agreeably to a royal Tortosa, the nineteenth November, 1802, and officially transmitted to him, Consular certificates will be required in all the custom houses in the kingdom of Spain, proving the exportation and origin of all foreign produce or merchandize intended to be imported in any of the ports thereof: These certificates to be given by his majesty's consuls residing in the respective provinces or departments to whose district the articles of produce or goods so certified shall have belonged: or, by those residing at the ports of exportation; with this absolute condition, that for each separate article and owner, a certificate must be produced, specifying the number of packages or chests therein contained; and separate certificates will be required, according to the diversity of the articles, of the marks of the packages, chests and owners; and in every instance of contravening this royal order, the goods shall be confiscated.

J. B. BERNABEAU.

May 10.

From the Aurora.

The Attorney General of the United States.

Many topics have been used to depreciate the professional abilites of Levi Lincoln, Esq. the Attorney General of the United States. Among these, the remarks upon [illegible] opinion on the subject