The petition of Benjamin Emmons as agent of sixty associates in Vermont, praying for a grant of land in Louisiana, for settlement, which was postponed at the last session, was called up.

Mr. Elliot moved its reference to a select committee.

Mr. Nicholson thought it ought to go to the committee appointed on that part of the President's message which relates to the amelioration of the government of Louisiana, and asked if such a motion would be in order?

The Speaker said that both committees must be considered as *select ones*, and Mr. Elliot insisting on his motion, it was put and carried by a great majority, and a committee of seven appointed, viz.

Messrs. Elliot, Clopton, Whitehill, Hastings, Palmer, Winston, and Butler.

Mr. Elliot presented the petition of Timothy Phelps, of Marlboro' in the state of Vermont, stating—That he was commissioned by the government of New York, in 1782, as sheriff of the county of Cumberland in said state, now a part of Vermont, that while exercising the duties of that station, he was attacked and arrested under the assumed authority of Vermont, his personal property plundered, his real estate confiscated, and himself banished and forbidden to return on pain of death. That a statement of his wrongs and situation was made to Congress, convened at Philadelphia, in December, 1782, which body, after recognising his case and that of others similarly circumstanced, passed resolutions, requiring full and ample restitution to be made to the sufferers, and that they should not be molested on their return, and pledging the faith of the United States that effectual measures should be taken to enforce a compliance with those resolutions. That, with these resolutions in his hand, the petitioner did return, and that the persons thus exercising the authority of Vermont, did not only disregard them, but imprisoned him for the space of five months, which added the loss of health to all his other sufferings; and submitting the justice of his claim for remuneration, to "The representatives of a great, free, and prosperous Republic."

Referred to the committee of Claims.

Several petitions from Alexandria were read against Congress making any alteration in their charter at present.

Referred to the committee appointed on that subject.

The petition of George Ball, a lieutenant in the twelfth Pennsylvania regiment, who was wounded in 1777, and has never been cured and in the opinion of competent judges never will; praying relief.

Referred to the committee of Claims.

A message from the president informing that he had approved and signed the act making further appropriation for carrying into effect the British convention. A message from the Senate announcing their concurrence in the joint resolve in relation to captain Decatur, officers and crew.

The bill declaring the assent of Congress to the act of North Carolina, respecting lands in Tennessee went through the committee of the whole, and was ordered to be engrossed for a third reading to-morrow.

The bill for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction, went to the committee of the whole MR. DAWSON in the chair.

The first section authorises the President and other proper officers to call in the aid of the Militia, Regular troops or armed vessels to execute civil process upon offenders who take refuge on board foreign armed vessels.

On motion of Mr. Nicholson, any commanding officer refusing to obey a requisition to this effect was subjected to a fine not exceeding 5000 dollars.

Mr. R. Griswold, observing in the latter part of the first section, the words "and if death ensues on either side those who are concerned in support of the civil authority, shall be justified, and those engaged in resisting shall be punished as in cases of homicide committed in resisting a civil officer," wished to know what the punishment should be, as he did not recollect that Congress had heretofore ever made any law on this point, or perhaps it was intended to be punished under the State laws where the cases should arise; in the latter mode the punishment, would not be equal, for some states punished this offence with more severity, others more mildly. As this was a penal law he thought that great precision was expedient, so as to leave as little latitude as possible for construction.

Mr. Nicholson remarked that Homicide committed in resisting a civil officer did not stand in their statute book; but the law of 1789, defining crimes and punishments in the exclusive territory of the United States, its forts, and arsenals, made provision for punishing man-slaughter: he would agree to strike out the first and insert the last, and then the punishment would be uniform for crimes of the same species viz. three years imprisonment and 1000 dollars fine.

Mr. Nelson was sorry to differ from his colleague (Mr. N.) on this point, but he could not view the trifling punishment of fine and imprisonment, any wise adequate to the crime.—Shall the murder of your officer in the execution of the duties of his office be commuted for fine and imprisonment?—You fine your militia officer 5000 dollars for not going upon this service, and the man who kills him in resisting your process is fined 1000 dollars and imprisoned for three years. I should certainly recommend something more commensurate to the offence.

Mr. Nicholson remarked that Homicide, happening in resisting a civil officer, was not considered in the bill as murder; of course the punishment of death was not the proper one, whether three years imprisonment and 1000 dollars fine was exactly what the punishment ought to be, he would not undertake to say. That however is the punishment to be inflicted on our own Citizens upon the commission of manslaughter. But Gentlemen should remember that fine and imprisonment is not the only punishment to which such criminals would be liable—upon their arrest they are delivered over to be dealt with according to law. He should have had no objection to let the punishment remain as it stood under the several states, but that he considered they were in a considerable degree unequal. The punishment in Maryland was different from that in New York he believed, but he was certain that it was milder in Pennsyvania. The punishment by death might defeat the object of justice; it being more than the offence deserved, Juries would be inclined to mercy and acquit the criminal, in order to avoid taking his life upon their consciences. Liberty being one of the most desirable things on earth tends in some degree to justify, and if not to justify at least diminish the offence, as flowing from the principle of self-defence.

Mr. Nelson would briefly state the case, and then he trusted his worthy friend would be of his opinion. They seemed to differ more about words than things. Manslaughter was a hasty killing upon a sudden affray; this, it is true, was never punished with death, either here or in England; but murder was a deliberate killing with malice prepense, and in case such killing takes place in demanding an offender from on board an armed vessel and murder ensues, surely the party ought to suffer the punishment of a murderer.—The crime of murder is not defined in any of the United States statutes; neither in Maryland, nor perhaps in the laws of any state in the Union; how then are we to come at the description of this offence, or distinguish it from manslaughter, but by a reference to the common and statute laws of England, from which we have borrowed all our legal definitions. Look into all the elementary writers on criminal law, and you will find that the crime of murder is aggravated when a civil officer is killed in the execution of his official duties by a person maliciously opposing the course of legal jurisdiction, and as a punishment he is deprived of life, as a person unworthy of being any longer a member of society, and the clause in the bill contemplates the apportioning of the punishment to this description of Homicide, manslaughter, or murder; call it which you will, the effect is the same, and you must support your officers in the execution of their duty or your laws will be without support.

Mr. Early. The observation made by the gentleman from Maryland who has just sit down (Mr. Nelson) struck my mind very forcibly as deserving serious consideration; upon turning to the law of 1789 for the government of our forts, arsenals, &c. where the United States enjoy exclusive jurisdiction, I find that there is provision made as well for the case of murder as of manslaughter; now with a view to make our penal law correspond throughout, I would suggest to the gentleman engaged in the discussion, whether it would not be as well to strike out all the words from "resisting" in the thirty-eighth line to the end of the period, and insert in their place the following, "and in case such killing amounts to murder, it shall be punished with death—and in case such killing is only manslaughter, then such offender shall be imprisoned not exceeding 3 years, and fined not exceeding 1000 dollars.

Mr. Rodney observed, that when a death ensues in the case mentioned by the bill it must be murder—In ordinary cases between man and man, and death ensues by killing, it might be either murder or manslaughter. Where are we to resort for a meaning but as has been said, to the common law, as a known standard, uniform and invariable.—The decisions in the courts of the several states, and its laws on this head, may vary; but the common law describes each of these crimes with accuracy. The definition is founded on the fact. If I take a life by beating a man with a weapon that may naturally be expected to produce death, and death ensues, then my using such a weapon proves malice prepense, for it is an illegal weapon.—So if I resist an officer in the execution of his legal duty, and kill him in the resistance, it is also murder, for my resistance was illegal and implies malice.—Then according to the language of this act, if death ensues, it is murder and not manslaughter. If a man strikes another upon a sudden heat, with a stick, upon the scull, and death ensues, it is manslaughter; but if he strikes with an iron crow-bar it is murder—the intention being inferred from the weapon. While Mr. R. urged the propriety of classing the present offence with murder, and consequently punishing its commission with death, he would not be understood as an advocate for that kind of punishment. On the contrary, he was desirous of ameliorating these severe punishments, and introducing a system that should reform the offender, and restore him, after repairing his offence, to his family and his country;—but this cannot at present be done; of course we must apply the rule of punishment as we find it to make it general and uniform.

Mr. Early, while he concurred in the general doctrine laid down by Mr. R. respecting the Common law, was not convinced that the manner in which they had been applied to this particular case was correct—It seemed to be Mr. R's. opinion that no other offence than murder could be committed, if death ensued in resisting the officer; without seeking far, he would adduce one case where a resistance to death would amount only to homicide. Suppose the marshal or sheriff does not conform himself in all things to the instructions of the President, or that he demeans himself improperly, and death ensues, will it be held that the resistance and its consequence amounts to murder. No certainly; but if he behaves properly, the killing is murder; hence this double provision is necessary to provide for the two cases.

(To be continued.)

TUESDAY, NOVEMBER 27.

Mr. *Richards* from the joint committee of inrolment, made a report that the joint resolution of the two houses in relation to Captain Decatur, his officers, and crew, was found upon examination to be correct.

Mr. Hoge a new member from Pennsylvania appeared in the House and having taken the oath to support the Constitution, took his seat accordingly.

The engrossed bill declaring the assent of Congress to the act of North Carolina relating to lands in Tennessee, was read the third time passed and signed by Mr. Speaker.

On motion of Mr. Nicholson the committee of the whole on the bill for preserving peace in the ports and harbours of the United States and the waters within the jurisdiction was discharged, and the bill was recommitted to the committee that reported the same.

The petition of John Devoe who served in the Militia of New Jersey during the war, and who was wounded near fort Lee in 1776, praying to be put on the pension list was referred to the Committee of Claims.

Mr. R. Griswold presented the petition of Daniel Eldrige, who was wounded in the attack at Groton, he is distressed and disabled also, referred to the same committee.

Mr. Crowninshield from the committee of Commerce and Manufactures reported in favor of allowing a drawback on goods exported from the United States to that port, when re-exported to a foreign country, with a bill intended for that purpose. Referred to the Committee of the whole on Friday, and in the mean time ordered to be printed.

The House proceeded to ballot for a Chaplain in the stead of the Rev. Mr. Bentley resigned. On counting the votes and a majority not being found in favor of any one candidate, the House went into a second ballot and the result was that the Rev. Mr. Parkinson was chosen having 64 votes.

Mr. J. Randolph reported from the committee of ways and means, a bill making further appropriation for the contingent fund of the house, for the current year, and a partial appropriation for the year 1805, which was read twice, went through a committte of the whole, and was ordered to be engrossed for a third reading to-morrow.

Mr. J. Lewis, from the committee on the Georgetown petition, praying to be authorised to erect a dam or causeway from Mason's island to the west side of the Potomak, reported a bill in conformity thereto, which was read a first and second time, and ordered to a committee of the whole to-morrow, and that it be printed.

Mr. J. Lewis also reported a bill to incorporate the Washington Building and Fire Company, which was twice read, and referred to a committee of the whole on Friday next, and ordered to be printed.

Adjourned.

Several articles have unavoidably been deferred to our next paper.

Notice to Subscribers.

The terms of the NATIONAL INTELLIGENCER requiring the annual advance of FIVE Dollars, the papers of subscribers, who shall not have have complied with this term on the FIRST day of DECEMBER, will be discontinued.

(By Authority.)

Washington THEATRE.

THURSDAY EVENING Nov. 9.

The performance for the evening will open with a celebrated

ODE to FREEDOM.

2. New comic song—Satire upon all trades

3. The Wonderful Magic Goblets.

4th. Comic song—Nathans description of Boston

5th. CONFEDERATE COUNTERS. This is one of Don Denis's astonishing experiments—Three persons in company are presented with a ring, seal and snuff box, which they make choice of, one a piece, secretly: the performer possesses the power of telling which persons have got the different articles.

6th. PATRIOTIC SONG—Hobbies.

7th. A variety of Deceptions with cards.

8th. The wonderful piece of Puzzle Wit.

9th Description of an American Tar, with the favourite song America, Commerce and Freedom.

After which, will be presented

A pleasing Medley of entertainments.

Comprising the rich productions of art and ingenuity.

By the wonderful Group of Artificial Comedians, three feet and a half high, will be presented the much admired piece of

PATRICK's RETURN:

OR, THE MERRY HUMOURS OF DARBY.

TO WHICH WILL BE ADDED,

A COLLECTION OF RICH AND COMIC FIGURES.

The evening's entertainments will conclude by an ingenious piece of Machinery, displaying a Splendid Representation of

A Sea Engagement.

Previous to the engagement will be displayed.

A Rich Spectacle of the Different Animals that inhabit the Dreary Deep,

To conclude with

NEPTUNE, GOD OF THE OCEAN AND HIS QUEEN.

In order that all parties may have an opportunity of gratifying their curiosities, by seeing the rich productions of art and ingenuity, Mr. M. has reduced the prices of admission—Box Half a Dollar, Pit 25 Cents.

The Theatre will be well provided with stoves, in the different lobbies.

N. B. Mr. M. intending shortly to sail for Europe, wishes to dispose of the whole of his Apparatus, or part, and will teach the purchaser.

_ The tickets in future will be sold at the end of the Theatre, at Mr. Morin's Mr. Smith's Printing Office, Mr. Duane's Book-Store, and Way's Printing Office.—No admission without tickets.

November 26, 1804.

PUBLIC SALE.

BY virtue of a decree of the circuit court of the district of Columbia for the county of Washington, in the suit of Thomas Law, against Richard Greilly, jun. defendant in Chancery, will be sold for ready money at STELLES HOTEL fronting the Capitol to the highest bidder, at public auction on Saturday the 22nd day of December next ensuing, ALL those two lots or parcels of ground situate in the city of Washington, mentioned in the bill of the complainant, together with all and singular the houses, building, improvements and appurtenances to them or either of them belonging or appertaining, or so much thereof as shall be sufficient to raise a sum to satisfy the complainant's debts and costs and the expences of this decree; which pieces or lots of ground are described in said decree, as follows, viz. part of square numbered seven hundred and seventy in the general plan of the city of Washington beginning for such part of the said square in the line of Canal street at the distance of two hundred and forty-nine feet from the south west corner of the said square, and running thence forty-eight feet upon the said canal street, thence at right angles with the said street 84 feet parrallel with Canal street forty eight feet, and from thence by a straight line to the place of beginning, and part of square numbered five hundred and three in the general plan of the said city of Washington, beginning for the said part of the said square on the east line of sixth street west at the distance of one hundred and fifty-four feet, five inches, from the north west corner of the said square and running thence with the said street forty eight feet, thence east at right angles with the said street two hundred and four feet to the west line of a sixty foot street laid out through the said square, thence north with the said sixty foot street, forty eight feet to a twenty foot alley, thence west with the said twenty foot alley two hundred and four feet to the place of beginning—The improvements are on the last mentioned lot and consist of a two story brick house about 29 feet by 20, two rooms on a floor, a passage through the center, and cellars underneath—a wooden kitchen and entry to it and a small back shed, a yard and garden pailed in——The sale will commence at 10 o'clock, A. M.

DANIEL C. BRENT, Trustee.

Nov. 28——1awtdos

(By Authority.)

AN ACT

Making a further appropriation for carrying into effect the treaty of amity, commerce and navigation, between his Britannic Majesty and the United States of America.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That a sum not exceeding seventy thousand dollars, be and the same hereby is appropriated, to be paid under the direction of the President of the United States out of any monies in the treasury, not otherwise appropriated, for the purpose of carrying into effect the seventh article of the treaty of amity, commerce and navigation between his Britannic Majesty and the United States of America.

NATHL. MACON,
Speaker of the House of Representatives.

A. BURR,
Vice-President of the United States, and President of the Senate.

November 24, 1804.

APPROVED,

TH: JEFFERSON.

APPLES, Cheese, Butter, Cod fish of a superior quality, and a few barrels of New England Cider for sale at Barry's wharf—Apply to

SAML. N. SMALLWOOD.

Washington, Nov. 28—

A GARDENER WANTED.

ONE who is perfectly acquainted with the work of a Kitchen Garden and understands the management of fruit trees and can be well recommended, will meet with excouragement by applying to the printer.

WANTED,

TWO hard working NEGRO MEN who are acquainted with all kinds of country work. It will be necessary that they bear a character of honesty, sobriety, and fidelity to business.

Application to be made at this office.

November 28—

IN the case of WILLIAM SHEPHERD, an Insolvent debtor.

ORDERED that six months from and after the first day of December next, is limited and appointed for the creditors to bring in and exhibit their claims to the trustee.

It is also ordered that this notice be published in the National Intelligencer once a month prior to said day.

By order of the hon. Wm Kilty, esq. chief judge of the circuit court of the district of Columbia.

URIAH FORREST, Clk.

Nov. 23.

Having been appointed trustee in the above case, the creditors are required to exhibit their claims, within the limited period at my office.

ROBERT W. PEACOCK.

November 28—1aw6m.

In the case of JAMES KNIGHT, an insolvent debtor.

ORDERED that six months from and after the first day of December next is limited and appointed for the creditors to bring in and exhibit their claims to the trustee. It is also ordered that this notice be published in the National Intelligencer once a month during said term.

By order of the hon. Wm. Cranch one of the assistant judges of the circuit court of the district of Columbia.

URIAH FORREST, Clk.

Nov. 12.—

Being appointed trustee in the above case of James Knight, I request all persons having claims to exhibit them without delay to Mr. John Moffett of George town, and all persons indebted to make immediate payment to him, or to the subscriber, or suits will be commenced.

MATTHEW STEENE.

November 28—1aw6m

NOTICE.

THE taxable inhabitants of Washington city and others concerned, are hereby informed that the tax on real and personal property, also the tax on Slaves and Dogs for the year 1804, must be paid to the subscriber on or before the 1st day of December next.

WASHINGTON BOYD,
Treasurer of Washington city.

Sec. 3. *And be it enacted,* That every person who shall neglect to pay his tax to the Treasurer on or before the said first day of December in each year, shall in addition thereto pay five per centum, on the amount thereof, provided the same be paid within one month thereafter, and in case the same be not then paid at the rate of three per centum for every month's further delay it being understood that at the period of payment or satisfaction therefor, any shorter period than a month beyond an entire month shall be reckoned the same as a month; provided that such penalty shall not be demandable from the residents of the county of Washington, or persons having known agents therein, unless the tax on which the same may have accrued shall have been demanded according to the provisions of this act.

Oct. 3—e2m.

A FEW Hundred bushels of white, well burnt SHELL LIME, will be sold for cash, at 16 DOLLARS the 100 bushels, if applied for immediately, a less quantity than 100 bushels will not be sold at this price.

Apply to CON. CONNINGHAM

November 5——

☞ Cash will be given for WELL cleaned BARLEY.