LORD ERSKINE'S SPEECH
ON THE
ORDERS IN COUNCIL.

LONDON, March 8.

Lord Erskine rose, and in the most eloquent and brilliant speech of upwards of two hours, of which we regret being unable to give more than a faint outline, took a luminous view of the law of nations, which he contended, was violated by the Orders in council. The question, his Lordship observed, which the House had now to decide, was one of the greatest importance that could occupy the attention of the Legislature—it was no less than whether, placed in that proud pre-eminence on which we had hitherto stood, we should continue that course of conduct towards nations, marked by justice, honor and good faith, which had hitherto characterised this nation;—or whether we should now descend from that exalted situation and declare to the world, that the injustice of France should become general injustice, and that all those moral sanctions which had hitherto supported law from whence the nations of the world had derived security and happiness should be at once abrobated and anulled? Let him not be told upon such a question of the order in council on the 7th of Jan. and that that was a justification of these orders; let him not be told of what the preceding administration had done—let not any such argument be advanced. This was not a question between two Administrations—a question between administration and the public between them and the nations of the world—all of whom anxiously looked to the decisions of that house and of parliament upon this momentous subject.—Two of the resolutions he intended to propose went to the point, that the power of legislation was vested exclusively in the king, by and with the advice of parliament; but that the king had no right in council, to alter or suspend any law, except in case of sudden emergency, and then that parliament ought forthwith to be called together to consider of such emergency.—How was it in this case? Parliament, instead of being called together, were further prorogued.

At the time these orders in council were issued, the assistance of Parliament might been immediately had; Parliament was at the threshold and ready to enter their chambers, but ministers chose to send them back and legislate without them; and now after all this they came to Parliament to give effect to the orders which they chose to issue without the authority of parliament, when they might have had that authority. He would sooner throw the patent by which he came there as a peer of the realm, into the fire, than consent to sanction the exercise of such a power in the Crown as had been advised by ministers, who, when they had done this act, had now come to Parliament to exe out the measure, and to add legislative enactments to what had been done without regard to the authority of Parliament. This act had also been done in violation of the Law of Nations, which was a part of the law of the land, and under which neutrals had hitherto traded to our ports in security. Their trade, and the property embarked in it, having been protected by the law of the land. The Law of Nations consisted of those provisions which had been agreed upon by nations for mutual security and protection, which had been in many instances confirmed by treaties. A distinction had been attempted to be taken on a former evening, between the law of Nations and the usage of Nations: he apprehended, however, that the former grew a great degree out of the latter. This law had been found mutually beneficial, had been mutually sanctioned & clearly defined, & had according to the opinions & decisions of eminent lawyers, become a part of the law of the land. He did not mean to contend, that the law of nations did not give to a belligerent the right of retaliating upon another belligerent; but in what way? Instead of the complex sense which had been given to the word retaliation, let its real meaning be looked to, as deduced from its derivation; it would then be found that it meant the doing a like act to the enemy which he did to us. An inference had been drawn from this interpretation on a former evening, that we were, therefore, to act precisely in the same manner as the enemy; and that if he violated a neutral territory, in order to make a more convenient attack, that we were to follow him step by step; no such thing. If A struck him, he had a right to strike A; not for the sake of striking, but in order to prevent him from continuing the attack: but was it because he had been struck by A, that, therefore, he was to strike B? So we had a right to retaliate the violence or injustice of France, but we had no right to make an attack upon the innocent and unoffending neutral.—If a neutral voluntarily acquiesced in and agreed to carry into effect an act, of hostility by one belligerent against another, then she became a party in the war. If also a neutral was so weak that she must submit to the evils of one belligerent, and the belligerent actually proceeded to carry into effect his hostile designs by means of the weakness of the neutral, then an act of retaliation by the other belligerent must involve the neutral. He would not, however, fatigue their lordships, by citing supposed cases, but would go at once to the case of America: it was clearly proved that America had not acquiesced in the Berlin decree, but had remonstrated against it, and was it to be believed, that at the distance of upwards of three thousand miles, America was to be compelled by France, with scarcely any navy, to assist in carrying the French decrees into execution? But what could jnstify the act of retaliation? nothing but the execution of the obnoxious decree—it must be executed to justify retaliation. It was nothing that the French emperor chose to issue a boasting decree, he had not the means of carrying it into effect, he had not vessels to execute it. We it seemed, had determined to supply vessels and to capture our own goods upon the ocean. The French emperor could not destroy the trade of neutrals for want of vessels, but we were to put the finishing hand to it.

America, with a tonnage amounting to half our own, carried on a trade to every quarter of the globe, took 10,000,000 pounds of our exports, and carried them, and would have continued to have carried them, to the ports of the enemy in spite of his decree; but our orders in council must put an end to this trade, and reduce America to distress for want of the means of disposing of her produce. When a measure, in some degree similar, was resorted to by the French government in the year 1795, a Right Hon. Gentleman, then in Administration, laughed at it, and thought it absurd to take any other notice of it. Had this policy been now adopted, our trade might have gone on flourishing, as it did subsequent to, and in spite of the French decree, which might have been posted on the piazzas & posts of Paris, but which would have remained a dead letter, and been laughed at by the world. How was it now? France has said that American vessels coming from the ports of this country should be confiscated and we had declared that if they should be liable to capture. Thus we rendered it impossible for the Americans to carry on any trade; we had driven their commerce from our ports, and, from the system adopted by ministers, it seemed as if we should soon try the effect of the theory supported in a pamphlet lately published, that Britain could flourish independent of commerce. The system of Ministers in these regulations forcibly reminded him of a circumstance which a short time since occurred in Ireland. He did not mean any national reflection, for he highly respected the general and brave character of the natives of that part of the United Kingdom, but altho' displaying much genius, they were sometimes deficient in precision.

A banker in that country, who was also a magistrate, having offended a number of persons by his punishing one of them who had been concerned in riot, they unanimously agreed to retaliate upon him, and after some consideration it was also agreed, that the most effectual mode of doing this would be to burn as many of the notes issued from his bank as tney could collect, by which measure of retaliation the banker was a gainer of between 30 and 40,000l. He hoped their lordships would not sanction a system of retaliation similar in its principal to this Irish measure, which, it should be recollected, was adopted by those who had derived little advantage from education, & who had but little knowledge of the world. Their lordships, on the contrary were statesmen, legislators, and men of the world. The noble lord contended, that one nation had no right to alter the law of nations; applying this to the orders in council, which did alter the law of nations, and quoting opinions of sir William Scott, sir Dudly Ryan, lord Mansfield, when Mr. Murray and attorney-general and other high legal authorities, to prove this point; and also what was considered the law of the land with respect to the law of nations. His lordship also quoted the work of the earl of Liverpool respecting the maritime confederacy, where the same argument was urged. He hoped that that noble earl would not live to see the place from whence he had taken his title and which had risen by commerce from a fishing village. This argument was, besides deducible both from policy and the reason of the thing. What become of the arguments against the maritime confederacy, if it were to be allowed that one power had a right to alter the law of nations? These arguments were founded upon a principle expressly the contrary. The maritime rights of Britain had become by long usage incorporated with the laws of nations; and it was therefore contended, and justly contended, that no power had a right to make a new law contrary to these rights. Those powers who entered into the maritime confederacy, were forced (for those who were in the wrong were generally obliged to support themselves by the same kind of argument) to set aside Puffendorff, Grotius, Vattel, and other writers on the law of nations, and set up arguments of their own wholly contradictory to these established principles; and in the same manner he had heard that in another place, Puffendorff, Grotius, Vattel, and other writers, had been set aside in argument for the purpose of introducing a new law of nations. *To attempt to introduce such a new law would be in effect introducing a principle which would tend to barbarise the world.*

The decision of some of our courts of admiralty had been invariably founded on the principle, that no power could alter the law of nations without the consent of the whole. These decisions had been looked to by all Europe, as being strictly conformably to the law of nations and had been described by an eminent writer, as the most worthy to be regarded, because they could not be influenced by the orders of the sovereign, or principles upon which these decisions were founded were to be wholly subverted, a new law of nations was to be introduced by this country, and made subservient to our own convenience. This new law was to be found in these orders in council, which stated in their preamble, as the reason for issuing them, that there had been an increased vigor in the execution of the French decree. In order to support this assertion it should have been proved—first that there was a rigour; and then, that rigour was increased; this assertion remained wholly unproved; and yet its assertion in the preamble could alone authorise the execution of those orders, in courts of admiralty:—without it, the orders could not have been constructed in courts of admiralty contrary to the established law of nations; and the documents laid before the house by ministers wholly failed in proving this very assertion, which must form the ground of carrying the orders into effect. But then it was said that all this was done under the authority of the king's war prerogative. The law of nations was only operative in time of war, and it were an absurdity in reasoning and a contradiction in principle, to say that it could be abolished by the king's war prerogative; that which only existed in force in time of war, could be stifled in its birth, could be, in its very origin abrogated by an opposing prerogative, which also derived its existence from the same source. His lordship quoted statutes of the reign of Edward III, and Richard II, to prove that by the distinction there made between the property of denizens, foreigners, and enemies, that the principal of the law of nations, as existing in time of war, were even then clearly understood, and seemed, in his opinion, to negative the operation of any such prerogative. In latter times also, such a prerogative had not been exercised. In 1709, upon an emergency, Queen Anne called her parliament together, it not seeming to be conceived at that time she could exercise any such prerogative. He could not conceive that it existed now in the manner prescribed in support of these orders. If however, these orders were thought so necessary to ministers, why did they not communicate them in due season to America. Instead of this, Mr. Munroe was suffered to sail, and Mr. Rose was sent there without being informed of the intention of issuing them. A pacific mission was sent and in the mean time our ships were sent out to capture American vessels, or to force them into our ports. Why was this resorted to? this was no secret expedition; there was no necessity for concealing information of an expedition directed against ships not rigged.

(To be concluded in our next.)

FROM THE NATIONAL INTELLIGENCER.

No. I.

The period is fast approaching, when the people of the United States will be called upon to discharge one of the most important duties which can be confided to men; when they will be called upon to select from among themselves the individual, who shall, in their opinion, be most competent to fill the exalted station of their first magistrate.

It is infinitely desirable that this opinion should be correctly formed; as on it will depend much of our future personal happiness and national respectability. Whether wisely or not, the form of our government gives to the President vast powers, which, as they shall be exercised with discretion or rashness, with an exclusive regard to the general welfare, or with a view to personal aggrandisement, will have a correspondent effect in promoting and securing, or in hazarding and subverting our solid interests. Our political institutions are as yet in their infancy; the great principles on which they repose have as yet received but a limited application is a species of legislation, which will hereafter serve to guide the course of the future administrations of the government. This circumstance calls for the selection of talents of the first order, combined with patriotism of the purest character.

In addition to these considerations, the times are arduous, perhaps beyond parallel. The lessons of experience shed but a feeble light on the path of the statesman. The unexampled situation of the world, and the daily revolution which sport with empires as with toys, and which, in the dreadful wreck of principle, aim at making every neutral state a party to the uncertain perils of a war, the issue of which it belongs not to human foresight to penetrate, require the presidency over our affairs, of vigorous and commanding talents; not merely of that wisdom which is the offspring of a cultivated mind and of a wide experience; but of that, which is likewise the result of natural acuteness, of penetrating genius, of a capacity naturally profound, intuitive and creative. From such a character we may expect a diligent discharge of duty, independence in the most comprehensive sense of the term, no other ambition than that which is compatible with our good, a perception of our true interests, and an unshaken adherence to them.

The man, who unites these qualifications in himself will produce the greatest possible degree of harmony, and will attach to his administration the greatest possible degree of support. He will be able to surround himself with the best talents of his country, and the exercise of these talents will be zealously seconded by the most eminent men throughout the Union. Under such auspices, the flame of patriotism will be kept alive with vestal vigilance, and will burn with vestal purity; the great and permanent interests of the nation will be explored and cultivated; and our union at home will insure respect abroad. Our resources will extend, if not with accelerated, at least with unsurpassed rapidity, and the involuntary respect which even depravity feels for virtue, mingled with a correct estimate of our power, will insure us either peace, or as great an exemption from the evils of war as will be attainable.

Such, fellow, citizens, you will agree with me, is the man whom you ought to select for this important post. Such, if I mistake not, is the man whom you have selected. If the thousand passing demonstrations of public sentiments be any indication of your ultimate act, *James Madison* is the man.

So plain and numerous are these demonstrations that the result might, perhaps, be safely confided to its constitutional organs, without further investigation. The great body of the people appear long since virtually to have united their suffrages, and every step yet taken by them in a collective character has evinced an adherence to a purpose, originally the result of independent and unconnected individual opinion. No interfering nomination moreover has yet been made by any collective body, except that of Mr. Monroe, by the minority of the Virginia legislature; which very nomination, from the comparative feebleness of the support offered, is itself the best evidence of opposition to the general sentiment of that respectable state.

Nothing, however, should be left to the hazards of chance in a concern of such importance. If those who consider the election of Mr. Madison as connected with the great interests of the nation are supine, and withhold from them that information which is essential to the formation of a correct judgment, danger may arise, not perhaps of an ultimate failure to elect him; but of the creation of divisions unfriendly to our internal peace, and equally unpropitious to the adjustment of our foreign relations. The party, in opposition to the existing administration, have demonstrated their readiness to pursue any means to subvert it. In saying this, it is not meant to ascribe to them the want of honesty; but it is meant to say that the end in view absolutely prevents them from being in the least scrupulous as to the means used to effect it. If therefore, the want of full and correct information should be productive of divisions among the republicans, it may be reckoned upon as certain that their federal opponents will seize the occasion to inflame differences, which, however inconsiderable in their origin, may be inflamed until they shall ultimately effect the downfall of the present system. Every one, acquainted with human nature, knows how apt personal differences are to expand into political schisms; and that divisions among those who were once friends often degenerate into the most deadly feuds.

A FARMER.

CIRCULAR.

IMPORTANT TO COASTERS.

Treasury Department, May 18, 1808.

SIR—Finding that a much more rigid construction has been put in some of the districts than in others, on that part of the circular of the 6th instant, which relates to the transportation of flour and other provisions, from one port of the Chesapeake to another port on the waters of the same bay; it is proper to state that it was not thereby intended to convey an opinion, that such transportation was without any exception whatever unnecessary and a sufficient cause of detention.

Amongst those exceptions may be reckoned the following:

1. The usual intercourse on the same river, though that river may include several districts, should not be interrupted
2. Towns and districts which have usually received their supplies of certain articles of provisions. from other districts on the waters of the bay, should continue to receive their usual supplies.
3. Flour, &c. purchased by persons residing in another district, previous to the receipt of the above mentioned circular, may be taken to the district where it is owned.
4. Planters and others should be permitted to send their produce to that city or district which has been their usual market, or to which they have usually sent it as a remittance.

I am very respectfully,
Sir, your obedient servant,
ALBERT GALLATIN.

Larkin Smith, esq. collector, Norfolk.

From the American Daily Advertiser.

MR. POULSON,

You will be pleased to insert the following in your useful paper, which I make no doubt will confer a benefit on many of our fellow-citizens.

I the subscriber, do hereby certify, that I had been afflicted with a complaint, called a Wenn, in the back part of my neck, since the year '94. It had grown to an enormous size, and probably would have been the cause of my death. In November, 1807, I was informed of the skill of Dr. A. Howell, at removing Wenns and Cancers without cutting. He was applied to, and in 5 and 1-2 hours after he had began the operation, it was extracted; weighing 5 pounds. This astonishing performance was done without any instrument whatever.

In many instances those complaints are connected to the surrounding parts, by a number of branches, which in a greater or less degree, make the operation oft times difficult. This with which I was effected, was in a particular manner connected to the adjacent flesh, by strong roots, projecting from its main body, in length three or four inches, consequently rendering its removal peculiarly intricate: however, during the wonderful mode of operation, which was pursued, the roots were entirely seperated from the adjoining parts, and came away with the whole body of the Wenn.

The wound caused by the extraction of so large a substance, was healed in 5 weeks afterwards, and left but a slight scar to be seen. To clear all doubt with regard to the above astonishing circumstance, persons may satisfy themselves by calling on the Doctor, who has the Wenn preserved in spirits, South Fourth-street, No. 62.

I have been induced to delay this publication until now, to be able with safety to inform the public, that the cure is complete in every respect. At the same time it gives to me very great satisfaction to say, that during the period of being under the Physician's directions, I was not confined a single day to the house; witness my hand, this 17th day of May, 1808.

JOHN B. ROSSET,
South-street, near the Old Theatre.

Present Dr. GREEN of Reading, now in Philadelphia.

Philadelphia, May 14th 1808.
The foregoing statement, sworn to before me by John B. Rosset.
ROBERT WHARTON, Mayor.

An union of the Republicans.

Gov. Fenner and Lieut. Gov. Martin are republicans, and truly friendly to the present administration of the government of the United States—tory papers to the contrary notwithstanding.—The republicans in this State divided, not because they did not fully approve of the wise measures recommended by President Jefferson, but on some local considerations which are now removed, and they are all verging back to their first love and re-union. They will support two republicans for representatives in the eleventh congress, and four electors who will vote for James Madison as President and George Clinton as Vice President.

Providence Phœnix.

The legislature of the state of Georgia is now in session, having been convened by the government with a view to afford relief to the debtors at present distressed by the operation of the embargo. The governor of the state has informed the legislature that a deputation has been sent by the Creek nation of Indians, to assure him of the unanimous determination of the Creeks to defend the state of Georgia with all their strength, in case of a rupture with any foreign power. It is also said that they have sent a deputation to the general government to make a tender of their services. It was expected that the legislature would adjourn on the 21st ult.

[*From the Doylestown paper.*]

Friend Miner—I have discovered that *Train Oil* is a great destroyer of Caterpillars, equal to fire. I took a bottle that had the oil in, made a swab of long wool, put in the neck of the same, and destroyed 12 nests in a short time. Done at Milton, Solebury, by

JOHN KNIGHT.

April 28.

N. B. Give this a place in your Correspondent, that we may get cider and apples this year.