FROM THE NATIONAL INTELLIGENCER.

Missouri.

We have received a copy of the Constitution of the new State of Missouri. The powers of government, as in most of our Republics, are distributed between three separate branches Legislative, Executive, and Judicial.

The Legislature or General Assembly, is to consist of two branches—a Senate and House of Representatives. The whole number of Representatives is not to exceed one hundred, to be chosen for two years, and to be not less than twenty-four years of age. The Senate is to consist of not less than fourteen nor more than thirty three members, to serve for four years, and one half of the number to be chosen every second year. The suffrage is to be universal, except that no soldier, seaman, or marine, in the Army or Navy of the United States, is entitled to vote. All votes at elections of civil or military officers, by the Legislature, are to be *viva voce*, and to be published, with the names of the absentees at each vote. With respect to the powers of the Legislature, the grant is in general terms, with the exception of the clauses respecting slaves and their treatment, respecting which we find the following particular provisions:

Sec. 26. The General Assembly shall have no power to pass laws—

1st. For the emancipation of slaves without the consent of their owners; or without paying them, before such emancipation, a full equivalent for such slaves so emancipated; and,

2d. To prevent bona fide emagrants to this state, or actual settlers therein, from bringing from any of the United States, or from any of the territories, such persons as may there be deemed to be slaves, so long as any persons of the same description are allowed to be held as slaves by the laws of this state.

They shall have power to pass laws,—

1st. To prohibit the introduction into this state of any slaves who may have committed any high crime in any other state or territory.

2. To prohibit the introduction of any slave for the purpose of speculation, or as an article of trade or merchandize.

3d. To prohibit the introduction of any slave or the offspring of any slave, who heretofore may have been, or who hereafter may be, imported from any foreign country into the United States, or any territories thereof, in contravention of any existing statute of the United States; and—

4th. To permit the owners of slaves to emancipate them, saving the rights of creditors, where the person so emancipating will give security that the slave so emancipated shall not become a public charge.

It shall be their duty, as soon as may be, to pass such laws as may be necessary,

1st. To prevent free negroes and mulattoes from coming to, and settling in, this state, under any pretext whatsoever; and,

2d. To oblige the owners of slaves to treat them with humanity, and abstain from all injuries to them extending to life or limb.

Sec. 27. In prosecutions for crimes, slaves shall not be deprived of an impartial trial by jury; and a slave, convicted of a capital offence, shall suffer the same degree of punishment, and no other, that would be inflicted on a white person for a like offence: and courts of justice, before whom slaves shall be tried, shall assign them counsel for their defence.

Sec. 28. Any person who shall maliciously deprive of life, or dismember a slave, shall suffer such punishment as would be inflicted for the like offence if it were committed on a free white person.

The *Executive* power is vested in a Governor who is to be, at least, thirty five years of age, a natural born citizen of the United States, or a citizen at the adoption of the constitution of the United States, or an inhabitant of that part of Louisiana now included in the state of Missouri at the time of the cession thereof from France to the United States, and shall have been a resident of the same at least four years next before his election; to hold his office for four years, and to be ineligible for two successive terms. There is also to be a Lieutenant Governor, qualified and elected in the same manner as the Governor, who is to be President of the Senate.

The *Judiciary* power, as to matters of law and equity, is to be vested in a "*supreme court*," in a "*chancellor*," in "*circuit courts*," and in such inferior tribunals as the General Assembly may from time to time, ordain and establish. The Judges are to be appointed by the governor, with the consent of the Senate. The powers and jurisdiction of the Chancery, Supreme and Circuit Courts, are accurately defined in the constitution.

The Declaration of Rights is brief in form but comprehensive in its scope, and contains such principles as do honor to the intelligence of the convention by which this Constitution has been framed.

FROM THE NATIONAL ADVOCATE.

The Missouri Plot.

As we had reason to expect, so it turns out that the speculators on power and political influence, are now using their efforts to prevent the re-election of those members, who, true to the constitution, to common sense, and above all to the union of the states, refused to vote for the restriction on Missouri. The same hypocrisy, the same plausable arguments, the same sanctified clamour which prevailed last winter, are now put in requisition to carry the point originally in view—namely, the *erection of a northern party, the triumph of federalism*, or the *separation of the union*. One or all of these events were anxiously desired, and posterity will strip the cloak of humanity from the shoulders of these designing speculators, and exhibit them in their naked deformity. There is a trait in the American character, which cannot be too highly estimated;—it is that of a frank and unreserved confidence—disdaining mean advantages, and not suspecting it in others—prepared to combat with an open foe, but not always guarded against the secret approaches and coward attacks of hypocritical opponents. In proportion to the danger which the agitation of the Missouri question involved the union of the states, is the indignation now manifested on the discovery of the real objects in view—and happiness for this country, for republican principles and true liberty, was the discovery of the ulterior objects, for it excludes its projectors forever from power and influence.

The founder of the Missouri plot is Webster of Massachusetts, a man who, to great talents, unites a cold hearted speculative designing turn of mind: his principles are a step beyond federalism, and his object was to *draw the line*—to array north against south, citizen against citizen, and ruin if he could not rule. Judge Story played no small part in this game, and if a northern power was to be created, he flattered himself that he was capable of taking the lead; his *humane* policy is duly estimated.—Webster addressed himself to Hopkinson of Pennsylvania, (who lately has taken up his residence in New-Jersey) and Hopkinson got up the first meeting on the subject of Missouri in that state, although he now denies all agency in that affair. Mr. Secretary Dwight was a cardinal agent in the plot: Mr. Walsh was enlisted and Mr. Peter A. Jay, and others, got up the meeting in this city. We were among the first that approved of these steps, and attended the meeting. To arrest the evils of slavery, by constitutional measures, was too much in consonance with the freedom of our institutions to be disregarded; but we were soon apprised of the real objects in view. To be deceived, under the cloak of philanthropy, was no extraordinary circumstance; but the progress of the affair soon developed the secret intentions of the prime movers. *It was a second Hartford convention business*, conducted under the garb of humanity, and thousands took an active part who now view the actors and their objects with indignation. The union was never more seriously threatened than it was during the agitation of this question—and the result, so far from extending and strengthening the influence of the north, has united the south and west against us, and cut down the little influence we formerly possessed. Clinton, and others, were minor agents, appointed to make a question of it in this state, and deceiving himself, as he always has done, that he could gain something by it, he took an active part, and, in his last message, he distinctly stated, that "*no evil*" could be greater than admitting Missouri without restriction; thereby meaning to convey the idea, that the dissolution of the union would not be considered as an evil equally as great as Missouri without restriction. The constitution of that state has at length been received, and its provisions against the extension of slavery are as favourable as honest men could wish; besides, it is known that Missouri will neither produce cotton, sugar, nor rice, and consequently negroes will not be required. The constitution will be approved by congress, and the agitators of this plot defeated and disgraced. Mr. Hopkinson, it should be known, is hanging about the legislature of New-Jersey to be made senator in Congress, but that republican state is not to be speculated upon by federal gentlemen from Pennsylvania.

One fact more and we are done. The following advertisement, cut from a Canandaigua paper, in this state, will at once show how hollow are the pretensions of some advocates for emancipation. Here, under the head of *Slavery Abolished*, is an invitation to register slaves, to prevent their manumission:—

☞ SLAVERY ABOLISHED!!

"All persons held to serve as SLAVES within this state, who were born since the year 1799, and who have not been recorded according to an act entitled "An act relative to slaves and servants," passed March 31, 1814, or who have not been taught to read according to the provisions of the said act, are thereby declared FREE at the age of eighteen years, any law to the contrary notwithstanding.

"Notice is hereby given, that only THREE slaves have been so recorded in the town clerk's office of Canandaigua.

"N. G. CHESEBRO, Town Clerk.
"Canandaigua, August 3, 1820."

The *three* slaves here registered to *prevent their emancipation*, belong, as we are credibly informed, to JOHN C. SPENCER—a man who made it his business to go up and down the Canal, crying *Tompkins and Slavery*; and who, on the floor of Assembly, was loud in favour of restricting Missouri. But he is small game in this affair, although he is a practical evidence of the sincerity felt by the prime movers in this disgraceful plot.

Latest from England.

By the ship Atlantic, arrived at New York, with English news to the 18th July—five days latest.

The request of the Queen for a copy of the charges against her, and a list of the witnesses to be furnished her has been resisted by the Ministry and refused by the House of Peers, by a majority of 50.

The coronation, it is now said, is not likely to take place before the month of June next.

It was supposed that both Houses of Parliament would adjourn on Friday the 21st, until the middle of August.

On the 12th Mr. Brougham brought forward a motion, in the House, that he and Mr. Denman, her Majesty's Attorney and Solicitor General, might be allowed to plead at the bar of the House of Lords, in defence of their mistress, without vacating their seats. Some debate ensued. Lord Castlereagh did not oppose the motion, and it was allowed. The same permission was also granted to Dr. Lushington, one of her Majesty's Counsel, and to the King's Attorney and Solicitor General. This permission is understood to be an exception to the general rule and is not hereafter to be taken as a precedent.

The following resolution was adopted in the House of Lords, on the 10th.

That the Bill respecting the Queen be read a second time on the 17th Aug.

The following is the petition of the Queen, for a list of witnesses, &c.

"CAROLINE REGINA,

"To the lords spiritual and temperal in Parliament assembled.

"The Queen having received information, that the house of lords have appointed the second reading of a bill for the degradation and divorce of her Majesty on Thursday, the 17th of August next, and as it is necessary and expedient for her defence, that she should be furnished with a list of the witnesses to be produced against her, the Queen desires such list may be forthwith delivered to her Majesty's Attorney General."

Arrangements it is said, are making for another meeting of the City of London, in order to consider the propriety of presenting a petition and remonstrance against the proceedings in the house of Lords, with respect to her Majesty the Queen. It is reported that Middlesex will meet for the same purpose.

The London Traveller says:—"Her Majesty the Queen is by birth the nearnest heir to the thronre of these Realms, next after the reigning family, and though her succession to the throne is highly improbable, it is not impossible. Would it not be a strange event, if after degradation and divorce, her Majesty should ascend the throne?"

The papers do not contain any news of interest from the continent.

LONDON, July 16.

Dr. Parr performed Divine Service before the Queen on Sunday week. Her Majesty's Counsel were with her during the morning. Several English gentlemen of distinction, who had visited the Queen abroad, called in the course of the day to offer their services to give evidence for her Majesty. Her Majesty then went to Barnes, but returned before nightfall. She was greeted by thousands on the road. Great numbers of well dressed females seemed anxious to pay the most respectful attention to her wherever she passed: and the assemblage of respectable people in Portman street was so great that the road from Oxford street and Portman square was completely blocked up.—The attachment of the respectable part of the community was more warm and more general than it had been on any former occasion since her Majesty has come to face her enemies.

In addition to the Counsel whose names have been already mentioned, her Majesty will have the advice and assistance of Dr. Lushington.

We were informed on Friday that one of the principal female witnesses against the Queen, now in this country, died on Tuesday last. An allusion has been made to this person in some of the papers. She was well known twenty-five or thirty years ago, under the name of Plomer, & appeared as a singer on the Opera Stage. She went abroad and performed in several theatres in Italy. About two months ago she returned under the name of the Marchioness de Salvini, Solini, and stated that she had been introduced to the Queen, and was present at some of her parties in Venice. She put forth the prospectus of a work to prove that the Duke of Wellington was the greatest Captain that ever appeared in the world, and solicited subscriptions to publish the book. She was by birth a Jewess. We do not think that the cause of the prosecution will suffer by the want of this lady's testimony.

Morning Chronicle.

FROM THE BALTIMORE AMERICAN.

TO THE PEOPLE OF MARYLAND.

NO. II.

Thus far I have reasoned upon the admission, that the illegal voters embraced by the resolution of the House might have been criminally prosecuted for having voted. The fact, however, is clearly otherwise. It will be found on examining the election law, that no one of the illegal voters before the house could have been so prosecuted. What they did might, to be sure, at the time it was done, have been punished—that is, they might have then been fined for it. But if not then fined, they were not liable to be fined at any future time.

By the 25th section of the act of 1805, it is provided "That if any person at any election, having voted once, shall offer to vote again in the same district or county, he shall be subject to a penalty of ten dollars for such offence—or if any person shall offer to vote in any name not his own, or in the place of any other person of the same name—or residing out of such district shall offer to vote therein—or residing out of the county shall offer to vote at such election—he shall forfeit twenty dollars, and in either case the offender shall be *immediately apprehended* therefor by a warrant of a justice of the peace or judge of the election, issued in the name of the state, and shall be tried by such justice or judge respectively." This is the only provision by which the illegal voters before the house could have been punished. It will be seen not to include the case of a *minor*. No penalty can be inflicted on a minor who offers to vote, so that unquestionably such of the illegal voters embraced by the resolution as were minors, could not have protected themselves from giving the evidence sought after by the resolution, on the ground that it would subject them to a criminal prosecution, because in fact they had done nothing for which a criminal prosecution would lie. The house then, I state it without fear of being contradicted by any rational being, had the right to compel that portion of the illegal voters who were minors, to give the evidence they wanted, notwithstanding the objection in question. But it will be easy to shew that this right extended to the whole of these voters. By the recited section of the law on this subject, it appears that the fines for illegally offering to vote are to be recovered in a particular way, *at the time when the offer is made*. There is no law which authorises *any other* method of recovering such fines than the one pointed out by the provision referred to. If not recovered *in that way, they cannot be recovered at all*. This will appear more manifest from finding the *other fines* imposed for *other offences* under the law, *are directed to be prosecuted for by indictment*—For whence the necessity of authorizing an indictment for the recovery of particular fines imposed by that law, if all the fines imposed by it could be recovered in that way? The giving this remedy in particular cases excludes it in all others. The very next section then to the one I have recited says: "That if any person shall vote twice at one election, he shall be liable to a prosecution, &c. and may be fined not exceeding forty dollars, and imprisoned not exceeding one month, in the discretion of the court."—Moreover, the 36th section also provides "That all fines and penalties created and imposed by this act, *unless herein otherwise particularly directed and provided for*, shall and may be recovered in the name of the state by indictment," &c. No fines and penalties then, created and imposed by that law, *whose recovery is particularly provided for*, can be made the subject of an indictment—This being the case, are not the fines and penalties which the illegal voters before the house had subjected themselves to, excepted from this liability to indictment, they being imposed by the first section of the law which I have recited, and their recovery being by that section, *otherwise particularly provided for*. This appears to be undeniable. The particular mode of recovery then in the cases before the House exempted them from liability to indictment, and therefore the witnesses could not have been subjected to a criminal prosecution had they given evidence of the facts sought after by the resolution in question.

Notwithstanding then this second objection I think it manifest that the resolution was justifiable.

The third and last ground relied on by the appeal is, "that the house was not the proper and competent tribunal to determine a man's right to vote." It can scarcely be necessary to say much against a doctrine so openly at war with all suggestions of common sense—If it were founded on truth then would the elective franchise be completely under the control of the judges of elections, inferior officers chosen by inferior tribunals. Lamentable indeed would be our fortune if this doctrine were correct. That a judge of election should decide on a man's right to vote without an appeal from his decision would indeed be to disfranchise him without the judgment of his peers, about which this learned appeal, in the latter part of it, speaks with such feeling and indignation—It becomes you, my fellow citizens, to put down at once this political heresy so pregnant with danger, as it obviously is, to your elective franchise.

But I will proceed to examine this notion, weak and feeble as it is—By the 9th article of the constitution, the House of Delegates, in so many words are empowered to judge of the elections and qualifications of Delegates. No limit is imposed on this power. With reference to its subject matter it is universal. If then the House are to adjudicate on such elections and qualifications, does it not follow that they are to decide on all the matter *necessary* to *enable them* to form a *full* and *complete judgment*. Is not this construction of their power warranted by an universal principle of construction. Who ever heard before that a general power did not include, if it contained no exceptions, all minor and incidental powers? Suppose the state were to authorize a man to build an arsenal for her, would not he be authorized to do every thing *necessary* to *enable him to build it*—Can any one doubt about it. And what is the difference between this case and the one before us—Here, the House of Delegates are authorized to "judge of the elections and qualifications of delegates"—and of course, they are to judge about every thing on *which such elections and qualifications depend*. If then the elections *depend* on the *qualifications* of the voters, the house are to judge of *such qualifications*. If a delegate can be legally elected except by residents and persons of age, the house, in judging whether he be legally elected, must decide whether those who voted for him were *residents and of age*. No man who will permit himself to think impartially can doubt the correctness of this conclusion—when the right to judge is given, all things necessary to its full and complete exercise are also given.

Thus I trust, are satisfactorily answered all the reasons by which the above resolutions of the House of Delegates has been contested by the Pamphlet I am examining. I will next consider the objections it urges to the subsequent proceedings of the house.

CATO.

CLARIFIED QUILLS,
OF A SUPERIOR QUALITY,
For sale at the Star Office.

FOR THE STAR.

To his Lordship Z. of Cambridge, Professor of Sarcasm, and Votary of the Grand Order of Goose-Quills.

MY DEAR LIEGE,

Being conscious of your exalted literary talents, and that of right you should be esteemed as the great *scientific luminary* of "these barren shores of poverty and peace," I feel extremely diffident in approaching your *Majesterial Highness*. But knowing the liberty of the press to be an inviolable right, secured by the constitution, and self-defence to be one of the inherent laws of nature, have given me sufficient confidence to address your *royalty*.

It is a lamentable fact, that such is the insatiate desire of some persons to arrive to a degree of conspicuity and celebrity, that they are anxious to rear their lofty and aspiring heads upon the ruins of their fellows. A liberal education ought to eradicate such ungenerous principles, but we not unfrequently find these indelible impressions so firmly stamped upon the debased mind, that they can never be effaced by the cleansing influence of literature.

You have stepped forward, sir, belching forth *sarcasm, obscenity, ridicule* and *round assertions* upon Mr. Smith, Philo-Investigator, and myself; such as rather demand our pity instead of contempt. But I fear notwithstanding it will tarnish your brilliant character, or lessen it in the estimation of all honest and well-meaning people.

In the first onset of your mammoth-like production, you have made a formidable attack upon Mr. Smith's editorial character, with triumphant exultation, such as nearly to equal an extatic phrenzy, for *publishing* a deceptive advertisement, which any man would have done under like circumstances; and from your writings leave strong room for suspecting you of being the author of that communication.

Amidst the ebullition of your high wrought wrath, you kindly inform the public, that "for the last three or four weeks the columns of the Star have been graced with the speculations, reveries and compilations of Mr. Investigator," which you seem to blame the editor for inserting. For your satisfaction I will inform you, most feeling sir, that Mr. Smith is not the first editor who has given publicity to my communications; that I have been honored by occupying a space in your favorite paper the Federal Republican and Baltimore Telegraph, and also the Patriot of the same place; and have no doubt had I have forwarded some of my pieces to the exalted and pre-eminent Mr. Graham, that he would have condescended so far as to have published them—and I then should have received your commendations instead of sarcasm.

Then "with fury beaming in your eyes," you remark: "He vamps up an old exploded and ridiculous medical theory, and talks about it with the air of a man who knows something."

You are not satisfied with being ignorant upon medical subjects, but must evince it to the whole world, by attributing a theory of recent formation to the tombs of antiquity, where true philosophy had long since deposited its remains. I think you would have displayed much more discretion by remaining silent upon this subject.

"Next comes a reverie on ancient Sparta, which except a few sentences stolen from Volney, may for rank nonsense, fustian and puerility, safely challenge a comparison with the printed ravings of any Bedlamite."

Plagiarism is a crime sir, which I would *disdain* to be guilty of, as soon as your *royalty*. I have not had an opportunity of perusing Volney's Ruins, for three years past, and at which time I made no exertions to commit any one sentence or sentences to memory, it being a practice I always disliked; and as for your presumingly having condemned all that communication without pointing out its defects, I consider has had no effect upon an enlightened public. Although I claim no more credit for it, than it merits, yet I flatter myself it has been as generally admired, by "both the learned, and unlearned," as your gorgeous and illiberal animadversion, which you have uttered forth with such overpowering volubility as to prostrate all before it.

"Though last not least in his farrago of absurdities, we find "Reflections on the wonders of nature, a compilation."

Let me admonish you, my most exalted and royal friend, to tread lightly upon the fairy field of conjecture, lest you should place your foot upon a defective spot, and in extricating it from which, you may find many insurmountable difficulties.

I deny, sir, to you and to the public, being the author, or the compiler of the communication with the signature of Philo-Investigator, although you have vulgarly and obscenely stated that gentleman and Investigator to be one, "the identity being the same as between an ass and jackass." Such vulgar expressions and uncouth comparisons are derogatory to a refined mind, and betrays a want of gentility.

This blunder is characterestic of the whole of your mountainous communication, being a catalogue of satirical aspersions, confidential assertions, and glaring absurdities.

Permit me to state to you, that it is obvious to me, and must be to a discerning public, that the motives which prompt you thus to assail the Editor of the Star, and his supporters, were those of a political, private interested, and narrow contracted nature, such as are disgraceful to any enlightened mind.

You are jealous of the superiority of that paper, and know it to be a medium through which are often exposed the despicable intrigues, and sinister advantages, which you and some others of your party, are at times guilty of seeking, and imagined at one of your destructive blasts, you could annihiliate the whole fabrick. But sir, awake up to a right sense of yourself from your political mania, and recollect that it is a paper reared upon the firm basis of rectitude, and supported by many wealthy, gentlemanly and literary characters.

You have marched forward, clothed in your best garb, with a firm and confidential footstep, and pedantic assurance, and blasted all my communications at one sweep with your fiery and blazing pen. Did the writings of even Hume, Chataubriand, Young, or Milton, clash with your political interest, I have no doubt you would approach in like manner, and condemn them for nothing more than bundles of bombastical nonsense.

Such ungenerous and illiberal assaults might deter some from the investigation of disputed philosophical points, which if clearly elucidated, would prove highly beneficial to a suffering community. I am too well aware of the actuating motives of your assuming and despotic breast, to be affected or discouraged by your unfeeling maledictions; therefore shall proceed with the examination of my enquiries as soon as time will permit. Every friend to this country, must feel an interest in the encouragement of literature, in its various branches, and feels a disposition to make every allowance for a juvenile author; but we sometimes meet with an inhabitant of this country, who is willing to condemn every American production, and at the same time will grasp with avidity every futile and superstitious communication, which is fabricated in the closets of Europe, and by chance floated across the Atlantic. Such I know to be the disposition of your highness. Had you have been displeased with the theoretical opinions which I had advanced, and have objected philosophically and logically, I should have felt a degree of satisfaction in deducing all the arguments in my possession, in support of them, and if you could have controverted them, I would have acknowledged my errors in gratitude to you. But I seriously fear sir, you are unacquainted with the simple principles of logic, and that reason, the noblest faculty of the human mind, never enters your royal breast, and unless you can destroy your opponents by despotic sway, they pass on triumphantly. I have ever considered that slander and public assaults, originated from being conscious of the superiority of the object of their animadversions, and should have thought myself honored by the attack, had it have come from a more exalted source.

It is very clear to the public, that you consider yourself seated upon the pinnacle of Dorchester fame, and as the only man in the whole county capable of "*gracing*" a column of a newspaper: It would be highly consonant and extremely agreeable to your asssuming and confidential disposition, for the people of this country, when they wished to communicate any thing to the public, to approach your *majesterial form*, with a trembling footstep, a bended knee, and reverential awe, beseeching you, to construct the sentences for them! But remember gigantic sir, that there are some men, although they may inhabit an "*obscurent corner*," who are labouring to ascend the projecting banks of the hill of science, as well as your exalted self, and possibly at some future period, may arrive to a state of mediocrity in the literary world, and will then be placed as far above you, as you now think yourself above them!

"A little learning is a dangerous thing,
Drink deep or taste not the Pierean spring."

I am apprehensive from your presumptuous attack, that you have not yet pursued science sufficiently far to have learned how little you know, for modesty always attends literature, which you are entirely destitute of.

I will acknowledge you possess a superior satirical genius, and are better versed in obscene blackguardism than myself, which I hope is all you claim.

Let me friendly whisper in your ear, gentle Knight of the Goose-Quill, never to *level* your *artillery* upon the "*scribbler*" again, lest by an awkward stroke with his pen he should scratch you in the face, which would disfigure you much, and subject you to "*provoked ridicule*."

With due consideration,
I have the honor to be,
Your Lordship's humble servant,
INVESTIGATOR.

Dorchester County, August 15, 1820.

FOR THE STAR.

A great deal has been said about the improper testimony, taken on the question of the disputed Calvert election.—As I have not before me the pamphlet or papers containing the objections that have been urged against the proceedings of the House of Delegates, on that occasion, and cannot undertake to charge my memory with each particular contained in them, I shall make such observations as a general view of the case forcibly suggests.

The objections appear to embrace three points—first, that the House had no right to inquire of a man how he voted; because it would destroy the privacy of ballot.—Secondly, that an unqualified voter ought not to be examined touching his vote; because it would subject him to certain penalties of the law.—Thirdly—That hearsay evidence should not have been introduced, where a man refused to disclose for whom he voted.—We will examine these several points in order, by the strict rules of common law.

The parties to the Calvert question or suit, were the four Candidates.—Their contest may be considered as one for a species of property, to wit, a seat in the house, which would give them both influence and money. Witnesses were called to the bar of the house by one party, to prove title; which witnesses were subject to every objection on the score of competency, that might be urged in a court of justice. But by the common law every man is a legal witness compellable to give testimony until he is proved otherwise by the party against whom he is produced, the voters from Calvert could then be legally called upon for testimony until it was proved that they were 21 years of age, that they had voted in a legal manner, &c. for in that case only, the objection would avail, that a voter's privacy of ballot, would be destroyed by inquiring of him, for whom he voted—If he was not a legal voter, he was no voter at all.

The next objection is, that an unqualified voter would render himself amenable to the penalties of the law regulating elections, by disclosing that he voted at all, and that no man can be compelled to criminate himself. But it is contended, that the mere act of handing in a paper at the hustings, is not sufficient to bring a minor within the penalties of that law.—There must be additional circumstances to constitute it a crime in him.—He must be absolutely certain, that he was under age at the time he voted, and he must also know that the paper which he gave in to the Judges of the election, contained names, that would be counted on the polls in the return of delegates for the county; for an illiterate man might be so far deceived, as to commit an act of which he knew not the tendency.—These circumstances must appear on his examination, before he can be said to have confessed, what would render him liable to conviction under the election law. He may indeed give testimony that would afford strong grounds of suspicion, that he had violated the laws; but this is frequently the case in courts of justice. Every witness, on a trial for treason, who confesses an intimacy with the prisoner at the time when the treasonable act was committed, gives a grand jury fair cause of suspicion against him.

As to the third objection, that witnesses were called to prove for whom a man voted, that refused a disclosure, it may be demanded, what other possible mode there was of ascertaining it. Where good evidence cannot be had, the next best must be resorted to, and however difficult it may be to prove for whom a man voted, that refuses to give testimony himself, if hearsay is not admitted, still the decision of the House might be founded on such legal presumptions, as would incline them to one opinion—rather than another. A voter's having marched to the hustings under the banner of either party, would give rise to a presumption that he had voted for that party.

It is highly probable that many illegal questions involving hearsay, as well as other improper species of evidence, were propounded to the witnesses, in the Calvert Election. It is scarcely probable it could have been otherwise. It cannot be supposed that the members of the House were all lawyers, and we frequently find those learned gentlemen themselves squabbling about the application of their rules of evidence. Indeed such nice shadows of distinction are sometimes drawn between what is proper circumstantial evidence, and that which partakes more of another character, that none but those most deeply initiated in the glorious uncertainty of the law, can pretend to distinguish them. In the celebrated trial of Warren Hastings, the gentlemen who managed the prosecution on the part of the House of Commons, were so frequently checked by the opposing counsel for propounding illegal questions to the witnesses, that they sometimes threatened to withdraw from the prosecution in disgust. Whether the framers of our constitution intended that the legislature should be in all cases bound by the strict rules of evidence imposed on courts of justice by the common law, when in the scrutiny of elections, is somewhat questionable; and admitting that they did, the propriety of such intention is equally problematical.

JUVENIS.

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