

Mr. Duane was dismissed for faithlessness in his solemn written pledges, and for the execution of his pledges, which made him unfit for the honor to which he had been elevated. It was not dismissed merely for refusing to remove the deposits.

Let us not be misunderstood. We maintain the right of the President to dismiss any executive officer for refusing to do what the Constitution may require him to do. In this case, if Mr. Duane had not given the written pledge, and had not shown any of his bad feelings, the President might have dismissed him, and probably would. But that point does not belong to the case, and cannot be brought into discussion; for however clear it is, that the President had a right to dismiss him (as the case is, it is equally clear that this was not the immediate inducement).

From these facts, the Bank party will perceive that the case is a little different from what they have supposed. To reach the President, they will be obliged to prove, not that he has no power over the deposits, but that he has no right to dismiss a Secretary for violating his written pledges and using insulting language towards the Chief Magistrate, whom it is his duty to respect. They must not only prove, that the President has no right to discharge from his council men, on whose word he cannot rely and who selectings and opinions are with his worst enemies; but that he cannot remove a Secretary when he himself has made, who has not had the confirmation of the Senate, whose nomination goes to that body depends on his will, and whose commission would have expired at the close of the next session of Congress.

Long ago we have sent out short the arguments of the Bank papers by this exposition. But as it must annihilate all that is left of the affected candor, and assumed humility of the late Secretary; as no doubt; was entertained that the country would triumphantly sustain the Administration in the great measure, and as there was no desire here to give unnecessary pain, we were disposed to be silent. But when he comes before the country and charges the President with having acted in an "unwise, unjudicious, arbitrary and unjust" and says, "I was removed from an honorable discharge of my duty," it becomes necessary that truth shall be told, and justice done.

Of the motives which governed Mr. Duane's strange conduct in Washington, we have said nothing. The motives which now induce him to write vindictive letters for publication is palpable enough. It is to act as the promoter of the Bank Party and Nullifiers in an attack upon the President at the approaching session of Congress.

SIXTEEN DAYS LATER FROM ENGLAND.

On Tuesday morning the packet ship *Liverpool*, Capt. Deane, arrived at New York from Liverpool, where she sailed on the 24th of October. By this arrival, the editors of the Commercial Advertiser have their usual supply of London papers to the 23d of October, and *Liverpool* to the 24th, both inclusive.

RETURN OF CAPTAIN ROSS.

ARCTIC DISCOVERY.—The most interesting item of intelligence furnished by this arrival, relates to the unexpected return of Captain Ross, from the Arctic Regions. This intrepid navigator, after an absence of three years and a half, has returned to England in safety, when all reasonable hope had fled, even of his existence. The expedition of Capt. Ross, sent forth for his possible rescue and relief, and which in every sense of the phrase might be termed the *fabular hope*, has been superseded in its purpose by this gratifying intelligence, and our concern and sympathy must now be directed to him who has been sent to succor the returned.

Captain Ross, with the whole of his party, except three, two of whom died on the passage out, and one at a later period, arrived at Hull on the morning of Friday, the 18th of October.

It was in 1829 that Capt. Ross fitted out his expedition to determine the practicability of a new passage, which had been confidently stated to exist, particularly by Prince Regent's aide, but in consequence of the loss of the *Victory*, he was obliged to retire at Wainwright, in Greenland. The accounts of his departure from thence on the 27th July, 1829, formed the last authentic intelligence received of the expedition. By the subsequent details it will be perceived that he was picked up by the *Isabella*, of Hull, in the very ship—by a singular coincidence, in which he made his first voyage to the Arctic region.

By Captain Ross's account it appears, that the first expedition, that of 1829, was the noblest that had ever been recorded, and the sea was more clear of ice than had been experienced during any preceding voyages. On the 14th of August, Capt. Ross reached the spot where the stores of the *Fury* were landed without experiencing any difficulty, and there he found the provisions, &c. but not the wreck, which had totally disappeared. Having supplied all his wants at this depot, he advanced to the southward round Cape Carey, from whence the west coast led him in a S. W. direction, to the lat. of 72 deg. N.

Here he was for the first time seriously impeded by ice; but, after examining an inlet, he proceeded to urge his way to the southward as near the west shore as the shallowness of the weather permitted, and occasionally landed to take possession of the newly discovered river of the British crown, with the usual ceremony. Owing to the rapidity of the tides and currents, the stubborn quality of the ice, and the rocky character of the coast, the voyage was extremely perilous. Having experienced several almost miraculous escapes from shipwrecks, they ultimately succeeded in reaching the 70 deg. lat. in a direction nearly due south of *Fury Point*, where their course was arrested by an impenetrable barrier of ponderous ice. In a harbor which they found at this extreme point they wintered.

In January, 1830, they opened a communication with a tribe of natives, who had never before held intercourse with strangers. Friendship was soon formed between them and the sailors, and the first winter, which was not very severe, was spent very pleasantly. Having learned from the natives, that the east sea was divided from the west by a neck of land, the point was examined, and all hope of effecting a passage in that direction completely extinguished. Commander Ross (nephew of Capt. Ross) who was sent to survey the coast of the west sea, leading to Cape Turnagain, succeeded in getting within 150 miles of it, and left back explored Fish River to join the sea.

They also determined that the land was continuous to that which forms Reclus Bay.

During the autumn of 1830, the voyagers waited in vain for the ice to dissolve, as it had done the preceding year. They had not, however, done the preceding year. They had not, however, done the preceding year. They had not, however, done the preceding year.

form any idea of what passed in the minds of Divine Providence; nor can the feelings of him who was selected as the instrument of mercy be fully appreciated.

The party were not more reduced by their sufferings than might have been expected.—They have now recovered from the effects of those sufferings. The circumstance that Captain Ross was rescued by the ship he commanded in 1818, is a curious and happy conclusion of the voyage, the result of which has been to establish, that there is no new [in. w.] passage south of 74 degrees.

The country discovered, which is larger than Great Britain, has been named Brothers, after Felix Booth, Esq. Sheriff of London, in 1829 who most assisted Captain Ross in fitting out the expedition. The true position of the magnetic pole has been discovered, and much valuable information obtained for the improvement of geographical and philosophical knowledge. Captain Ross had a good opportunity of verifying his former survey of the west coast of Ballin's Bay, which every master of a Greenland ship can testify to be most correct.

Only three men died during the voyage. Two of whom were men, whose constitutions were unfit for the climate. On the whole, it may be truly said that this expedition has done more than any that preceded it; and let it be remembered that Captain Ross and his nephew were volunteers, serving without pay, for the attainment of a great national object, in prosecuting what they have lost their all.

From Hull, Captain Ross proceeded to London, and received the most gratifying testimonials of public approbation for his services.

The latest intelligence received in England from Captain Ross, was conveyed in the late dated Norway House, Jack River, 19th June, the tenor of which was favorable.

From London, Capt. Ross proceeded to Windsor Castle, where he had the honor of dining with his Majesty.

It appears that Captain James C. Ross, the nephew of the Commander, penetrated 200 miles into the interior of the country, guided by the Esquimaux, and discovered the magnetic pole about 70 deg 30 min. N. lat. 96 deg. W. lon., on which he planted the British flag in the name of the King. In about lat 69, a small isthmus of about 15 miles, divides the seas, for it is ascertained that there is no passage south of North Somerset; but that from Cape Garry, the land is connected with what is termed Melville peninsula. In the 15 miles above mentioned, they found a lake about 9 miles broad, so that there is, in fact, not more than six miles of land to divide the seas at that spot, from whence again it diverges to Point Turnagain, without their having found such a river as the supposed Great Fish River.

With what intense anxiety saw the *Liverpool Gazette*, will the public look for the narrative of their adventures! And how satisfied must it be to the subscribers to that fine paper which has despatched Capt. Ross's expedition in search of them, that this manifestation of good feeling took place; that the countryman was rescued from the disgrace of leaving them to their fate; and that regardless of the feelings of readers, a course was adopted so honorable to the parties, and now, so grateful to the hearts of their restored countrymen.

The London papers announce the intended marriage of Miss Fanny Knolly, the niece of the Duke of Devonshire, to the Rev. Pierce Butler, Esq. of Philadelphia. They also announce that the journal kept by Miss K. during her residence in this country, is to be transmitted thither for publication.

SCOTLAND.

The Duke and Duchess of Buccleugh were seriously attacked at the town of Biggar, on their way to Stirling, where his Grace was to preside at a great Agricultural meeting. Much indignation is expressed at an occurrence so novel in Scotland.

INSURRECTION IN SPAIN.

The death of the King of Spain has been followed as was anticipated, by an attempt on the part of the friends of Don Carlos, to depose the King, to obtain for him possession of the throne. The insurrection commenced in Biscaia, where Don Carlos is supported with great zeal. They have made themselves masters of the city of Bilbao, in that province, after butchering and imprisoning many of the liberals, and pillaging their houses.

Verdun, in Alava, another Basque province, is also in their power, but there, through the firmness of the liberal party, the change took place without the effusion of blood. The liberals, acquainted with the preparations of the Carlists, assembled in the Plaza Anjel, having in the midst of them the municipal authorities, and sent a flag of truce to the insurgents announcing their determination not to be murdered and plundered like their brethren in Bilbao, but to die with arms in their hands.

A party took place—the liberty and popular opinions were guaranteed, and they were permitted to depart out of the city with their arms. In Guisano, the liberal party of the Basque provinces, the liberals are said to be strong in point of number, and the old Constitutional Volunteers of Tolosa are forming again, having called upon some of the refugees from France to come and place themselves at their head. They had already compelled a column of 8000 Basqueans, who had advanced as far as Burgos, to retire to their own province. The insurrection has spread into Navarre, but at Pampeluna in that city, where the first disturbance took place, the liberal party is stated to have been overpowered, and the troops sent from that town to attack the Carlists, were advancing into the province, had succeeded in defeating the latter, and taking their leader, Santos Latorre, prisoner.—The Queen's Government are taking active measures to suppress the disturbances, and are said to have despatched 3,000 of the Royal Guard to Vittoria.

The Madrid Gazette of Oct. 13th, quoted in the Paris papers, states that the French Ambassador, at an audience with the Queen Regent on the 11th of that month, declared in the name of his Sovereign, that "as his friendly ally, relation, and neighbor, he offered his services in maintaining the rights of her daughter as well as all the support she might, under any circumstances, require from France."

The insurrections of the Carlists in different parts of Spain were known at Madrid, but were not considered serious, and no disturbance of public tranquillity had occurred in that capital. Assurances of support had been received by the Queen Regent from the towns of the provinces; and the permanent deputation of the Gravelles of Spain had tendered their adherence to her government. One of the Paris Journals, the *Temps*, says it was believed at Madrid that the Ministry would be changed, and that the Queen was intimate into publishing her Manifesto by Zea Bermudez, who represented Don Pedro as a rival, and that whilst the support of France was uncertain, the hostility of the Northern Courts, if she pursued any other line of policy than that previously adopted, would be inevitable. The advice of her sister, the *Temps* says has

changed her opinion, and that Zea Bermudez will be dismissed.

PORTUGAL.

The London papers contain nothing later than the 1st of October, from Lisbon. On direct advices from that place, it will be recollected, have already come down to the 13th of October. The correspondents of the London papers, however, give various details in the current history of the war, which have not been reached us—but they are of no great importance. The City of Waterford steamer, which has been plying between England and Lisbon during the whole season, was wrecked on the 23d of September. No lives were lost, but all the baggage and cargo either went to the bottom, or was carried off by the people of St. Martinhas, near which place the disaster occurred. The Queen's wardrobe, a quantity of plate, books, &c. were on board—altogether, it was estimated at 435,000 or 410,000.—Pedro continued to be popular. The Queen had reviewed the troops in company with her father and a brilliant suite, on which occasion all the officers had the honor of kissing her hand. All was safe and tranquil at Oporto—the agents of the Queen in England have received instructions to raise immediately two thousand men for militia.

GERMANY.

Arrests of the students at Weimar continued. They are sent to Eisenach, in await that prison their uncertain fate. The estates of Moravia have resolved to commemorate the joy of the inhabitants at the fortunate escape of the Emperor of Austria from injury, on his recent fall from his horse, by establishing an asylum for the blind, and by enlarging other charitable institutions.

By a Convention between Russia by the German powers it has been determined that all the Poles still in Germany shall be sent out of the country, to embark for England or the United States of America. Accordingly, the few Poles who were still at Dresden, were lately arrested and conveyed with English passports to Hall, thence to proceed to England.

The Presburgh Gazette gives an account of continued torrents of rain having fallen on the 21st and 22d of Sept which caused extensive inundations in Lower Hungary, and the destruction of innumerable bridges and mills.—The Clagenfurt Gazette contains similar statements from Carinthia and Upper Styria.

HOLLAND.

The States General were to assemble on the 10th of October. The opening speech of the King will be looked for with some anxiety in the British capital, although it is generally believed that its tenor would be of a satisfactory nature, both on political and financial points.

From the Philadelphia Sentinel.

The New Jersey Railroad.—A legal writer has made a very elaborate communication on the opinion of Mr. Taney relative to the constitutionality and nullity of the act of the Legislature of New Jersey, chartering a railway company to the exclusion of all similar companies, and afterwards attempted to be enfranchised. The reasons are chiefly founded on a decision in 1812 of the Supreme Court of the United States, as recorded in Pennington's Reports, p. 390. This case had been an appeal from the Court of Errors and Appeal of New Jersey, which had refused a decision of the Supreme Court of that state, in the matter of an assessment on lands that had once been yielded by the colonial legislature of New Jersey to the Indians, according to a treaty with them; and had consequently been exempted from taxation. But the Indians wishing to dispose of these lands had a subsequent act passed empowering them to dispose of them by sale upon the terms of these lands from which they were assessed was soon after repealed. The assessor consequently rated them when sold by the Indians as he did any other property; but being refused, he brought his action before the Supreme Court of New Jersey, and succeeded in obtaining a judgment affirming the legal liability of these lands to taxation.

Yet when the appeal was made to the Supreme Court of the United States, it was adjudged that there was error in the judgment of the said Court of Appeals and errors of the state of New Jersey, in this that the judgment of the said Court is founded on an act passed by the legislature of the state of New Jersey, in December, A. D. 1801, entitled an act to repeal part of an act of 1788, respecting lands purchased by the Indians, which act is in the opinion of that Court is repugnant to the constitution of the United States, inasmuch as it impairs the obligation of a contract, and is on that account void. The marginal note of the learned reporter, Judge Cranch, is: "A legislative act, declaring that certain lands which should be purchased for the Indians should be thereafter be subject to any tax constituted a contract, which could not be rescinded by a subsequent legislative act. Such repealing act being void, under that clause of the constitution of the United States, which prohibits a state from passing any law impairing the obligation of contracts," and it having been certified to the Court of Appeals and Errors of the state of New Jersey, said Court ordered to be entered on the minutes a reversal of their former judgment by which the said tax warrant had been confirmed; and so acquiesced in the decision of the Supreme Court of the United States, by which the said Indian lands had remained free from taxation, from that period until the present moment.

The decision of the Supreme Court of the United States was in this case perfectly right; because they declared null a legislative act which was decidedly contrary to the constitution—their decision being merely a proof of what we have always maintained, that the constitution of the United States is paramount to the constitution or legislation of any state of the union, or to any enactments of Congress.

The colonial legislature of New Jersey had made an enactment in pursuance of a treaty to guarantee certain lands to the Indians, and to exempt these lands from being taxed.—Such an enactment was therefore a decided contract—and irrepealable; because such an enactment was not a violation of the constitutional rights of any citizen; and it was a bona fide contract before the adoption of the constitution of the union. But when the legislature transgressing the constitution makes any charter or grant infringing on the rights of others than those so chartered, such an enactment is nugatory and void. The Supreme Court did not declare void the Jersey act of 1804, which repealed so much of a former act in 1788 excepting the Indian lands from being taxed, because the 1804 act was contrary to the 1788; but because the 1788 enactment being a contract in pursuance of a treaty was constitutional and unimpaired, the act of 1804 annulling such a contract was therefore unconstitutional. This is the gist of the argument.

Now the alleged contract relative to the Jersey rail road company is essentially different, because it is essentially unconstitutional in its very enactment. All citizens have equal rights and equal privileges. Whenever, therefore, any legislature violates that equality by a monopoly—no matter by what name the

enactment may be designated—excluding other citizens or companies from similar privileges, that act is unconstitutional and cannot be enforced. And if in pursuance of its own unconstitutional enactments, it attempts to frustrate the decree of any future legislature, it shows its knowledge of its own aggression—and that some sinister means have been used to procure its adoption. Without the restrictive clause, it is unconstitutional; and with the restrictive clause it cannot be rendered more imperatively obligatory. What is against the constitution cannot be secured in its enforcements by any exclusive sanction of its own.

If therefore any legislative enactments assume the nature of a contract which is contrary to the constitution, it cannot be sanctioned or secured by the said constitution, of which it is a palpable violation; for no clause of the constitution can properly be adduced to protect an infraction of some other clause.

Hence it is that the charter of the Jersey rail road company was unconstitutional in being enacted. Being therefore an unconstitutional contract it cannot be enforced or protected.—Charters or contracts are secured by the constitution only when they are in conformity with the constitution. The legislature of New Jersey may therefore abrogate the exclusive charter of the Jersey rail road company.—What is constitutionally wrong cannot legally be rendered right; for equality of rights is established or destroyed exclusiveness of privileges.

From the N. Y. Evening Star.

FALLING STARS.—That the late phenomena would have created a great sensation—that in some minds the most gloomy anticipations would be indulged, and that the phenomena would be interpreted into signs, portents, we never doubted; but we were not prepared by the extraordinary interpretation given to it by the editor of the *Old Countryman*—a weekly paper devoted to English news—to "flash, frolic and fun"; a kind of sporting chronicle, with considerable circulation. The writer of this piece has suddenly appeared by the glorious light—has thrown by his quick and quibbles, his wit and witticisms, and falls to praying with fervor, and prognosticates seriously that the world is coming to an end. Let us hear what he has to say.

We pronounce the Raining Fire we saw on Wednesday morning last an awful Type—a sure Forerunner—a merciful sign of that great and dreadful Day which the inhabitants of the earth will witness when the SIXTH SEAL SHALL BE OPENED.

That time is just at hand—described not only in the New Testament but in the Old; and a more correct picture of a "big tree casting its leaves when blown by a mighty wind, it was not possible to behold.

And again:—

Many things now occurring upon the Earth tend to convince us that we are now in the "later days." This exhibition we deem to be a type of an awful Day fast hurrying upon us. This is our sincere opinion; and what we think we are not ashamed to tell.

Men may, and have, called us Enthusiasts. We care not if they call us fanatic and mad, so that we feel that they are mistaken. Fear neither the face of human clay, nor man's arm, nor man's voice, while we obey human laws and love and fear God, and have the evidences within that we are believed in return, we will go on our way rejoicing. Nor would we go alone. Hence we warn all to turn to the Lord while he yet is near.

The quotations from Scripture with which the editor attempts to strengthen his position are as follows:—

And God said let there be lights in the firmament of heaven, to divide the day from the night; and let them be Signs, and for Seasons, and for days and for years. Gen. 1, 14.

And the Stars of Heaven fell unto the earth, even as a fig tree casteth her untimely figs, when she is shaken by a mighty wind. Rev. 6, 13.

Rejoice not thou, whole Palestine, because the rod of him that smote thee is broken; for out of the serpent's root shall come forth a cockatrice, and his fruit shall be a Fiery Flying Serpent. Isaiah 14, 19.

And there shall be signs in the Sun and in the Moon, and in the Stars; distress of nations, with perplexity; the sea and the waves roaring. Luke, 21, 26.

But in those days after that tribulation, (the destruction of Jerusalem) the Sun shall be darkened and the Moon shall not give her light.

And the stars from Heaven shall fall, and the powers that are in Heaven shall be shaken.

And then shall they see the son of man coming in the clouds with great power and glory.

There can be no doubt that shooting stars, falling stars, meteors, eclipses and other phenomena of the heavenly bodies, occurred in ancient times as they do now occur, with this difference, that in the dark ages they were considered as signs; and the inspired writers referred to those signs as the sources of prophesy, which we at present account for on philosophical principles, guided by the lights of science.—What lately occurred in the heavens has before occurred, and yet the world has not destroyed. A similar phenomena was seen on the same day a year ago in the red sea, in the neighborhood where the above quotations from scripture were written; not far from Mount Sinai, where amidst thunder and lightning, the great moral law which governs the civilized world was given. They were seen by Capt. Hammond, of the ship *Restitution*.

It is also stated that on the 13th Nov. 1779, a similar phenomena took place in South America. Here are three events of similar character, occurring at three different periods, and yet the world is not destroyed.

"The unwearied sun from day to day, Doth his Creator's power display, And publishes to every land The work of an Almightly hand."

The editor of the *Old Countryman* must take courage—look with all hope and confidence to that all wise and all directing Providence, in whose hands we all are, who created this world, and will sustain the work of his creation.

Produce of Louisiana.—The New Orleans Bulletin gives the following estimate of the probable amount of this year's produce in Louisiana:—We may expect 95,000 bushels of sugar, of 1,100 pounds each, which, at 57 per cent, is equal to \$7,815,000; as many barrels of molasses, of 40 galls. at 22 cents, equal to \$838,000; total \$8,153,000.

Now, we venture to estimate all other branches, cattle, horses, lumber, lime, and tar, aggregate of \$17,151,000, as our total produce for the present year.

The Nationals swept up.—Their little bark was spoken yesterday afternoon, at 3 o'clock, by the steamer Independence, in latitude 195, longitude 1833, bound up Salt River, for a port and a market—provisions scarce, crew in distress.—Boston Post.

We trust we have sufficiently answered our friends of the Washington Telegraph relative to our ideas of state rights; and of state remedies when state rights are violated. Every such violation must be revoked or resisted.

Such was the doctrine. Self defence is the right of every man, resistance is the right of every state. And of this principle in operation did Pennsylvania afford an excellent example so early as 1778—perhaps the first instance of state resistance on record. In that year a decision of the United States Court was superseded in this city by a decree of Judge Ross—who had himself been one of the Pennsylvania delegates that signed the Declaration of Independence. Resistance to an unconstitutional aggression—whether by legislative enactments or judicial decisions—is not therefore unknown to Pennsylvania; and has had with us the sanction and support of even a patriot of '76.

Nor is the constitutional resistance of Pennsylvania confined to a solitary instance. It is tolerably well known that in 1802, the legislature of this state passed an enactment embodying the principle; and in 1809, Governor Snyder issued an order in consequence of this enactment, requiring a Philadelphia brigade to be in readiness to resist by force if necessary. This is usually known as Olmstead's case; and although by a singular species of manoeuvring the Marshal of the U. States obtained access to the house and got possession of the property, and although the state subsequently paid the money in dispute, the principle of resistance was eroded in its contest—and the acquiescence of our state acquiescence in its resistance, and from a desire not to come into forcible collision with the general government, than from any hesitation or reluctance to avow and enforce the doctrine of state resistance. We have also a decision of the Chief Justice of this state, which effected an admirable adjustment between our government and the government of the union.

Amer. Sentinel.

SINGULAR CIRCUMSTANCE.

An evening paper publishes the following extract of a letter, giving an account of a circumstance not without precedent in volcanic countries, but we believe unexampled in this section of the world.

"WOODBURN, near Hudson, Nov. 15.

"A singular occurrence took place on my farm some days ago, which has excited a good deal of speculation among all who have since visited it in this spot. A beautiful and well grown little wood, which you remember on the left of the road as you approach a strip of land containing an acre and a half, suddenly smelt down about thirty feet, most part of it perpetually, so that where not long since the trees were to all appearance firmly imbedded, the topmost branches now peep out. The wood is bounded by the creek, of which the sides and bottom are blue clay. The land near the bank, from some unexplained cause, seems to have given way all at once, and slid into the creek; which, by the mass thrown into it, is so filled up, that from its previous width of fifty feet, it is reduced to thirty feet, and one might easily jump across. A strip of land adjoining the road of about thirty feet wide, and of considerable length, has sunk straight down, so that where the surface was before level, there is now a perpendicular bank of thirty feet. The spectacle altogether is most curious, but as you may imagine, presents no great improvement to the appearance of my farm."

PERSONAL IDENTITY.

A trial of some interest was held before Judge Irving, yesterday, the principal point in which depended upon proof of the personal identity of Leonard Gosling, the blacking manufacturer in Nassau street, who for some time past has endeavored to give consequence to his blacking by trumpeting it through the streets in unusual style. It appeared that a Mr. Leigh, of London sold in 1828, a quantity of goods to a man by the name of Abraham Israel, who soon after was 'among the missing.' Mr. Leigh having removed to New York, recognized the same Abraham Israel in the person of L. Gosling, blacking maker. Gosling denied the debt, and disclaimed the identity, both of which were proved by the clerk of Mr. Leigh, and other testimony, direct and circumstantial.

On the other hand the defendant adduced several witnesses to prove that he resided in Paris from 1827 to 1830 and was rarely from that city. His witnesses also testified that in Paris he pursued the same business, and went by the same name.

After the case had been committed to the jury they retired, and in about an hour and a half returned with a verdict for the defendant.

N. Y. Com.

ANOTHER STEAMBOAT BURN.

"The steamboat *St. Martin*, which left our landing on Wednesday last, with a cargo of cotton, passengers, &c. while on her way to New Orleans, took fire a few miles above Donaldsonville, at 1 o'clock, A. M. on Thursday, and in three minutes after the alarm of fire was given, the boat was unmanageable. We are informed that at the time the *St. Martin* took fire, there were 80 or 90 passengers on board, 10 of whom were ladies. We have not yet seen any one that could give us a positive statement as to the exact number of lives that were lost in this unfortunate catastrophe, but it is estimated by the survivors to be not less than 60 or 70. Among the lost, it is with great regret, that we record the names of Captain Cash, who has left a wife and four children to deplore his loss, also, that of Mrs. Matt, of St. Francisville, Mr. and Mrs. Willis, of Jackson, M. K. Allen, who lost his life in attempting to save that of Mrs. Willis. Mr. Ansellor, of Plaquemine, deserves great applause, for rescuing Mr. and Mrs. Maringo, of Attakapas, from the watery element, in which they were then precipitated; Mr. N. Morse, of New Orleans, is among the dead. All that were saved, landed on this side of the river, and we are informed, received every attention in the power of the inhabitants of that section.

The late phenomenon in the heavens, seems to have extended all over the United States, at least so far as we have heard from, and has produced all sorts of sensations, as might be expected. A fellow near Georgetown, D. C. having just robbed a hen roost, was so frightened by what he had no doubt was the day of judgment, while carrying off his booty, that he ran back and was caught in the act of replacing it.

Walter F. Osgood has been found guilty in New York, before the U. S. Circuit Court, of forging documents purporting to be the pension papers of revolutionary soldiers, for the purpose of defrauding the U. S. Government. It appears that the prisoner, by the aid of profligate assistants, carried on the business so successfully, that he obtained upwards of \$2,000 from the pension fund. Osgood was an Attorney at Law.

The Philadelphia papers of the 21st contain the following card from Mr. Duane:

A CARD.

W. J. DUANE has not, since he ceased to be Secretary of the Treasury in September last, written any letter, or other article intended for the public eye, with the exception of the cautionary cards published on the eve of the last election, nor has it been his desire to make any exposition, whatever in relation to occurrences that have recently taken place. An attack made upon him in the official paper of the President U. S., the *Globe* of the 19th inst. puts him upon his defence; and he will accordingly, at an early day, appear, at the bar of the public, at least to repel imputations upon his integrity and conduct as an officer and a man. Into a general discussion of the deposite question, he may not consider himself now called upon to enter. If the mean time he respectfully asks a suspension of comment, on the part of the public, upon the points at issue between the President and himself.

This card is delivered to each of the daily papers of this city, with the hope that none will refuse to give it currency.

Nov. 20, 1833.

We find nothing in the *Mobile papers*, explanatory of the military movements towards the State of Alabama, noticed in this quarter. No new cause of difficulty or excitement has taken place, that we can find. Probably the measures were only precautionary.

A meeting of the citizens in Madison county was recently held, at which resolves were adopted, similar in moderation to those we noticed as having been made in the County of Taladega. They expressly admit that the Federal Government has the power "under the constitution and under the late treaty with the Indians, to remove all intruders from within the limits of the reservation, in the manner prescribed by the act of the 3d of March 1807;" and while they recommend patience and forbearance, and deprecate resistance on the part of the settlers, as one of the greatest evils that could befall our "common country," they urge upon the general government the policy of increasing the number of selecting agents, so that the selections may be made before the full time fixed on for the removal of intruders.—*Bull. American*.

The Age of Editors.—Almost every journal that does us the honor to extract something from the *Evening Star*, couples it with a complimentary notice of the "veteran" editor, the "venerable" editor, and the State printer lately referred to as "infirmities of age."

We understand an impression generally prevails that we are the only individual in the city, whose miraculous preservation in the ark is so frequently referred to in Biblical discourses. We are nearly thirty years younger than Capt. Mearns; nearly twenty years younger than Mr. Lang; seventeen years younger than the venerable Mr. Ritchie; ten years junior to our active friend, Mr. Butler; quite as young as Mr. Galea; and but little in advance of Col. Stone.

Our son and heir is short of six years of age—our youngest scarcely walks, and we are all together a young beguener. We can allow Mr. Van Buren to serve out three terms as President, before we are too old to be his successor. There may be something ingenious in the opposition answering all our arguments, and repelling our attack, by a charge of age and imbecility, but it is no go. If we are spared, we will show ourselves young enough to use them up before many years are over. We are a sound heart, a firm hand, and a clear head, seldom bring on premature old age.—*New York Star*.

Judge King, of Augusta, has been elected Senator in Congress from Georgia, by a majority of thirty six votes over John M. C. Berrien, late Attorney General, to fill the vacancy caused by the resignation of George M. Troup. The term will expire in 1835.

Extensive Countessing.—We learn by a letter from Natchitoches that the whole south western country is inundated with a new and dangerous emission of counterfeiters on various branches of the "Bank of the United States." Among them are \$20's on the branches of Lexington, Ky. Fayetteville, N. C. Pittsburgh, Pa. and St. Louis, Mo., and \$5's on those of New Orleans, La., Charleston, S. C. and Utica, N. Y.—*Sylvester's Counterfeit Detector*.

By the Capt. Ross's account it appears, that the first expedition, that of 1829, was the noblest that had ever been recorded, and the sea was more clear of ice than had been experienced during any preceding voyages. On the 14th of August, Capt. Ross reached the spot where the stores of the *Fury* were landed without experiencing any difficulty, and there he found the provisions, &c. but not the wreck, which had totally disappeared. Having supplied all his wants at this depot, he advanced to the southward round Cape Carey, from whence the west coast led him in a S. W. direction, to the lat. of 72 deg. N.

Here he was for the first time seriously impeded by ice; but, after examining an inlet, he proceeded to urge his way to the southward as near the west shore as the shallowness of the weather permitted, and occasionally landed to take possession of the newly discovered river of the British crown, with the usual ceremony. Owing to the rapidity of the tides and currents, the stubborn quality of the ice, and the rocky character of the coast, the voyage was extremely perilous. Having experienced several almost miraculous escapes from shipwrecks, they ultimately succeeded in reaching the 70 deg. lat. in a direction nearly due south of *Fury Point*, where their course was arrested by an impenetrable barrier of ponderous ice. In a harbor which they found at this extreme point they wintered.

In January, 1830, they opened a communication with a tribe of natives, who had never before held intercourse with strangers. Friendship was soon formed between them and the sailors, and the first winter, which was not very severe, was spent very pleasantly. Having learned from the natives, that the east sea was divided from the west by a neck of land, the point was examined, and all hope of effecting a passage in that direction completely extinguished. Commander Ross (nephew of Capt. Ross) who was sent to survey the coast of the west sea, leading to Cape Turnagain, succeeded in getting within 150 miles of it, and left back explored Fish River to join the sea.

They also determined that the land was continuous to that which forms Reclus Bay.

During the autumn of 1830, the voyagers waited in vain for the ice to dissolve, as it had done the preceding year. They had not, however, done the preceding year. They had not, however, done the preceding year.

The death of the King of Spain has been followed as was anticipated, by an attempt on the part of the friends of Don Carlos, to depose the King, to obtain for him possession of the throne. The insurrection commenced in Biscaia, where Don Carlos is supported with great zeal. They have made themselves masters of the city of Bilbao, in that province, after butchering and imprisoning many of the liberals, and pillaging their houses.

Verdun, in Alava, another Basque province, is also in their power, but there, through the firmness of the liberal party, the change took place without the effusion of blood. The liberals, acquainted with the preparations of the Carlists, assembled in the Plaza Anjel, having in the midst of them the municipal authorities, and sent a flag of truce to the insurgents announcing their determination not to be murdered and plundered like their brethren in Bilbao, but to die with arms in their hands.

A party took place—the liberty and popular opinions were guaranteed, and they were permitted to depart out of the city with their arms. In Guisano, the liberal party of the Basque provinces, the liberals are said to be strong in point of number, and the old Constitutional Volunteers of Tolosa are forming again, having called upon some of the refugees from France to come and place themselves at their head. They had already compelled a column of 8000 Basqueans, who had advanced as far as Burgos, to retire to their own province. The insurrection has spread into Navarre, but at Pampeluna in that city, where the first disturbance took place, the liberal party is stated to have been overpowered, and the troops sent from that town to attack the Carlists, were advancing into the province, had succeeded in defeating the latter, and taking their leader, Santos Latorre, prisoner.—The Queen's Government are taking active measures to suppress the disturbances, and are said to have despatched 3,000 of the Royal Guard to Vittoria.

The Madrid Gazette of Oct. 13th, quoted in the Paris papers, states that the French Ambassador, at an audience with the Queen Regent on the 11th of that month, declared in the name of his Sovereign, that "as his friendly ally, relation, and neighbor, he offered his services in maintaining the rights of her daughter as well as all the support she might, under any circumstances, require from France."

The insurrections of the Carlists in different parts of Spain were known at Madrid, but were not considered serious, and no disturbance of public tranquillity had occurred in that capital. Assurances of support had been received by the Queen Regent from the towns of the provinces; and the permanent deputation of the Gravelles of Spain had tendered their adherence to her government. One of the Paris Journals, the *Temps*, says it was believed at Madrid that the Ministry would be changed, and that the Queen was intimate into publishing her Manifesto by Zea Bermudez, who represented Don Pedro as a rival, and that whilst the support of France was uncertain, the hostility of the Northern Courts, if she pursued any other line of policy than that previously adopted, would be inevitable. The advice of her sister, the *Temps* says has

changed her opinion, and that Zea Bermudez will be dismissed.

PORTUGAL.

The London papers contain nothing later than the 1st of October, from Lisbon. On direct advices from that place, it will be recollected, have already come down to the 13th of October. The correspondents of the London papers, however, give various details in the current history of the war, which have not been reached us—but they are of no great importance. The City of Waterford steamer, which has been plying between England and Lisbon during the whole season, was wrecked on the 23d of September. No lives were lost, but all the baggage and cargo either went to the bottom, or was carried off by the people of St. Martinhas, near which place the disaster occurred. The Queen's wardrobe, a quantity of plate, books, &c. were on board—altogether, it was estimated at 435,000 or 410,000.—Pedro continued to be popular. The Queen had reviewed the troops in company with her father and a brilliant suite, on which occasion all the officers had the honor of kissing her hand. All was safe and tranquil at Oporto—the agents of the Queen in England have received instructions to raise immediately two thousand men for militia.

GERMANY.

Arrests of the students at Weimar continued. They are sent to Eisenach, in await that prison their uncertain fate. The estates of Moravia have resolved to commemorate the joy of the inhabitants at the fortunate escape of the Emperor of Austria from injury, on his recent fall from his horse, by establishing an asylum for the blind, and by enlarging other charitable institutions.

By a Convention between Russia by the German powers it has been determined that all the Poles still in Germany shall be sent out of the country, to embark for England or the United States of America. Accordingly, the few Poles who were still at Dresden, were lately arrested and conveyed with English passports to Hall, thence to proceed to England.

The Presburgh Gazette gives an account of continued torrents of rain having fallen on the 21st and 22d of Sept which caused extensive inundations in Lower Hungary, and the destruction of innumerable bridges and mills.—The Clagenfurt Gazette contains similar statements from Carinthia and Upper Styria.

HOLLAND.

The States General were to assemble on the 10th of October. The opening speech of the King will be looked for with some anxiety in the British capital, although it is generally believed that its tenor would be of a satisfactory nature, both on political and financial points.

From the Philadelphia Sentinel.

The New Jersey Railroad.—A legal writer has made a very elaborate communication on the opinion of Mr. Taney relative to the constitutionality and nullity of the act of the Legislature of New Jersey, chartering a railway company to the exclusion of all similar companies, and afterwards attempted to be enfranchised. The reasons are chiefly founded on a decision in 1812 of the Supreme Court of the United States, as recorded in Pennington's Reports, p. 390. This case had been an appeal from the Court of Errors and Appeal of New Jersey, which had refused a decision of the Supreme Court of that state, in the matter of an assessment on lands that had once been yielded by the colonial legislature of New Jersey to the Indians, according to a treaty with them; and had consequently been exempted from taxation. But the Indians wishing to dispose of these lands had a subsequent act passed empowering them to dispose of them by sale upon the terms of these lands from which they were assessed was soon after repealed. The assessor consequently rated them when sold by the Indians as he did any other property; but being refused, he brought his action before the Supreme Court of New Jersey, and succeeded in obtaining a judgment affirming the legal liability of these lands to taxation.

Yet when the appeal was made to the Supreme Court of the United States, it was adjudged that there was error in the judgment of the said Court of Appeals and errors of the state of New Jersey, in this that the judgment of the said Court is founded on an act passed by the legislature of the state of New Jersey, in December, A. D. 1801, entitled an act to repeal part of an act of 1788, respecting lands purchased by the Indians, which act is in the opinion of that Court is repugnant to the constitution of the United States, inasmuch as it impairs the obligation of a contract, and is on that account void. The marginal note of the learned reporter, Judge Cranch, is: "A legislative act, declaring that certain lands which should be purchased for the Indians should be thereafter be subject to any tax constituted a contract, which could not be rescinded by a subsequent legislative act. Such repealing act being void, under that clause of the constitution of the United States, which prohibits a state from passing any law impairing the obligation of contracts," and it having been certified to the Court of Appeals and Errors of the state of New Jersey, said Court ordered to be entered on the minutes a reversal of their former judgment by which the said tax warrant had been confirmed; and so acquiesced in the decision of the Supreme Court of the United States, by which the said Indian lands had remained free from taxation, from that period until the present moment.

The decision of the Supreme Court of the United States was in this case perfectly right; because they declared null a legislative act which was decidedly contrary to the constitution—their decision being merely a proof of what we have always maintained, that the constitution of the United States is paramount to the constitution or legislation of any state of the union, or to any enactments of Congress.

The colonial legislature of New Jersey had made an enactment in pursuance of a treaty to guarantee certain lands to the Indians, and to exempt these lands from being taxed.—Such an enactment was therefore a decided contract—and irrepealable; because such an enactment was not a violation of the constitutional rights of any citizen; and it was a bona fide contract before the adoption of the constitution of the union. But when the legislature transgressing the constitution makes any charter or grant infringing on the rights of others than those so chartered, such an enactment is nugatory and void. The Supreme Court did not declare void the Jersey act of 1804, which repealed so much of a former act in 1788 excepting the Indian lands from being taxed, because the 1804 act was contrary to the 1788; but because the 1788 enactment being a contract in pursuance of a treaty was constitutional and unimpaired, the act of 1804 annulling such a contract was therefore unconstitutional. This is the gist of the argument.

Now the alleged contract relative to the Jersey rail road company is essentially different, because it is essentially unconstitutional in its very enactment. All citizens have equal rights and equal privileges. Whenever, therefore, any legislature violates that equality by a monopoly—no matter by what name the

enactment may be designated—excluding other citizens or companies from similar privileges, that act is unconstitutional and cannot be enforced. And if in pursuance of its own unconstitutional enactments, it attempts to frustrate the decree of any future legislature, it shows its knowledge of its own aggression—and that some sinister means have been used to procure its adoption. Without the restrictive clause, it is unconstitutional; and with the restrictive clause it cannot be rendered more imperatively obligatory. What is against the constitution cannot be secured in its enforcements by any exclusive sanction of its own.

If therefore any legislative enactments assume the nature of a contract which is contrary to the constitution, it cannot be sanctioned or secured by the said constitution, of which it is a palpable violation; for no clause of the constitution can properly be adduced to protect an infraction of some other clause.

Hence it is that the charter of the Jersey rail road company was unconstitutional in being enacted. Being therefore an unconstitutional contract it cannot be enforced or protected.—Charters or contracts are secured by the constitution only when they are in conformity with the constitution. The legislature of New Jersey may therefore abrogate the exclusive charter of the Jersey rail road company.—What is constitutionally wrong cannot legally be rendered right; for equality of rights is established or destroyed exclusiveness of privileges.

From the N. Y. Evening Star.

FALLING STARS.—That the late phenomena would have created a great sensation—that in some minds the most gloomy anticipations would be indulged, and that the phenomena would be interpreted into signs, portents, we never doubted; but we were not prepared by the extraordinary interpretation given to it by the editor of the *Old Countryman*—a weekly paper devoted to English news—to "flash, frolic and fun"; a kind of sporting chronicle, with considerable circulation. The writer of this piece has suddenly appeared by the glorious light—has thrown by his quick and quibbles, his wit and witticisms, and falls to praying with fervor,