From the SCIOTO GAZETTE.

[COPY.]

DEPARTMENT OF STATE,

*November* 22, 1802.

SIR,

The preſident obſerving in an addreſs lately delivered by you to the convention, held at Chilicothe, an intemperance and indecorum of language towards the legiſlature of the United States, and a diſorganizing ſpirit and tendency of very evil example, and groſsly violating the rules of conduct enjoined by your public ſtation, determines that your commiſſion of governor of the North Weſtern territory ſhall ceaſe on the receipt of this notification.

I am,
Sir, reſpectfully,
Your obedient ſervant,
JAMES MADISON.

ARTHUR ST. CLAIR, Eſq.
Chilicothe.

To the honorable James Madiſon, ſecretary of ſtate.

*Cincinnati*, 21*ſt December*, 1802.

SIR,

Your letter of the 22d November, notifying to me that the preſident had determined that upon the receipt of that letter, my commiſſion of governor of the North Weſtern territory ſhould ceaſe, was delivered to me by Mr. Secretary Byrd, on the 14th day of this month. I requeſt of you, ſir, to preſent my humble thanks to the preſident for that favor, as he has thereby diſcharged me from an office I was heartily tired of, about ſix weeks ſooner than I had determined to rid myſelf of it; as he may have obſerved from an addreſs, not to the convention, but to the people, on the 8th inſtant. I cannot, however, agree with the preſident, that in my addreſs to the convention which is aſſigned as the reaſon of my being diſmiſſed, that there was either an intemperance or indecorum of language towards the legiſlature of the United States, or a diſorganizing ſpirit of evil tendency and example; unleſs an honeſt and true repreſentation of facts deſerve thoſe epithets; or that "the rules of conduct enjoined by my public ſtation" were, in any way violated, unleſs it be underſtood that the rule of conduct for men in office is an implicit and blind obedience. As the convention, ſir, was to meet in purſuance of an act of congreſs, whereby the election of the members was directed to be made according to a law of the territory that had exiſted, but had been long repealed; a ſenſe of public duty led me to cauſe the elections to be made conformably to the ſpirit of the act and the exiſting election laws, as they could not be made conformably to the words of the act, and when the convention was met, I had done within my public capacity. Every citizen had a right to addreſs that body, either openly or in writing, and that right was common to me with the reſt; and I believe, ſir, it as paramount duty which every perſon owes to the community of which he is a member, to give warning, either to the repreſentatives or to the body, when he ſees that the rights of that community are *invaded*, from whatever quarter the invaſion may come, and to direct them, if he can, to *the means* of warding it off, or of repelling it; and I ſcruple not to ſay that the *violent*, *haſty* and *unprecedented intruſion of the legiſlature of the United States* into the *internal concerns* of the North Weſtern territory, was at leaſt *indecorous* and *inconſiſtent* with its *public duty*, and I might add, that the *transferring above five thouſand people*, *without their knowledge or conſent*, from a country where they were in poſſeſſion of *ſelf-government*, to *another* where they will be at leaſt for a time *deprived of that privilege*, was ſomething more than indecorous, and that, had it happened in Germany, where ſuch things have happened, no man in America would have heſitated to call it by a harſher term.

Degraded as our country is, and abject as too many of her ſons are become, there are ſtill a vaſt proportion of them who will be at no loſs for the proper term.

Be pleaſed alſo, ſir, to accept my thanks for the peculiar delicacy you obſerved, in committing the delivery of your letter, and in furniſhing him with a copy of it, to Mr. Byrd, againſt whom there were in your hands to be laid before the preſident, complaints of ſomething more than mere indecorum, and of a total neglect of, and refuſal to perform his official duties. It is, ſir, ſuch ſtrokes as this which ſerve to develope character, and, like the relief in painting, bring out the figure, diſtinctly, in its proper ſhape; it produced, however, no other emotions but that kind of ſubriſus which phyſiognomiſts tell us is the expreſſion on the countenance of a certain mental ſenſation, which I do not chooſe to name, and never fails of producing that effect.

With due reſpect, I am, ſir,
Your obedient ſervant,
A. ST. CLAIR.

*From the* NEW-YORK EVENING-POST.

NUMBER 9.

## *PRESIDENT's MESSAGE.*

In our laſt number it was ſhewn that there had been a manifeſt violation on the part of Spain of an eſſential article in her treaty with us; and we concluded with an appeal to the American reader if it was not a caſe loudly demanding the prompt and vigorous interference of our government. This appeal from the preſs has been rendered neceſſary by culpable neglect on the part of our chief magiſtrate. The conſtitution of the United States expreſsly enjoins it upon him *to give to congreſs from time to time, information of the ſtate of the union and to recommend to their conſideration ſuch meaſures as he ſhall judge neceſſary and expedient.* And if, in place of ſending a meſſage to congreſs, which inſtead of giving information, ſeems only calculated and intended to tickle the ears of the populace, he had condeſcended to addreſs them as his predeceſſors always did, and had laid before them the real *ſtate of the union* and recommended *ſuch meaſures as he judged neceſſary and expedient*, this ſort of diſcuſſion would have been unneceſſary. Mr. Jefferſon has taken great care to tell the people that the nation is in the moſt flouriſhing circumſtances, both abroad and at home, that he and his adminiſtration have ſubſtituted economy in the place of paſt extravagance, and that they have got a *power of* money now in the treaſury: He has, however, preſerved an entire ſilence as to the conduct of Spain, and he has been extremely cautious to ſay nothing which might give umbrage to France. True, he has ſaid, that if a certain ſomething ſhall happen, which has happened, it may *make a change in the aſpect of our foreign relations*, but this is ſo charmingly ambiguous, that not one in a thouſand can make a gueſs what it means, and it has the advantage too of being explained as circumſtances may require, to mean any thing, or nothing. Yet this is the way in which our gracious preſident has fulfilled the duty enjoined on him by the conſtitution.

To afford the people ſome of that information which they have in vain looked for from their chief magiſtrate, has been our object; and we ſhall finiſh this part of the ſubject by ſhewing what meaſures as to Spain, might ſafely, according to the law of nature and nations, be *recommended as neceſſary and expedient.* We have ſeen, that what is called *perfect right*, as ſecured to us by treaty, has been violated, under color of a falſe interpretation of its obvious meaning. This is moſt completely contrary to the faith of treaties, and he who reſorts to it, ſays Vattel, either wantonly ſports with a ſacred faith, or betrays that he is not unconſcious how ſhameful it is to be without it; in truth he would act like a diſhoneſt man, yet keep the reputation of probity; he is an hypocrite who adds diſſimulation to crime.

Having received this material injury from Spain, the queſtion now remaining is, how are we to proceed to obtain redreſs? Two ways only preſent; negociation and war: they ſhall be ſeparately examined.

There are caſes when it is required of a nation to try the firſt of theſe methods, before it would be juſtified in the eyes of the world for having recourſe to the ſecond. Such are all caſes where the right in queſtion is a doubtful one. Here nature gives us no right to have recourſe to force, till mild and pacific methods have been found ineffectual. Again, it is neceſſary to diſtinguiſh between eſſential rights and thoſe of leſs importance, for in reſpect to theſe a very different conduct is to be obſerved. A regard for the happineſs of human ſociety exacts it of us, that we ſhould be open to reconciliation, to mediation and conferences when only intereſts of minor conſequence are concerned. Even in theſe caſes, if one of the parties is deaf to negociation or compromiſe, the other is then juſtified in having recourſe to force.

But if any one attempt to rob a nation of an eſſential right, or a right without which it could not hope to ſubſiſt, or which was abſolutely neceſſary to any conſiderable portion of its members, then the republic will only take counſel from its courage. Does the controverſy relate to a right that is clear, certain and inconteſtible? The nation if it has ſufficient ſtrength may boldly purſue and defend it, without putting it to a compromiſe. Shall we ſuffer to be conteſted and debated, a thing manifeſtly belonging to us, and which is diſputed without the leaſt ſhadow of right?

From the indiſpenſible obligation which nature impoſes on all nations to cultivate juſtice with regard to each other, reſults the *right* of every ſtate, not to ſuffer any one of its privileges to be taken away, or any thing which lawfully belongs to it, for in oppoſing this, it acts in conformity to all its duties and therein conſiſts the right.

The right is perfect, that is, it is accompanied with the *uſing force to make it obſerved.* In vain would nature give us a right not to ſuffer injuſtice; in vain would it oblige others to be juſt with reſpect to us, if we could not lawfully make uſe of force when they refuſed to diſcharge their duty. The juſt would be at the mercy of fraud and injuſtice, and all their rights would ſoon become uſeleſs. In vain does nature preſcribe to nations, as well as to individuals, the care of their ſelf-preſervation, and of advancing their own perfection and happineſs, if it does not give them the right to preſerve themſelves from every thing that can render this care ineffectual. We have then in general the right of doing whatever is neceſſary to the diſcharge of our duties. Every nation, as well as every man, has therefore a *right* not to ſuffer any other to obſtruct its preſervation, its perfection and happineſs, that is, to preſerve itſelf from all injuries. It is this right of ſelf-preſervation from all injury, which is called the *right of ſecurity.*

When an injury is done, the *right of ſecurity* authorizes the offended to endeavor to obtain a compleat reparation, and if neceſſary, to *employ force for that purpoſe.*

"Every one is permitted to recede from his rights, to abandon a juſt ſubject of complaint, or to forget an injury. But the *conductor of a nation* is not, in this reſpect, ſo free as a private perſon. The latter may hear only the voice of generoſity, and in an affair which intereſts none but himſelf alone, deliver himſelf up to the pleaſure he finds in doing good, to his love of peace and tranquility. The repreſentative of a nation, the ſovereign, cannot conſult himſelf, cannot abandon himſelf to his own inclination. He ought to regulate his conduct on the greateſt advantage of the ſtate, combined with the univerſal good of human nature, from which it is inſeparable." "The rights of the nation are benefits, of which the ſovereign is only the adminiſtrator, and he ought to diſpoſe of them no farther than as he has reaſon to preſume that the nation itſelf would diſpoſe of them. And as to what relates to injuries, it is often laudable in a citizen generouſly to pardon them. He lives under the protection of the laws, the magiſtrate knows how to defend, or to revenge him on the ungrateful and miſerable wretches, who, emboldened by his goodneſs, offend him anew. A nation has not the ſame defence: *ſeldom is it* ſafe for it to diſſemble or to pardon an injury, unleſs it be manifeſtly in a ſituation to cruſh thoſe who are ſo raſh as to dare to offend it. It is then glorious to pardon thoſe who acknowledge their faults:

*Parcere ſubjectis, & debellare ſuperbos:*

and it may do this with ſafety. But between powers that are nearly equal, ſuffering an injury, without requiring a compleat ſatisfaction, is almoſt always imputed to weakneſs or *cowardice;* it is the means of ſoon receiving from them thoſe that are the moſt atrocious."

Such are the principles to be found in the moſt celebrated writers on the laws of nature and nations, Grotius, Barlamaqui, Vattel; we have not been always exact in following the Engliſh tranſlations, or adding marks of quotation to every paſſage; the whole is taken from one or other of theſe diſtinguiſhed writers.

## *Congreſs of the United States.*

HOUSE OF REPRESENTATIVES.

*Monday, January* 17, 1803.

The houſe again reſolved itſelf into a committee of the whole, Mr. John C. Smith in the chair—on Mr. Rutledge's reſolution, as follow:

"*Reſolved*, That any of the ſtates importing pieces of ordnance, fire or ſide arms, for the uſe of their militia, reſpectively be permitted to receive the ſame, free from duty."

Mr. Leib called for the reading of the memorial of the gun-makers of Philadelphia, which was accordingly read; when the debate was reſumed.

Mr. Bacon ſpoke againſt, and Meſſrs. Nicholſon and Rutledge in favor of the reſolution.

The queſtion was then taken on the motion of Mr. S. Smith, to ſtrike out the word "fire," and loſt—Ayes 25.

The queſtion then recurred on the main reſolution.

Mr. Varnum ſuggeſted the propriety of extending the freedom from duty to individuals as well as ſtates.

Mr. Rutledge ſaid he ſhould have no objection to that modification; but recommended the agreeing in the firſt inſtance to the reſolution as it ſtood, and making the amendment, when a bill ſhould be introduced.

Mr. Smilie delivered his ſentiments againſt the reſolution generally; when the queſtion was taken on agreeing to the reſolution, and carried in the negative—Ayes 41—Noes 43.

The committee thereupon roſe and reported their diſagreement to the reſolution.

The report was immediately taken up; and was ſupported by Meſſrs. Southard, Smilie, Randolph, Thatcher, S. Smith and Euſtis; and oppoſed by Meſſrs. Davis, Claiborne, Hill, Meriwether and Varnum.

The queſtion was then taken on an agreement to the report of the committee diſagreeing to the reſolution, and carried in the negative.

The yeas and nays being called, were: Yeas 44—Nays 47.

The original reſolution again recurring, Mr. Griſwold moved to amend it, by limitting its operation to two years, and to the end of the next ſeſſion of congreſs. Agreed to.

Mr. Griſwold moved to inſert "braſs" before ordnance. Agreed to.

The queſtion being then about to be put on the reſolution ſo amended, Mr. Varnum again expreſſed his deſire that the freedom from duty ſhould be extended to individuals, and declared his determination to vote againſt the reſolution unleſs thus altered.

Mr. Rutledge ſaid, though in his opinion it would be better to reſerve ſuch modification until a bill was introduced, yet if the gentlemen would make ſuch an amendment, he would cheerfully concur in it.

Mr. Nicholſon obſerved that he would make no objection to ſuch modification, in caſe it were accompanied with a prohibition to export arms ſo imported.

The queſtion was then taken on the reſolution by yeas and nays, as follow: Yeas 45—Nays 45.

The ſpeaker declaring himſelf in the affirmative, the reſolution paſſed; and a committee of three were appointed to bring in a bill.

Mr. S. Smith gave notice that he would on Wedneſday call up the report of the committee of commerce and manufactures on ſo much of the preſident's meſſage as related to countervailing duties.

Mr. Davis called up the report of the committee of elections on the caſe of John P. Van Neſs.

The houſe went into a committee of the whole, Mr. Varnum in the chair, on the report, as follows:

"That from the free conceſſions and agreement of the ſaid member, it appears to your committee, that he has accepted, and exerciſed the office of a major of the militia, under the authority of the United States, within the territory of Columbia; and that a paragraph in the ſixth ſection of the firſt article of the conſtitution, which expreſsly provides, "No perſon, holding any office under the United States, ſhall be a member of either houſe, during his continuance in office," does, in the opinion of your committee, render the acceptance and exerciſe of the office aforeſaid, incompatible with the holding, at the ſame time, of a ſeat in the houſe.

"Your committee, therefore, aſk leave to ſubmit to the houſe the following reſolution, to wit:

"*Reſolved*, That John P. Van Neſs, one of the members of this houſe, having accepted and exerciſed the office of major of militia, under the authority of the United States, within the territory of Columbia, hath thereby forfeited his right to a ſeat as a member of this houſe."

Mr. Van Neſs ſaid he would make a remark or two that would perhaps remove any impreſſions of indelicacy on his part in retaining his ſeat under the circumſtances in which he was placed. He conſidered himſelf as ſtanding on that floor not as a private individual, but as a repreſentative of New-York; and as holding a truſt which he was not authoriſed to abandon before a conſtitutional deciſion ſhould be made. His conſtituents had placed him there as the guardian of ther rights; and that truſt he could not deſert without a conſtitutional deciſion being made. If that deciſion ſhould be adverſe to his retaining his ſeat, in retiring from the houſe he ſhould feel no regret but at leaving his conſtituents unrepreſented during the remainder of the ſeſſion, at not having diſcharged all the buſineſs aſſigned him by the chair; and at ceaſing to aſſociate with gentlemen, who, for the moſt part, he reſpected. In a pecuniary view, the relinquiſhing his ſeat could not in the leaſt affect him; nor ſhould he conſider it diſreputable to leave a body without any imputation of diſhonor or impropriety.

The reaſons he ſhould offer to the committee for retaining his ſeat were few and ſimple. He thought the fair, liberal, and ſound conſtruction of the conſtitution did not affect his caſe; that the incapacitating proviſion only applied to *civil* offices. The conſtitution was only a digeſt of the moſt approved principles of the conſtitutions of the ſeveral ſtates, in which the ſpirit of thoſe conſtitutions was combined. Not one of thoſe conſtitutions excluded from office thoſe who had accepted military appointments, except in the regular ſervice. He, therefore, felt a full conviction that it was never the intention of the framers of the conſtitution of the United States to exclude militia officers from holding a ſeat in congreſs. And however important it might be to adhere to the letter of the conſtitution, yet when the ſpirit of it was ſo clear as it appeared to him, it ought to have weight in the deciſion of the queſtion before the committee, which might affect objects of great importance. The right of every portion of the union to a repreſentation in that houſe was very important, and ought to be reſpected in all caſes which may either directly or indirectly affect it. Gentlemen, therefore, ought to reflect before they deprive a part of the union of this important right.

Mr. Van Neſs here read the 2d paragraph of the 6th ſection of the 1ſt article of the conſtitution, as follows:

"No ſenator or repreſentative ſhall, during the time for which he was elected, be appointed to any *civil* office under the authority of the United States, which ſhall have been created, or the emoluments whereof ſhall have been increaſed during ſuch time; and no perſon holding any office under the United States ſhall be a member of either houſe during his continuance in office."

From the language of the firſt part of this paragraph, Mr. V. inferred that it was the intention of the framers of the conſtitution that the reſtriction ſhould apply to *civil* offices only—Gentlemen may aſk, ſhall we by our conſtruction countenance an introduction into this houſe of regular military officers? But to this, it muſt be replied that full confidence may be placed on the good ſenſe of the people to prevent this effect. The framers of the conſtitution, therefore, thought this a power that might be ſafely left to the diſcretion of the people.

The conſtitution only applied to two alternative caſes. An individual holding a ſeat in this body could not be appointed to a civil office; and an individual holding a civil office could not conſequently hold a ſeat here. This was all that it was neceſſary to provide for.

There was another ground. He could not conceive that ſuch an office as he held was comprehended in the conſtitution. He was not an officer of the United States, but of a diſtrict, which, locally conſidered, might be looked upon as an iſland placed in the ſea. He could not think that the conſtitution meant to exclude officers of dependant colonial diſtricts. It had never been contemplated that ſuch colonial poſſeſſions ſhould be repreſented on this floor. Why, therefore, apply the excluſion to them?

One great reaſon for this proviſion of the conſtitution was to prevent corruption.—Where could be the danger of this from an office without the leaſt emolument? The inconvenience of excluſion in ſuch caſes too would be glaring. Its neceſſary effect would be an inability to get theſe to accept commiſſions in the militia who were proper for the ſtations.

There was another idea entitled to weight. If it be determined that the militia officers of this diſtrict ſhall be excluded, the ſame rule will apply to all militia officers appointed by the governors of the territories of the United States. Do you not alſo exclude the militia officers of the ſtates, who though appointed in the ſtates, are ſubject to the command of the United States? A conſtruction of the conſtitution productive of ſuch effects he conſidered unſound, and contrary to the intention of its framers.

Had he ſuppoſed that the acceptance of an office in the militia would have interferred with his ſeat in that houſe, he would never have accepted it. He had never entertained a doubt on this point until broached in the houſe. Since then he had heard various opinions. By what he had heard his own opinion was not changed; as he believed that a true conſtruction of the conſtitution would exclude his caſe.—Should, however, a deciſion againſt his holding his ſeat be made, he ſhould retire without any other regret than that which he had expreſſed. He had not riſen to argue the caſe as an advocate; but merely to aſſign the grounds on which he had acted.

Mr. Bacon obſerved that the committee of elections had not thought themſelves at liberty to be influenced by the propriety or impropriety of this part of the conſtitution, otherwiſe they might have determined differently; but they felt themſelves bound by the conſtitution itſelf. Though the firſt part of the ſection of the conſtitution referred to *civil* offices? yet the latter part uſed the expreſſion *any office*, which was more comprehenſive, and appeared to them to have been intended to have an univerſal effect.

Mr. Thomas. Mr. Chairman, ever ſince this queſtion was firſt agitated I have felt no ſmall degree of ſolicitude reſpecting it—on the one hand I view the ſeat of a member of this houſe from the ſtate of which I have the honor to repreſent, important; not only as it reſpects the intereſt of that ſtate in the deliberations of that national legiſlature, but as it reſpects the feelings of my friend and colleague—and on the other hand I view the conſtitution of my country, which I conſider the palladium of our liberties—the rock of our national ſalvation—but, ſir, however important I may conſider my colleague's holding his ſeat on this floor, either as it reſpects himſelf or the ſtate of New-York, if it comes in competition with that conſtitution, it is my duty to, and I ſhall readily yield to it. The clauſe of the conſtitution, ſaid Mr. T. which has been quoted by the committee and which is in point, declares, that "no perſon holding any office under the United States, ſhall be a member of either houſe during his continuance in office." It appears, ſaid Mr. T. that my colleague did ſome time in the receſs of congreſs accept and exerciſe the office of a major in the militia of the diſtrict of Columbia under an act of congreſs, and the excluſive government of the United States. This office, altho' trivial in itſelf, without emolument, and to which very little or no influence can attach, nor can it, in my opinion, have a tendency to bias his vote improperly on any queſtion in this houſe; yet as I do believe it comes within the province of that clauſe of the conſtitution and permitting him to retain his ſeat may eſtabliſh a precedent which may hereafter be attended with pernicious conſequences, I conceive myſelf bound in juſtice to myſelf as well as to my country to give my vote to concur with the committee in their report.

The queſtion was then taken on the report of the committee of elections, which was agreed to without a diviſion.

The committee roſe—The houſe immediately took up their report.

Mr. Randolph obſerved that on a precedent ſo important as was about to be eſtabliſhed by the vote of the houſe, it was unneceſſary to ſay a word. He wiſhed, however, that the diſpoſition of the houſe to exclude by an unanimous vote even the ſhadow of executive influence ſhould be recorded on their journals; for which purpoſe he called the yeas and nays; which were taken, and were unanimouſly in favor of the reſolution.

Mr. Euſtis made ſome remarks on the impropriety of veſting the preſident of the United States with the revocation at pleaſure of the commiſſions of militia officers in the diſtrict of Columbia; and moved the appointment of a committee to reviſe the act by which that ſyſtem is authoriſed.

Ordered to lie on the table.

*Tueſday, January* 18.

On motion of Mr. S. Smith the houſe adopted a reſolution for the appointment of a committee to report whether any and what alterations are neceſſary in the act for recording and regiſtering American veſſels.

The houſe went into committee of the whole on the bill for the relief of Henry Meſſonnier—Mr. Varnum in the chair.

The committee roſe, and reported the bill without amendment.

The houſe immediately took up the report of the committee, agreed to it, and ordered the bill to be engroſſed for a third reading to-morrow.

On motion of Mr. Nicholſon, the houſe reſolved itſelf into a committee of the whole, on the bill for the relief of inſolvent debtors within the diſtrict of Columbia—John C. Smith in the chair.

Sundry amendments were made, and referred to the houſe, who immediately took them up, and agreed to them with other amendments.

Mr. Bayard moved an additional amendment, providing that no diſcharge of an inſolvent debtor under this act ſhould have a greater effect in any particular ſtate to diſcharge the debtor than could have been the effect under the inſolvent law of ſuch ſtate.

The motion was ſupported by Meſſrs. Bayard, Hemphill, Randolph, Haſtings, and Bacon; and oppoſed by Mr. Nicholſon. Carried. Ayes 45.