Register of the City, in account current with the Mayor and City Council of Baltimore,

Commencing on the 1st of February, 1806, and ending 31st January, 1807.

Dr.

	Dolls. cts.
To balance in the Treasury on the 1st February, 1806,	12,064 58
Cash 15s. Tax, for 1804,	1,211 19
Ditto Carriage Tax, &c. ditto	36 64
Ditto 15s. Tax for 1805, on account,	4,379 41
Ditto ditto, 1806, ditto,	12,886 61
Ditto Specific Tax on carriages, &c. 1805,	448 32
Ditto ditto, 1806,	1,609 86
Ditto Paving Tax,	12,986 71
Ditto Tax widening footways,	405 50
Ditto Pump Tax,	2,259 22
Ditto Licenses,	11,566 75
Ditto £.5 Tax on ordinary licenses,	1,804 80
Ditto Tonnage on sea vessels,	3,275 81
Ditto Tonnage and wharfage,	4,092 36
Ditto Market rents and seisures,	1,694 58
Ditto Storage of gun powder,	1,757 50
Ditto Auction duties,	12,264 94
Ditto Special Auction duties,	173 37
Ditto Fines,	1,448 7
Ditto City seal,	386
Ditto Dog tax,	443 75
Ditto Mud deposited,	167 50
Ditto Commission on 2d Presbyterian Church Lottery,	750
Ditto of Charles Davidson, Esq (late of Baltimore, now of Aberdeen, Scotland) donation to the City Hospital,	100
Ditto for Street dirt,	80
Ditto of John Steele for paving footway,	65 85
Ditto establishing boundaries, 1806,	58
Ditto on loan from the Bank of Baltimore,	2,742 62
Ditto Searches and Ordinances,	10 25
Dollars,	91,170 29
To balance in the Treasury as per Contra.	2,668 63

Cr.

	Dolls. cts.
By amount for paving	12,341 5
Advances for paving on appropriation in favor of John Marsh,	930 14
Ditto ditto George Lightner,	1,476 31
Ditto ditto Conrad Miller,	720 10
Amount paving cross streets,	1,500
Ditto repairing paved streets,	792 84
Ditto cleaning streets,	3,180 98
Ditto removing nuisances,	1,087 48
Ditto widening footways by appropriation,	1,050 22
Ditto ditto by tax,	405 50
Ditto stepping stones Baltimore street bridge,	250 60
Ditto repairs Sharp and Lee streets, &c.	99 68
Ditto filling in Wapping Street wharf,	40 12
Ditto wharves on Jones's Falls,	398 15
Ditto filling in New Church Street,	300
Ditto City commissions & clerk's salary for 1805 & 1806,	2,428 25
Ditto wharfing end of Conway Street,	799 97
Ditto ditto Lee Street,	799 99
Ditto sewer between Potter and High Streets,	753 45
Ditto paving footways on private property,	321 81
Ditto filling in Conway Street,	75
Ditto repairs in Hill, Lee, and Barre Streets,	199 22
Ditto widening York Street,	500
Ditto balance to Ludwig Herring,	199 15
Ditto ditto Joseph Jacobs,	108
Ditto ditto John Mickle, resolution council,	252 82
Ditto repairs of bridges,	179 75
Ditto paving Market Space, 8th Ward,	289
Ditto repairs Market Street wharf, 8th Ward,	166 61
Ditto paving Falls Market Space,	980
Ditto sewer Frenchman's Alley,	1,031 84
Ditto ditto Queen Street,	132 69
Ditto repairs Pitt Street wharf,	97 50
Ditto Mayor his salary,	2,000
Ditto Register his salary,	1,600
Ditto Commissioners of Health,	1,600
Ditto Physician of the Port,	1,000
Ditto Harbour Master,	300
Ditto deepening the Harbour,	2,858 38
Ditto Superintendants of Streets,	786
Ditto ditto of Pumps	550
Ditto ditto of Powder Magazine,	500
Ditto Health department,	1,547 54
Ditto Hanover Market lots,	4,016 27
Ditto Fish Market and Weigh House,	3,178 83
Ditto Mud Machine,	7,000
Ditto Roofing and raising lower Centre Market,	3,126 60
Ditto Kirb stones, 8th Ward,	550
Ditto Lighting and watching the City,	11,459 31
Ditto Commissioners of the Watch salary,	300
Ditto New Pumps,	3,035 6
Ditto repairs of Pumps, West District,	452 28
Ditto ditto East District,	895 16
Ditto Ann Street wharf,	700
Ditto Appropriation for clock and alarm bell,	720
Ditto Appropriation Joseph Biays & Joseph Allender,	33 60
Ditto Office rent and fuel,	267 84
Ditto Repairs &c. of wharves,	1,546 30
Ditto Printing, incidentals, elections, &c.	1,009 45
Ditto Diary City Council,	1,081 10
Ditto Clerk's of the Markets,	652 90
Ditto Fire Companies,	1,800
Ditto Hospital appropriation,	41 07
Ditto Standards of measures, &c.	47 37
Ditto City Constables,	458 23
Balance in the Treasury,	2,668 63
Dollars,	91,170 29

EDWARD J. COALE, Register,
Of the City of Baltimore.

BALTIMORE, February 1st, 1807.

NOTE... *There is due the Bank of Baltimore, a note amounting to three thousand dollars... Upwards of four hundred dollars advanced on account of election expences, is levied and will be refunded by the County.*

The above account has been examined by a joint committee of accounts, who have certified that it is supported by proper vouchers.

Argument of Mr. HARPER, *in the case of Messrs. Bollman and Swartwout.*

On the 10th instant, Mr. Charles Lee moved the supreme court of the United States for a writ of habeas corpus, to bring Messrs. Bollman and Swartwout up, and inquire into the legality of their commitment on a charge of high treason, by the circuit court of the district of Columbia. He also moved for a certiorari, to the circuit court of the district of Columbia, to send up the record of their proceedings on this subject.

After Mr. Lee's argument, the case stood over till the next day, when Mr. Harper, as counsel for Dr. Bollman, was heard by the court in support of the motion. The substance of his argument was as follows:

The persons, may it please your honors, on whose behalf this application is made, having been committed by the circuit court of the district of Columbia, two questions arise under the motion now before this honorable court:

1. Whether the supreme court of the United States have, in general, power to issue the writ of habeas corpus, for inquiring into the cause of commitment? Or, in technical language, the writ of habeas corpus ad subjiciendum?

2. Whether, admitting this court to have this power in general, it can extend to the case of commitments by the circuit court?

As to the power in general, of issuing the great remedial writ of habeas corpus, I contend that it is possessed by this court, as a power incident to its existence and nature as a supreme court of record. This power, I contend, is conferred by the common law. That every court, however created, possesses necessarily certain incidental powers as a court, cannot be denied or doubted. We can no more form an idea of a court without incidental powers, than of a stone without weight or a surface without extension. The practice of every day proves the correctness of this theory. Does this court possess no powers but those expressly given to it by statute or constitution? Can it not protect itself from insult or outrage? Can it not inforce obedience to its immediate orders? Can it not imprison for contempts committed in its presence? In cases where it has original jurisdiction, can it not imprison a witness for refusing to attend, when summoned, or for refusing to answer? Can it not punish jurors, by fine or imprisonment, for refusing to attend or for contumacy, or other improper conduct after they have attended? No doubt can be entertained of its possessing those powers. Whence does it derive them? From the constitution? No; the constitution is silent on the subject. From the acts of congress? No; the acts of congress are equally silent. Whence then? I answer, from the common law.

I do not wish, may it please your honors, nor intend, to agitate here a question which has been much discussed in this country, and very little understood, respecting a common law jurisdiction in the courts of the U. S. to punish offences against the government of the U. S. The question is unnecessary. It has no connection with the present case. The power to punish offences against the government has never been considered, and cannot be considered as an incidental power, in any court. But I contend that the power of issuing writs of habeas corpus, for the purpose of relieving from illegal imprisonment, is one of those inherent powers, bestowed by the law on every superior court of record, as incidental to its nature, for the protection of the citizen.

It being clear then that incidental powers belong to this in common with every other court, where, I ask, are we to look for the definition, the enumeration and the extent of those powers? I answer in the common law; in that code from whence we derive all our legal definitions, terms and ideas, which forms the substratum of all our judicial systems, of all our legislative and constitutional provisions. I ask, may it please your honors, whether it be possible to move a single step in any judicial or legislative proceeding, to expound, to understand, or to execute any part of our statutes or of our constitution, without having recourse to the common law? The constitution uses, for instance, the terms "trial by jury," and "habeas corpus." How do we ascertain what is meant by these terms? By reference, I answer, to the common law. This court has power, in some cases, to summon jurors, and examine witnesses. If an objection be made to the competency of a witness, or a juror be challenged, how do you proceed in order to ascertain the competency of the witness or the juror? You look into the common law. The common law, in short, forms an essential part of all our ideas; it has grown into the very constitution of our minds; and we can no more think on legal subjects without referring to it, than we can see without eyes, or live without breathing.

What then does the common law, this great interpreter of our constitution, this guide of our legal thoughts, this mighty and benificent protector of our rights and liberties; what does she say respecting the power of issuing the great remedial and constitutional writ of Habeas corpus? She informs us in an authoritative voice, that this guardian power belongs incidentally to a very superoir court of record—that it is part of their inherent rights and duties, thus to watch over and protect the liberties of the individual.

Accordingly we find that the court of common pleas, in England, though possessing no criminal jurisdiction of any kind, original or appellate has power to issue, this writ of habeas corpus. This power is possessed by the common law as an incident to its existence, before it was expressly given by the Habeas Corpus act.

This appears from Bushell's case, reported in sir Thomas Jones, 18, and stated in Wood's case, 3 Wilson 175, by the chief justice, in delivering the opinion of the court.

Bushll's case was shortly this. A person was indicted at the Old Bailey in London, for holding an unlawful conventicle. The jury acquitted him contrary to the direction of the court on the law. For this some of the jurors and Bushell among them were fined and imprisoned by the court at the Old Bailey. Bushell then moved the court of common pleas for a writ of Habeas Corpus, which after solemn argument and consideration was granted by three judges against one. Bushell was brought up, and the cause of his imprisonment appearing insufficient he was discharged.

This took place before the Habeas Corpus act was passed, and is a conclusive authority in favor of the doctrine for which we contend. Wood's case, 3 Wilson 175, and 3 Bac. Abr. 3. are clear to the same point.

Whence does the court of common pleas derive this power? Not from its criminal jurisdiction; for it has none. Not from any statute; for when Bushell's case was decided there was no statute on the subject. Not from any idea that such a power is necessary for the exercise of its ordinary functions; for no such necessity exists or has ever been supposed to exist. But from the great protective principle of the common law, which in favor of liberty, gives this power to every superior court of record, as incidental to its existence

The court of chancery in England possesses the same power, by the common law as appears from 3 Bac. Abr. 3. This is a still stronger illustration of the principle; for the court of chancery is still further removed, if possible, than the court of common pleas, from all criminal jurisdiction, still more exempt from the necessity of such a power, for the exercise of its peculiar functions.

The court of exchequer also, as appears from the same authorities, though wholly destitute of criminal jurisdiction, possesses the power of relieving by Habeas Corpus, from illegal restraint.

Hence it appears that all the superior courts of record in England are invested by the common law with this beneficial power, as incident to their existence. The reason assigned for it in the English law books is, that the king has always a right to know, and by means of these courts to inquire, what has become of his subjects. That is, that he is bound to protect the personal liberty of his people, and that these courts are the instruments with which the law has furnished him for discharging this high duty with effect.

And let me ask, may it please your honors, whether the same reasons do not apply to our situation and to this court? Have the United States, in their collective capacity as sovereign less right to know what has become of their citizens, than the king or government of England to inquire into the situation of his subjects? Are they under an obligation less strong, to protect individual liberty? Have not the people of this country as good a right as those of England to the aid of a high and responsible court for the protection of their persons? Is our situation less advantageous in this respect, than that of the English people? Or have we no need of a tribunal, for such purposes, raised by its rank in the government, by its independence, by the character of those who compose it, above the dread of power, above the seductions of hope and the influence of fear, above the sphere of party passions, mutinous views, and popular delusion? Of a tribunal whose members, having attained almost all that the constitution of their country permits them to aspire to, are exempted, as far as the imperfection of their nature allows us to be exempted, from all those sinister influences that blind and swerve the judgments of men, have nothing to hope, and nothing to fear, except from their own consciences, the opinion of the public, and the awful judgment of posterity? It is in the hands of such a tribunal, and of such a tribunal alone, that in the times of faction or oppression, the liberty of the citizens can be safe. Such a tribunal has our constitution created in this court, and can it be imagined that this wise and beneficent constitution intended to deny to the citizens the invaluable privilege of resorting to this court for the protection of their dearest rights.

On this ground then I might safely rest the power of this court, to grant the writ of habeas corpus; but fortunately we have another, not stronger indeed, but perhaps less liable to question. For I contend in the second place that congress has expressly conferred this power on the supreme court.

In the act of September 24, 1789, commonly called the judicial act, section 14, congress, after organizing various courts of the United States, and among them the supreme court, goes on to enact "that all "the before-mentioned courts of the United States, shall have power to issue writs "of *scire facias, habeas corpus*, and all other "writs not specially provided for by statute, "which may be necessary for the exercise "of their respective jurisdictions, and agree-"ably to the principles and usages of law."

This section, according to its true grammatical construction, and its apparent intent, contains two distinct provisions. The first relates to writs of habeas corpus and scire facias—the second to such other writs as the courts might find necessary for the exercise of their jurisdiction.

As to writs of Scire Facias and Habeas Corpus, which are of the most frequent and the most beneficial use, Congress seems to have thought it proper to make a specific and positive provision. It was clearly and obviously necessary that such writs should be issued, not merely for aiding the courts in the exercises of their ordinary jurisdiction, but for the general purposes of justice and protection. The authority therefore to issue these writs is positive and absolute; and not dependent on the consideration whether they might be necessary for the ordinary jurisdiction of the courts. To render them dependent on that consideration, would have been to deprive the courts of many of the most beneficial and important powers which such courts usually possess.

[*Mr. Harper's remarks to be continued.*]

FOR THE FEDERAL GAZETTE.

Mr. Printer,

I have with considerable attention perused the letter [published on Tuesday last] said to have been written by our minister at the court of France: and with a degree of surprize, I find it has operated, with many of our merchants, as a quietus to their fears, on the score of their neutral commerce. The writer of this is not a Merchant, but is at the same time anxiously solicitous for the success and protection of a fair and honest neutral trade, and would wish those concerned therein to consider well their present critical situation. The answer of the minister of marine to Mr. Armstrong, is plausibly and I fear artfully expressed. His words are, "that the decree of the 21st of November last will in no respect disturb the existing regulations of commerce, between France and the United States of America, *as settled* by the convention of the 30th of September 1800. It here becomes necessary to turn to the convention itself, and examine what rights and privileges are secured to us by that instrument. On a perusal of the 12th article, it will be found that the regulations and privileges therein granted to the U. S. are as ample and liberal as could be asked, or expected, by any neutral from a power engaged in war. But unfortunately, a few words at the close of the sentence, do in my opinion, obliterate the whole, taking into consideration the situation in which we are now placed. The words to which I refer are these: "unless such ports and places shall be actually blockaded, besieged, or invested." I will admit, that the words "actual blockaded" would be a protection, were the case of prizes to be decided by independent and impartial judges. But I will ask the most credulous merchant of the place, whether he can expect or believe that there is a judge or tribunal in the dominions of France, or where their authority extends that will, or dare say, that the British isles and their dependencies are not in a state of blockade, after the Great Emperor and King has so decreed it, and has so proclaimed it to the astonished world.

The writer of these hasty observations wishes to bring the subject in review, hoping that some person of more leisure and abilities may take it up, and examine it in all its bearings. He at the same time avows himself to be neither a partizan for French nor English politics, or measures, further than they comport with the safety and dignity of the U. States, of which he is

A NATIVE.

Congress of the United States.

HOUSE OF REPRESENTATIVES.

Tuesday, February 17.

[TAKEN FOR THE FEDERAL GAZETTE.]

A message was received from the senate, notifying that they had passed the bill authorizing the president to accept of the services of any number of volunteers, not exceeding 30,000; also, the bill in addition to the act concerning the district of Columbia; and that they had agreed to all the amendments made in the house to prohibit the importation of slaves, except *one*.

Mr. Broom, in a speech of considerable length, observed, that he had a few days ago submitted a resolution, [directing an inquiry to be made as to the expediency of securing the writ of habeas corpus, &c.] which at his own request, had been ordered to lie on the table. He now requested the attention of the house for a few moments, while he explained the necessity of making some provision for more effectually securing the privilege of the writ of habeas corpus. It was no reflection on the good sense of the house to suppose, that they had not sufficiently deliberated on the important nature of the privilege, and the necessity of securing it by a positive law; for it was a fortunate circumstance, that nothing had occurred in the country to render such a provision necessary. By the constitution of the U. S. this privilege was considered so important that even the legislature of the union had no power to suspend it, unless the public safety should require it: this was intended to prevent its being suspended on light or trivial grounds. By the judiciary law of 1789, the judges of courts were authorized to issue a writ of habeas corpus; but neither the constitution nor the law, had sufficiently guarded this important right: it was left to the precarious discretion of a judge. He then adverted to the high estimation in which this privilege was held by the people of England; and contended, that it was this trait which distinguished them in so eminent a degree from their European neighbors. Circumstances, he said, had lately taken place in a certain part of the country, in which this right had been invaded—he meant the recent transactions at New-Orleans; and it was in vain to deny that these events had been the moving principle which had induced him to bring forward the resolution on the table. It had been said that certain violations of the law might be justified, in order to promote the general prosperity; but if that was admitted as an excuse, who would not be able to urge it? Under pretence of a conspiracy against the government (which, if it ever did exist, he hoped was now at an end) persons had been arrested and sent from N. Orleans to this territory, in the very face of congress and of the highest judicial authority of the nation, who were not even charged with crimes sufficient to warrant their arrest. He hoped, therefore, that provision would be made by law to guard against such violations of the constitution in future, by which heavy penalties should be imposed on a judge who should refuse to grant a writ of habeas corpus, or an officer who should neglect to execute it. Under the present state of things at N. Orleans, it would seem dangerous to resist the authority which appeared to sweep every thing before it; for nothing more was necessary than to denounce a man as a conspirator, and he was immediately arrested & sent far from his family and friends, there to obtain redress as he could. It was well known that this plea of a conspiracy against the government, had often been used in other countries as the means of strengthening the arm of power, of obtaining armies and body guards. That it had ever been the practice, whenever any great change was in contemplation, to sound the public mind, to feel the public pulse, to see how they relished it, and that, by making the public familiar with the subject, they might at length pay but little attention to it. He wished to have this important privilege secured in such a manner, that every attempt to violate it might be met by severe and exemplary punishment. He wished to see a government of law, not of passion or caprice. He therefore moved, that the resolution be referred to a committee of the whole.

Mr. Varnum spoke against the reference. He did not know whether the writ of habeas corpus had ever been suspended by a military officer, as had been stated. At any rate, he thought the resolution was ill-timed: he also thought it would be improper in the house to decide whether the persons re-