

Third Complaint.—The Treaty concluded in November 1794, between the United States and Great Britain.

Excepting the second complaint, relative to the attempt of the English ship Africa to seize Mr. Fauchet and his papers—and the 3d article under the first complaint relative to the Consular Convention, all the charges in this summary have been already examined, and we think proved to be unfounded.

As to the Consular Convention, many inconveniences would attend the giving of the Consuls a jurisdiction to the extent contended for on the part of the French Republic, to be exercised by French Consuls in the United States, and consequently by American Consuls in France. The inconveniences are manifestly so great as to require very explicit language in the Convention of the two Nations on this subject, to authorize the conclusion that such an enlarged jurisdiction was intended. It would be erected in foreign countries complete courts of justice, with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions of commerce and navigation could not in the nature of things be confined to the foreigners alone, the Citizens of the Country must often be necessary witnesses to these transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction demanded is only of French Consuls over French citizens in the United States; and reciprocally of American Consuls over the citizens of the United States in France. From these considerations a presumption would arise, that the jurisdiction contemplated in the Consular Convention was to be merely voluntary, but at the same time exclusive of the Courts of the Country. An examination of the convention we believe will support this and no other construction. The 12th Article provides that all differences and suits between Frenchmen in the United States, and between Citizens of the United States in France, and particularly all disputes between seamen and their Captains, and between Captains of different vessels of their nation shall be determined by the respective Consuls, either by reference to arbitrators, or by a summary judgment and without costs. "No officer of the Country, Civil or Military; shall interfere therein, or take any part whatever in the matter."—This last clause alone would seem sufficient to repel the claim we are considering. Sheriffs, Marshals, and their Deputies cannot aid in the execution of Consular decisions, because they are "Officers of the Country" expressly forbidden to "take any part in the matter." But was it meant that the laws should give Consuls the power to appoint such executive officers of their own nation? We find no such thing in the Convention. On the contrary in the case of deserters from vessels mentioned in the 9th article, whom the Consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, Judges and Officers competent" to make the arrests; meaning the Courts, Judges and Officers of the Country where the Consuls reside. Besides, if power could be given to Consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation to be paid by one or other of the parties; but the 12th Article declares that the Consular judgment shall be "without costs."—To these observations I subjoin the deliberate opinions of two respectable lawyers, Mr. Harrison of New-York, and Mr. Bradford, the late Attorney General of the United States. "I have considered the 12th Article of the Convention between his late most Christian Majesty and the United States of America, and also the act of Congress concerning Consuls and Vice Consuls, so far as it prescribes the duty of Marshals of the United States, and it is my opinion that the Marshals are not bound by law to execute any sentence of a French Consul, arising under the said Article.

RICHARD HARRISON,
Attorney United States, for the New-York District.

"New-York 6th March 1794."
"I have considered the Convention and act above referred to, and I perfectly coincide in the opinion given by the Attorney of the United States for the District of New-York.

WM. BRADFORD."
"Philadelphia, 14th March 1794."

The other complaint under this head is, that the Judges who are charged (by act of Congress) to issue warrants of arrest against deserters from French vessels have required the original ship's roll to prove that the men alleged to have deserted were a part of the crew; in contempt of the 5th Article which admits in the tribunals of both Countries copies certified by the Consul.

If we look at the 9th article of the Consular treaty we shall see that the Consuls who demand the arrests of deserters from vessels of their nation, must prove "by an exhibition of the registers of the vessels or ships roll, that those men were part of the crew." It is apparent that the original roll, and not a copy is here referred to; nor indeed is the contrary pretended; but it is said that the 5th Article admits certified Consular copies as evidence in the Courts of both nations. But the 5th article appears to have no relation to the subject of the 9th. It stipulates that "the Consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels, the declarations and all other acts which the Captains, Masters, Crews, Passengers and Merchants of their nation may choose to make there, even their testaments and their disposals by last will; and the copies of the said acts, duly authenticated by the said Consuls, under the seal of their Consulate, shall receive faith in law, equally as their originals would." The ship's roll (or shipping paper) of a vessel's crew is not an act to be done, before the Consul, but the evidence of a private agreement between the Captain of a vessel and his crew; and when he alleges that any of them have deserted, the 9th article requires this original evidence of the fact to be produced to the Judge as the ground on which he shall issue his warrant to arrest them. And this is the construction put on this article by the Judges; and for ought I know, without any

diversity of opinion. The difference alleged by Mr. Fauchet in one of his letters to the Secretary of State I have inquired into; and find he was under a mistake. And the mistake arose probably from this circumstance, that when from the information of the Consul there was danger that the deserter would wholly escape unless instantly apprehended, the Judge has issued his warrant to arrest and bring before him the alleged deserter; but when brought, that Judge has not committed the Man, or delivered him to the Consul, unless the original roll was produced to prove him one of the ship's crew.

As to the outrage against Mr. Fauchet by the Africa Man of War, in attempting to seize him and his papers within the jurisdiction of the United States, and Captain Home's insult on their authority, I do not know what measures more efficacious could have been taken by the Executive than those which were adopted to obtain satisfaction. After waiting a reasonable time for explanations on the part of Capt. Home, and of Mr. Moore the English Vice-Consul, and receiving none, the President revoked the Exequatur of the Vice-Consul, and desired the Governor of Rhode Island, where the Africa had been lying to communicate to Captain Home the demand of the President. That he should immediately remove from a station within the jurisdiction of the United States where he had violated their rights; and further to make known to him, that in forty-eight hours after the requisition should be communicated to him, all intercourse between the United States and his ship would be forbidden. It is very true that the Exequatur of the British Vice-Consul was withdrawn expressly for his knowingly transmitting to the Governor of Rhode Island a most insulting letter from Captain Home; because altho' he was on board the Africa when the attempt was made against Mr. Fauchet, the President had no evidence of his cooperation. The Minister of the United States in London, was directed to represent to that Court the conduct of Capt. Home, and to demand his exemplary punishment. It was not to be expected that he would be judged unheard; and consequently much delay must have ensued. From her station on the coast of North America, the Africa went to the West Indies. Seeing sometime since by an article in the news-papers that the Africa was returning to England, our Minister in London was reminded of this affair, that the demand of satisfaction might be renewed.

[To be concluded in our next.]

LANDS FOR SALE.

TO be sold by Public Auction, on Wednesday the 1st day of February next, at the Merchant's Coffee-house, in the city of Philadelphia, at 6 o'clock in the evening, sundry Tracts of Land, being part of the estate of Benjamin Town, late of New-Jersey, deceased, viz—

Two tracts, one of 215 1/4 and the other 302 1/4 acres, in the township of Wyoming, county of Northumberland, and state of Pennsylvania, conveyed by deed, dated 27th September, 1782, from Aaron Levy and wife, to Benjamin Town.

One tract of 311 acres, on the dividing of Mahoning and Fishing creeks, in the county aforesaid, granted to Benjamin Town, by warrant, 28th February, 1775.

One tract of 150 acres, near or adjoining the last mentioned tract, in the same county, granted to Benjamin Town, by warrant, 28th February, 1775.

One tract of 300 acres, on a small branch of Jacob's creek, in the county of Westmoreland, state of Pennsylvania, conveyed by deed, dated 10th February, 1782, by William Perry to Benjamin Town.

Ten tracts of 2000 acres each, on the waters of Little Kenhawa river and Big Steer creek, in the county of Monongahalia, state of Virginia, per patent, dated 10th July, 1786.

Further particulars and terms of payment will be made known at the time and place of sale.

JOHN FIELD, } Trustees.
CURTIS CLAY, }

Philadelphia, January 28, 1797.

Notice to the Poor.

THE Guardians of the Poor will deliver bread to the Poor of the City and Liberties of Philadelphia, on Tuesday the 31st instant, at Friends' Meeting-house, at the corner of High and Second streets, between the hours of ten and twelve, agreeably to the last wills of Jonathan Petty and William Carter, deceased. January 28, 1797.

Houses and Lots for sale,

BY the Subscriber, in the town of West-Chester, Chester county, 25 miles from Philadelphia, on the great state-road, leading Westward. Viz. No. 1. A two-story Stone House, the corner of High and Gay streets, 40 feet front by 34 feet deep, including a very convenient store-house; the House contains ten well finished rooms, a kitchen and entry; the Lot is 144 feet front on Gay-street, equal to any stand in West-Chester. No. 2. A two-story stone house adjoining, 27 feet front, containing eleven well finished rooms, both being ceiled in the garrets, house and lot same depth as the other, a kitchen, &c.—cellars under both houses, with good stables on the lots. These Houses are almost new, done by good workmen, in a masterly manner. No. 3. A Lot 42 feet front. No. 4. 34 feet front. No. 5. 44 feet. No. 6. 129 feet, all of them ten rods deep. On two of the above are erected three log and frame houses, two stories high, cellars under the whole, and a small stable to each.

The above Lots are situated near the Court-House. The whole will be exposed to PUBLIC SALE, on the 21st and 22d days of February next, at two o'clock, when the conditions will be made known. Possession may be had the first of April next. The Title is indisputable.

JOHN KINNARD.

January 28

MRS. GRATTAN

Respectfully informs the Ladies and Gentlemen of the City, that the third

LADIES' CONCERT

Will be on Tuesday next, at the Assembly Room. Mrs. Grattan begs leave to inform the Ladies and Gentlemen, that the subscription-book is at her house No. 39, North Sixth-street, for the reception of those names who wish to honor her with their commands.—A subscription for eight nights 16 dollars, including a Gentleman and Lady's ticket, both transferable.—Half subscriptions 8 dollars, including one ticket.—Single ticket 2 dollars.

Mrs. Grattan takes the liberty of requesting the subscribers to send for their tickets any day after Thursday, the 15th of December, at No. 39, North Sixth-street.

Single tickets to be had the day of the Concert only, at the Bar of Mr. Oeller's Hotel.

The Concert to begin at half past six; and at half past eight, the music will attend for the Ball.

January 28

PHILADELPHIA,

SATURDAY EVENING, JANUARY 28, 1797.

THEATRICAL.

The attention of the managers of the New Theatre has, with great judgment, been turned to the celebrated spectacle of COLUMBUS, and the friends of the drama may, with truth, anticipate the highest gratification from its representation. The abilities of the painter and machinist have been driven to the *ne plus ultra* of their respective employments, to furnish the suitable appendages. The masterly pencil of Milbourne has been long and sufficiently engaged in producing the most grand and picturesque scenery ever exhibited on this, and perhaps any other Theatre.

At a stated meeting of the American Philosophical Society, held on the 20th inst. the following gentlemen were elected members: viz. Thomas O. James, M. D. of Philadelphia, Adam Seybert, M. D. of ditto, Andrew Edward Van Braam Mouchgruff (now of Bristol, Pennsylvania) formerly president of the Society of Haerlem, in Holland, author of the travels of the Dutch embassy to China, and member of that embassy. Mozart, consul for the French republic, at Boston, member of several academies in Europe. Mr. Samuel H. Smith, printer of the paper called the "New World", in Philadelphia. M. Volney, author of the Ruins of Empires, with several other works, and professor of the French national institute. Extract from the minutes, Samuel Magaw, one of the Secretaries.

BOSTON, January 18.

Arrived ship Britannia, Beal, Rochelle, 70 days. Spoke nothing. Left a schooner belonging to Plymouth.

Among the other papers was a Rochelle Price Current of No. 5, from which the Price of the following Articles is extracted.

Brandy (old) 28ol. 27 velts; New do. 230 ad. 240. Red Wine, 240 a 245l. ton; Old White Wine, 220 a 230l. Coffee 27 a 46l. lb. Indigo, Caro. 15l. lb. Clayed Sugar, 100 a 140l. C; Co. ca. 34/a 38l. lb. Cotton, 200 a 350l. pr. C. New Rice, 23 a 25l. C. Tobacco 84 a 95l. Maadatos at 3 livres 15 sous.

LONDON, November 14.

The expedition which has been sent to Flushing, failed a few days since from the Texel, under the command of major Doyle and captain Osborne, by whom it is said to have been planned. It was conducted with great secrecy, but it has not proved successful. The squadron consisted of the Robust and Ramillies men of war, besides several gun-boats and fire-ships, and had 1500 land troops on board. The object was to set fire to the shipping in the Texel; but on reconnoitring the harbour, a council of war was summoned, when it was resolved that the expedition was impracticable.

GIBRALTAR, October 15.

SECRETARY'S OFFICE.

As the continuance of a number of merchant's vessels in this port, would be attended with the most serious evils, at a time when they cannot be supplied from the garrison with provisions, water, or firing, and when there is a greater probability of their being set on fire by the enemy than escaping, and as the present favorable opportunity of their being protected through the freights by admiral Mann's squadron, who will possibly give them safe convoy to Lisbon, is an advantage not likely to happen again in a reasonable time, and as these vessels, being either set on fire or drove on shore, (a casualty to which they would be very liable where they now anchor) might be prejudicial to the safety of the place; under these circumstances, I think it necessary to give directions to every British vessel, now in the place, to hold themselves in readiness to sail on the signal from Admiral Mann. In consequence of disobedience, or neglect of this order, they will be answerable for the consequences.

This will be publicly read by the secretary, and recorded in his office.

CHAS. O'HARA.

By this day's Mail.

NEW-YORK, January 27.

The brig Enterprize, Fitzpatrick, from this port bound to Martinique, sprung a leak 24 hours after her departure from the Hook, and went down. The crew, after remaining 24 hours in their boats, were taken up by captain Conklin, of the brig Jemima and Faany, to whose humanity they are indebted for every possible attention during their stay on board his vessel.

BALTIMORE, January 26.

List of American vessels left at Jacmel December 26, 1796.

Brigs Fanny, Hopkins, Baltimore; Sally Cushman, do. Fell's Point, Creighton, do. Schooners, Telegraph, Gold, do. Perseverance, Purviance, do. Besley Loyd, Allinson, do. Brig Minerva, Brown, Newburyport; schooners Hope, Butler, Charleston; Friendship, Monteith, Philadelphia; Mars, Rider, Boston; Mary, Rich, do. Success, Price, do. Sally, Rumsey, Wilmington, (Del.)

Schooner Peggy, captain Gorfuch, of Baltimore, was also lying at Jacmel, and would sail next day.

Schooner Adelphi, captain Stanley, of Baltimore, had sailed 6 days before to windward, to purchase coffee.

Dec. 31, fell in with the schooner Rachel, capt. Truitt, and parted from her on the 7th January, lat. 27, 31, all well, except the loss of two hands, one by death, the other by impressment.

Flour at Jackmel 11 dolls.—Coffee, 29 sols. On Tuesday arrived at Annapolis, ship Anthony Mangin, Capt. Sanford from Bremen. Left the West the 1st December, and arrived in Hampton Roads the 17th inst.—Bale goods—A. Brown jun. Capt. Sanford has arrived in town with his Letter Bag, but brings, he says, no intelligence from the continent worthy of remark.

CHARLESTON, Jan. 6.

Capt. Smith in the ship Caesar, from the Cape of Good Hope, on his passage here touched at the island of Alcafon, where the following intelligence was communicated to him in writing:

"All the settlements of the Dutch in India, are given up to the English, as well on the East as on the West side, except Macassar and the island of

Java. That Banda was given up was the last news we heard before we left Batavia, which was on the 13th of June 1796. The inhabitants of Batavia expected the English at the island of Java in the month of August. The representative of the prince of Orange, who in that character has the chief command of the Dutch settlements in India, was informed by the English when they went thro' the Straits of Balic to the Molucca islands, that they would visit Java at that time. This gives great uneasiness to the inhabitants. The old general and his son, the director, were busy in making preparations to receive them. The soldiers who formerly wore a blue uniform with white lappels and a white feather, were a few days before our departure dressed in blue and orange, and wore an orange coloured feather.

"The governor of Malacca sold 200 Sepoys and 180 Hanoverians together with two frigates, to clear himself of a debt he owed of 200,000 rix dollars. In the Molucca Islands every thing is carried on in the same way, owing to the conduct of the new governor of Amboyna, Mr. Cornabe, who was formerly at Tinnate.

"The representative of the Prince of Orange, who commands a great parcel of rascals and vagabonds, principally great ones, intends to call upon the gentlemen in the service of the company to deliver up to the English 100 millions of Dutch money, which will be rated at 150 millions; they will have a particular interest in doing this, as it will be the means of clearing them from the bankruptcy they are in to their masters.

VAN KOL,
Citizen of Rotterdam in Holland.
Island Alcafon, 16th Sept. 1796"

Second Ball.

New Cotillions, Scotch Reels, Contre Dances and a new Quadrille.

MESS FRANCIS & BYRNE beg leave to inform their scholars, friends and the public in general, that their second Ball for this season will be on Tuesday the 7th of February, at O'Ellers's Assembly-Room, and in addition to their new Cotillions and Reels, will be introduced an entire new QUADRILLE, (composed by Mr. Byrne. January 28 2awtE7

For Sale,

At the Office of the Editor of the Gazette of the United States, A FEW COPIES OF "An account of the Receipts and Expenditures of the United States, for the year 1795." January 28, 1797.

New Theatre.

ON MONDAY EVENING.

Will be presented, the Historical Play of

Columbus;

Or, A WORLD DISCOVERED.

To which will be added, the musical drama of

The Purse.

On Monday—Venice Preferred, and the Fitch of Bacon.

Box, One Dollar twenty-five cents. Pit one Dollar, and Gallery, half a dollar.

Tickets to be had at H. & P. Rice's Book-store, No. 50 High-street, and at the Office adjoining the Theatre.

Ladies and Gentlemen are requested to send their servants to keep places a quarter before 5 o'clock, and to order them, as soon as the company are seated, to withdraw, as they cannot on any account be permitted to remain.

VIVAT REPUBLICA!

College-Hall.

READINGS and RECITATIONS,
Moral, Critical, and Entertaining.

MR. FENNELL

Respectfully informs the Public, that THIS EVENING, Saturday, Jan. 28/ at 7 o'clock, Will be delivered,

The Progress and Effects of Revenge and Jealousy, traced and exemplified in the characters of Zanga and Othello, with recitations of the most striking passages in each.

Tickets to be had of Mr. Poulson, jun. at the Library; at Mr. M'Elwee's looking-glass-store, No. 70, S. Fourth-street; and at Mr. Carey's, Bookseller, Market-street—Half a dollar each.

SWANN'S

Riding School, Horse Academy & Infirmary, Adjoining the Public Square, Market Street.

T. SWANN

RETURNS his sincere thanks to those gentlemen by whom he has been employed, during his residence in this City, and flatters himself that the success of his efforts, in the numerous, obstinate and dangerous diseases in Horses, in which he has been consulted, together with his moderate charges, will secure their future favours and recommendation.

He now begs leave to inform them and the public at large that his spacious and commodious premises, erected for the purpose above described are open for the reception of pupils of either sex, who wish to be instructed in the Art of Riding, and the right method of governing their horses, so as to ride them with ease, elegance, and safety—their horses will be carefully and expeditiously broke, for every purpose, and made obedient to the will of the riders; the natural powers which are shut up in them, will be unfolded by art, calling forth uniformity of motion, and giving to that noble animal all those beauties of action which providence has so bountifully bestowed on them.

Also, at his hospital, every disorder to which the horse is liable will be treated according to the rules of art, confirmed by long and repeated experience.

The utility of the above institution has never been questioned, that it has long been wanted in this city, every gentleman's stud will manifest, and T. SWANN as the first establishment of the veterinary art, solicits and relies upon the support of that public (which he is ever anxious in leaving) to enable him to bring it to perfection. The idea of a subscription for that purpose has been hinted by several gentlemen, who wish to promote the institution—the amount of each subscription to be returned by services in any of the departments he professes, agreeable to the rate of charges stated in his hand bill. Such subscription is now open, and the signatures of many respectable gentlemen already obtained. He therefore informs his friends and such Ladies and gentlemen to whom he has the honor of being known, that he shall in a few days take the liberty of waiting upon them and soliciting their support and protection.

N. B. Horses are properly prepared for those Ladies and Gentlemen who wish to be instructed.

Nov. 28 28&f