



FROM THE Anchor Club.

There is a tide in the affairs of men, Which, taken at the flood, leads on to fortune; Omitted, all the voyage of their life Is bound in shallows, and in miseries. On such a full sea are we now afloat; And we must take the current when it serves, Or lose our ventures.

Julius Caesar.

THE present moment is certainly fraught with more serious consequences to America, than those she has experienced at any former period. Heretofore she has made her way through a hazardous nonage with the assistance of a valuable few to direct her inexperience; but in that flexible state she has received impressions and taken habits, which, from the peculiarity of her situation, threaten her with serious evils. She was intoxicated with the fumes of poetic liberty, and amid the irritation of war, intoxication became fomented almost into delirium. The sobriety of enquiry was relinquished for the enthusiasm of speculation, and her philosophers regarded less the systems of duties which the nature of man renders inseparable from tranquil society, than the delightful picture of human excellence and felicity which their fancies had drawn, and which presented to their minds a view of unlimited gratification, inexhaustible plenty and undisturbed repose. The vulgar were flattered by the doctrine of equality and soon began to rate their own worth and importance by the reputations of eminent men. Their insolence was called independence of spirit; and not a circumstance was left unimproved, which had a tendency to realize those wild and extravagant reveries which nothing but experience can correct nor any thing but suffering can awaken. In her councils however, she had still some wise men; and she was not without faithful and steady guides to conduct her through the glimmerings of her doubtful morning into day, which, while it unveils the dangers which surround her, presents also the means whereby they are to be avoided. At this moment we are to determine whether we shall employ those means for our own preservation, or suffer avarice, love of ease, and fallacious hopes to seal our misery. Two paths are now evidently open before us; the one leading into the bloody fields of French turbulence, irreligion, and wretchedness; the other, under the auspices of heaven, to the temple of order, piety and happiness. But it is necessary that our choice be now made. Every moment's procrastination will weaken our resolution, and every step we take in error must be retraced. We have had our season of conviction, and if we refuse to profit by it, the impression will wear out, the opportunity will pass by, and those horrid principles which we now have it in our power to eradicate, will continue their insidious labors till they prostrate every virtue, and precipitate us into that depth of misfortune and depravity which is now the object of our dread and abhorrence. Already have we experienced the evil effects of delay; familiar with insult, we have received blow after blow till our sense of honor is become callous, and we even begin to question our own right to avenge. Is not this sufficient to arouse us from our lethargy? If it is not, the motive may be strengthened, by observing the progress of French manners amongst us. It is only to paralyze the hand of government, that frugality and plainness of life are recommended by its enemies, while they themselves are indulging in every species of extravagance and debauchery. And who can hope that amid the continual display of alluring wantonness and seductive pleasure that our now honest though unguarded citizens will long remain free from contamination? No one can harbor such an expectation. The door therefore should be barred to their entrance; and this is the time to employ the expedient. Let us therefore by a firm and unalterable resolution convince mankind that we are ripening into an honest reputation, which at all hazards we are determined to defend and preserve: that our national character is to guard our national rights and honor; that we mingle with calm prudence keen penetration and prompt decision; and that we are not a nation of licentious visionaries and patient victims; but men who know how to estimate the blessings they enjoy and will risk every thing to perpetuate them.

The Gazette. PHILADELPHIA, FRIDAY EVENING, FEBRUARY 15. A CHARGE To the Grand Juries of the County Courts of the Fifth Circuit of the State of Pennsylvania, at December Sessions, 1798: By ALEXANDER ADDISON, President of those Courts.

IN circumstances of extraordinary danger or alarm, extraordinary means must be adopted: for ordinary means are incompetent for extraordinary occasions. Though I may not kill a man, while I am in no danger from him; yet if he be in the act to kill me, or I find him breaking into my house in the night time to rob me, I may put him to death. This results from the general law of self-defence. The sacred right of property will not forbid us, when a house is on fire, to pull down the adjacent buildings, to save the rest of the town.—Nor will the right of personal liberty restrain the magistrate from committing to jail a man who has actually done no mischief, if another is justly afraid of mischief being done by him. All these are extraordinary cases, to which the ordinary rules of property, or of personal liberty and safety, are not applicable: and the violation of those rules, in such cases, is, in true construction, no violation of them: for they were never meant to be applied to such cases, but only to the ordinary and peaceful state of society, and must yield to the great law of self preservation and common welfare. Nations, like individuals, are also bound, by the law of self-preservation, in times of danger, to adopt measures, which would be altogether unjustifiable in ordinary times. They may destroy an hostile army. If a hostile army be suffered to march through a neutral country, to attack another nation, this nation may also enter that country, and oppose its enemy. If fields, gardens, houses, or towns, shelter its enemy from the full force of attack, they may be destroyed. If it be necessary to weaken the enemy by want, the corn, cattle, and all kinds of provision may be carried off, and the frontier made, as it were, a desert. Such things are, in times of danger, justifiable by the law of self-defence; though in ordinary times they would be unlawful and inhuman. On the same principles of self-defence, to prevent a dangerous communication of intelligence, or any measure unfavorable to its safety, when a nation is, or is likely to be, engaged in war, it may order any aliens, who may be suspected of promoting or favoring the designs of its enemy, to depart out of its territory.—This may be always, and has been generally done. And, unless where this right is regulated by treaty, this may be done at the discretion of the government under which aliens reside. For every government must be sole judge of what is necessary to be done, for its own safety or advantage, within its own territory. And, even with respect to their own subjects, most governments have reserved a right, without being required to shew any cause, to commit to close custody any subject suspected as dangerous to the peace or welfare of the community. In England, this right is restrained by the writ of Habeas Corpus, which gives to every subject imprisoned an opportunity of requiring the cause of his commitment, and of obtaining, in all proper cases, his enlargement. When, therefore, the King of Britain's ministers find it necessary, for political reasons, to restrain the personal liberty of any subject, without shewing any cause for it, a law must be obtained from Parliament, suspending the privilege of the writ of Habeas Corpus; and Parliament may, whenever it pleases, pass such a law. Conforming to the principles of liberty inherited from our ancestors, the privilege of the writ of Habeas Corpus is established, as a principle, in the government of this State and of the Union. And, though Congress or the General Assembly may, respectively, like the British Parliament, by law, suspend this privilege; yet they cannot, like the British Parliament, pass such law whenever they please. For the Federal and State Constitutions have declared, that "the privilege of the writ of Habeas Corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it." So that, in this country, no citizen can be deprived of his liberty, without an avowed and sufficient cause, unless, in case of rebellion or invasion, the legislature think the public safety requires it, and suspend the privilege of the writ of Habeas Corpus. But here the Constitution leaves aliens, as in other countries, to the protection of the general principle of the law of nations, or of the particular provision of treaties made between the United States, and the government whose subjects or citizens the aliens severally are. Congress, in its last session, found the United States in extraordinary circumstances of peril, unequalled since their independence was solemnly acknowledged. France, having, without any respect to the principles of liberty, the law of nations, or the rights of individuals, plundered the land to the utmost reach of her grasp; extending the same unprincipled rapacity to the ocean, and plundered indiscriminately friends and foes. Of all nations and governments none had with more affection regarded the revolution of France, none had more assiduously cultivated her friendship, none had more scrupulously observed the rules of neutrality, or consistently with those rules, partially indulged the views of France; than the nation and government of the United States. And if neutrality, justice, affection, and gratitude,

could have exempted any government and nation from injury from France, the nation and government of the United States might justly have claimed this exemption. But what weight has justice with a government without principle, without religion, and without an interest in the prosperity of the people over which it is placed! If the French government had regarded only the interest of France, it would have cultivated the affections of America. But the French government, like the false mother, indifferent to the life of the child, regarded not the interest of the French nation, but the indulgence of its own pride, which, exalted by success, beyond the bounds of moderation, sought to humble all authorities in universal prostration at its feet. She commenced and prosecuted spoiliations of our trade to an extent that threatened its ruin: and the dismal effects are displayed in the bankruptcies of our merchants, and the languishing state of our commerce and agriculture. The American government patiently and peacefully sought redress by negotiation; but the presumption and rapacity of France rose in proportion to the patience and peace of America; and, with unexampled insolence, she repeatedly drove away our ambassadors sent to claim only an exemption from injury, and a payment of just debts; required us, by an ignominious tribute and bribe, to double the damage we had suffered; and threatened us, if we refused this, with war and ravage on our coasts, burning of our towns, and even dissolution as a nation. What could have swelled the insolence of France to this pitch of extravagance? Had we done her any injury? She can shew none. Was it her great success, and mighty power? We are at a distance to defy her power. How then dared she thus to insult and injure us? She accounted us a divided people, split into factions, among which she had zealous partisans. In this state, she knew, we could make no resistance. And, while we remained in this state, she might safely persist in her proud oppression: and she did so. For men, without regard to religion and justice, will do whatever they can do: and nothing but resistance and force will restrain them from injuring others. France had long known and promoted divisions and factions among us. And had sent spies into all parts of our country, to procure information of our circumstances and opinions.—These travelled through America, under various pretexts, of curiosity, of philosophy, or of avoiding tyranny or persecution at home. This Talleyrand, who demanded the bribe and loan from our ambassadors, travelled through America as an emigrant; and, after his return to France, was appointed minister of foreign affairs. From its spies and other agents here, the French government received constant intelligence of the sentiments of the citizens, and the measures of the government of America; and was thus prepared to promote its own views, and defeat ours. If ever there was a time in which it was proper for any government, to order aliens to depart out of its territory, it was proper for the American government to do so at this time. In other countries, this would have been done by a proclamation of the executive. This was a new case under the American Constitution, and proper for the interference of the legislature. Congress, therefore, passed a law\*, the substance of which in its own words, I shall here state.— "It shall be lawful for the President of the United States, to order all such aliens, as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect, are concerned in any treasonable or secret machinations against the government thereof; to depart out of the territory of the United States, within such time, as shall be expressed in such order.— "Which order shall be served on such alien, by delivering him a copy thereof, or leaving the same at his usual abode, and be returned to the office of the Secretary of State, by the marshal or other person to whom the same shall be directed." But "if any alien so ordered to depart shall prove, to the satisfaction of the President, by evidence to be taken before such person as the president shall direct, that no injury or danger to the United States will arise, from suffering him to reside therein, the president may grant a license to such alien to remain within the United States, for such time as he shall judge proper, and at such place as he shall designate.—And the president may also require of such alien to enter into bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties, to the satisfaction of the person authorized by the president to take the same, conditioned for the good behaviour of such alien during his residence in the United States, and for not violating his license; which license the president may revoke whenever he shall think proper. "And if any alien, so ordered to depart, shall be found at large within the United States, after the time limited in such order for his departure, and not having a license from the president to reside therein; or having obtained such license, shall not have conformed thereto; every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States." This law further enacts, "That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof, any alien who may be in prison in pursuance of this act; and to cause to be arrested, and sent out of the United States, such of those aliens as shall have been ordered to depart therefrom, and shall not have obtained a license as aforesaid, in all cases, where, in the opinion of the president, the public safety requires a speedy removal. And if any alien so removed, or sent out of the United States by the president shall voluntarily return thereto, unless by permission of the president of the

United States; such alien, on conviction thereof, shall be imprisoned as long as, in the opinion of the president, the public safety may require." But it is provided, "That it shall be lawful for any alien, who may be ordered to be removed from the United States, by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States by any alien who may be removed, as aforesaid, shall be subject to his disposal." One would have thought that a law so reasonable in itself, so conformable to the law of nations, and the practice of all governments, and, while it is altogether consistent with the constitution, so necessary to the safety and defence of the United States; if it did not obtain all praise, would, at least, have escaped all censure. Yet this law was not only vehemently opposed in Congress; but, even since it was passed, has been reproached by ignorant, or wicked and seditious men; and for their vile and selfish purposes has been held up to detestation, as unconstitutional and tyrannical. In many parts of the Union, it has been used as a pretext and instrument, to enflame the passions of the people, disturb the peace of the country, destroy respect for the laws, and relax the authority of the government; and in one state, to produce such a commotion, as threatens an insurrection, if not a separation from the Union. It is proper for men in all stations, and peculiarly in my station, to endeavor to counteract such mischievous passions and miserable consequences. With this view I shall examine the objections, which I have observed to be offered against this law, solemnly established by the authority of the United States. 1. It is objected to this law, that it is contrary to the express words of the Constitution. We perhaps ought not to wonder, that this objection is made. Added to the want of sense and knowledge in some of the objectors, of modesty in most of them, and the general disposition, from prejudices excited and nourished by slander, to believe every act of administration wrong; the habit of opposition prepares their minds to make and receive it. For a habit of opposing every thing makes dreadful havoc, not only on the feelings and conscience, but on the understanding itself. This objection is made on two grounds. The first is, that the Constitution declares that "the migration or importation of such persons, as any of the states now existing, shall think proper to admit, shall not be prohibited by Congress, prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person." From this it is inferred, that, as Congress cannot yet prohibit such migration or importation, they cannot remove the persons, who have migrated or been imported; for this, it is said, would be, in effect, prohibiting the migration or importation. It is well known, that the prohibition in view, respected only slaves. This was universally understood, at the time of the publication of the Constitution, during its discussion, and ever since. All the members of the Convention know this. The speaker of the House of Representatives of Congress who was a member of the Convention, did, in the argument of this bill, in a committee of that house, expressly declare this to have been the avowed sense of the Convention, on this clause of the Constitution; and no man, of any knowledge, of the subject, has ever seriously entertained a doubt of this. The Convention was so averse to the traffic in human beings, that they would not directly name slaves, slavery, or the slave trade. The southern members thought their States not yet prepared for the prohibition of this traffic. The other members agreed to give those slaves twenty years to think of it. In that space, they would probably abolish the slave-trade themselves; or, after that, Congress might do it. In the mean time, the Convention would not give slavery the sanction of being expressly named. Instead of the word slaves, the word persons was used; and, to correspond with this, the word migration, and explanatory of this, the word importation, as more properly applicable to slaves, or persons considered, not as aliens, but as property. Or considering this prohibition as respecting only slaves, we find another reason for this construction, in the power reserved to Congress "to impose a tax on such importation;" while no such power is expressed as to migration; and thus for constructing those words as meaning a different manner of introducing slaves. Congress is restrained from prohibiting their importation by sea, or their migration by land, into any of the states; but may lay a duty on their first importation, not on any subsequent migration; the duty in that case being presumed to have been paid before. While the prejudices or necessities of the states then existing were thus indulged; the Convention confined this indulgence to them, and did not restrain Congress from prohibiting the migration or importation of slaves into any state thereafter to be established, but left them to the discretion of Congress. Whatever reason may be assigned for it, this is certain, that it was the plain meaning of the Convention, and has been the uniform construction of the Constitution, that the restraint laid on Congress, by this clause of the Constitution, applies only to the prohibition of introducing slaves. But supposing this not the true construction of this clause of the Constitution, and supposing that congress is thereby restrained from prohibiting the migration or importation of any aliens whatever; it does not follow, as a just consequence from this, that Congress can make no law to remove such aliens. A rule will not be extended beyond the strict words, if this extension will promote mischief; especially if it endanger the

safety of the people, which is the supreme law. I would ask whether this restraint, supposing it to respect aliens generally, must not be limited to times of peace; and whether it must govern in extraordinary times of danger, or must then give way to the great rule of self-defence and general welfare? Let us try this construction by the rules of reasoning. It is a rule, that, if an argument prove too much, it is unfounded.—Suppose a body of Frenchmen to arrive at Boston, who with arms and ammunition, which men may carry for their own defence, and tell the people there, that they are persons who have migrated, to settle peaceably in the country. Another body of such emigrants, with the same tale in their mouths, at New-York; another, at Philadelphia; another, at Norfolk; and another, at Charleston. Must the state legislatures of Massachusetts, of New-York, of Pennsylvania, of Virginia, and of S. Carolina, be convened, to order those several bodies of emigrants to depart out of their several states? Well; the Boston emigrants march peacefully into Connecticut; and the South Carolina emigrants into North Carolina; and so of the others, till they all meet peaceably in Maryland; and then declare, that they are come, by order of the directory, to settle there, and to prevail on the President and Congress, to give the tribute demanded by the directory. All this they may do; and yet, if Congress had proceeded to make a law, to prevent their landing, or effect their removal, we should be told, that Congress cannot prohibit the migration or importation of aliens! This seems a strange absurdity. And yet the absurdity of this case is only altered, it is not removed, by substituting the case on which Congress has acted. Spies are, at all times dangerous; they are generally not less, and they are often more dangerous, than open enemies; and those who corrupt our opinions, and pervert our duties, are the most dangerous of all enemies. A power to make such law is clearly necessary, for the general defence and welfare of the United States; the care of which is properly deposited with the government of the United States. For "the people of the United States, in order to form a more perfect union, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity;" established a Constitution, by which objects of general concern to the nation are properly submitted to the management of the General Government. And this government is expressly bound to "guaranty to every state in the Union a republican form of government, and to protect each of them against invasion and domestic violence;" and has "power to make all laws which shall be necessary and proper for carrying into execution all the powers vested by the Constitution in the government of the United States, or any department or office thereof." The restraint or expulsion of aliens, in times of war or danger, has, by almost all nations, been considered as a necessary measure of protection and self-defence; and, from the nature of the case, the law of nations, and the general constitutional authority of the government, I cannot permit myself to doubt, that a power to restrain or expel them necessarily exists in the government of the United States, as in every government charged with the general welfare, the common defence, and protection against invasion and domestic violence. If this be a necessary and proper mean of accomplishing any object, with which the government of the United States is charged; the power of exerting it is clearly vested in that government. The difficulty of obtaining the universal consent of the individual states to any measure, however salutary, was sufficiently experienced, as the great evil to be remedied by the Constitution. And a construction of the Constitution, were it admissible, will not be favored, which would leave the general defence of the nation at hazard, on the caprice of a single state.

\* U. S. Const. Preem. † Const. Art. 4. sect. 4. ‡ Const. Art. 1. sect. 8.

(Concluded in our next.)

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