STAR & REPUBLICAN BANNER.

BY ROBERT WHITE MIDDLETON.

I. The STAR & REPUBLICAN BANNER is published at TWO DOLLARS per annum (or Volume of 52 numbers,) *payable half-yearly in advance*: or TWO DOLLARS & FIFTY CENTS *if not paid until after the expiration of the year.*

II. No subscription will be received for a shorter period than six months; nor will the paper be discontinued until all arrearages are paid, unless at the option of the Editor. A failure to notify a discontinuance will be considered a new engagement and the paper forwarded accordingly.

III. Advertisements not exceeding a square, will be inserted TWO times for $1, and 25 cents for each subsequent insertion—the number of insertions to be marked, or they will be published till forbid and charged accordingly; longer ones in the same proportion. A reasonable deduction will be made to those who advertise by the year.

IV. All Letters and Communications addressed to the Editor by mail must be post-paid, or they will not be tended to

GETTYSBURG, PENN.

TUESDAY, NOVEMBER 20, 1838.

☞FLOUR in Baltimore, $7 50 @7 62

MONEY WANTED.

☞Next week we hope to be visited by all who owe us, as we are greatly in need of money.

PAY THE PRINTER.

Here comes winter, here comes winter,
Storms of hail—and snow—and sleet—
Pay the Printer, pay the Printer,
Let him warm his hands and feet.
Here comes winter, here comes winter,
Whitening every hill and dale;
Pay the Printer, pay the Printer,
Send your money by the mail.
Pay the Printer, pay the Printer,
All remember his just due:
Cold winter, is cold and bitter,
He wants cash as well as you.

Merry winter, merry winter,
It will be, if all do right;
Pay the Printer, pay the Printer,
Do the thing that is right.
Happy winter, happy winter,
Hark the jingling of the bells!
To the printer, to the printer,
What he takes that music tells!
Ah! poor Printer! poor Printer!
Your subscribers frolic all,
In the winter, in the winter,
But ne'er think of you at all!

Fire! Fire!!

☞Look out for conflagration at Washington. Fire is a great help in adjusting accounts!

New York Election!

"Such a battle
So fought, so followed, and so fairly won
Came not till now, to dignify the times,
Since Caesar fought his civil battles!"

☞The entire returns from the *Cataract State*" more than realizes the *joyful anticipations* we had of the Whigs succeeding. "The sober second thought of the people," Mr. Van Buren says "is never wrong," and, the people of New York—upon their 'sober second thought,' have declared their boasted 'favorite son' longer unworthy of their confidence.

The Whigs have elected their Governor and Lieutenant Governor by some 11,711 majority.

They have, out of 40 members to Congress chosen 22—being a gain of 12.

They have elected 6 of the 8 Senators elected this fall.

They have carried 82 of the 128 members of the House of Representatives in the Legislature.

Hon. Jesse Defendorf against Hon. C. C. Cambreling, Eli Moore and Isaac Bronson.

Verily, Mr. Van Buren, "the sober second thought of the people is never wrong—and always efficient."

Extract of a letter from New York to the National Intelligencer, dated

NEW YORK, November 10.

THE EMPIRE STATE IS WHIG ALL OVER! *New York sends to her "Favorite Son," ABERDEEN!*

First.—That WM. H. SEWARD will be elected Governor of the State of New York by a majority of from five to ten thousand.

Secondly.—That WM. L. MARCY, the head man of the Albany Regency, has been defeated, for the first time, by a majority of from five to ten thousand.

Thirdly.—That the Empire State will send from twenty-four to twenty-five, perhaps twenty-six or twenty-seven, Whig Members to the twenty-sixth Congress.

Fourthly.—That the Loco Foco Members of Congress from New York, now numbering thirty, will be reduced to fifteen—perhaps even to a smaller number. We long for the fifteen.

Fifthly.—That the Whigs will elect six of the EIGHT Senators to the State Legislature.

Sixthly.—That we shall elect a large majority of Assemblymen, *seventy*, at least, *of the one hundred and twenty-eight members.*

Finally.—That we shall have a majority of the Legislature upon joint ballot, and elect a *Whig United States Senator.*

Let the Democrats with these "sober second thoughts of the people, which are never wrong, and always efficient" Will the President be satisfied, or the members of the Cabinet, or your Official neighbor, be satisfied? I think not. But the Whigs of Washington, and throughout the Union, will rejoice with a joy unspeakable. We have gained a great and glorious triumph in the city and State; one, under all the circumstances of the case, which, I may say, is without a parallel.

The details of the election you will find in the newspapers. The great results I send you, you may rely upon. Many of them are official, and many confirmed.

You cannot well, at your distance, conceive of the effect of this news in our city. Tammany Hall is deserted, the transparencies taken down, and the halls seemingly hung in black. The Locofoco newspaper offices are deserted, and a friend of the Administration who is willing to proclaim himself such is quite a *rara avis. Per contra*, the Whigs are overjoyed, but for the most part temperate in their expressions of joy. At the Whig head quarters and the Whig wards the Whig banners wave in the breeze, and night after night hundreds and hundreds meet to congratulate one another.

The city seems as it must have appeared after the proclamation of peace. Our merchants are happy in the prospect that there will be an end of experiments—our mechanics that they will have "*cobbling* and tinkering" to do to support themselves and their families. The effect of the election upon the business of the city will be beneficially felt in every branch of business. All the Whigs are now rejoicing, and all who understand their own and the interests of the country will rejoice by and by.

The usual business of the city was swallowed up in the election until yesterday when it began to be brisk again.

Stewart—The Parricide.

☞On Monday last, we learn by the Baltimore Patriot, the section for a new trial, in the case of William Stewart, was argued and overruled by the Court. On Tuesday Stewart was placed at the bar, when Judge Nesbit, prior to passing the sentence, addressed him as follows:—

WM. STEWART—You are now brought into Court to receive that sentence which the law imposes on the crime, of which you have been found guilty. After a trial protracted to the very utmost length of the days, after a defence by able counsel, exhibiting unexampled patience, activity and zeal, during which every advantage which the rules of law would permit was afforded you, and after a patient, deliberate and impartial investigation of your case by a jury of your country, you have been found guilty of murder in the second degree: and that murder perpetrated on the body of your own father. Parricide! An offence so horrible and requisite for its perpetration such an utter destitution of the strongest and most holy of our affections, that it would seem impossible, that such a crime could be committed. An offence, against which the most distinguished law-givers, in all nations, have made no laws, apprehending it impossible that any could be guilty of so shocking and unnatural a battery. An offence to the peace of the State of Maryland, so far as I am informed, not known in our annals of crime. The testimony was of so decisive a character, and so clearly demonstrated the deliberation and premeditation with which the murder was accomplished, that it would have justified and, indeed, seemed to require, a verdict for murder in the first degree, by which you would have forfeited your life to the offended laws of your country. But the jury, influenced possibly by some of those unfounded scruples about the effect of circumstantial testimony, however *clear and conclusive*, here, by what is generally denominated a plain case, withheld your life, and doomed you to confinement in the penitentiary. An effort has been made in your counsel, not upon their own responsibility, but, as we understand, by your express request, to obtain for you a new trial. The motion has been refused by the Court, upon what they conceive to be the settled and established rules of law. If, however, the Court had considered that they could *legally* grant you a new trial, they would not, with their views of the conclusive nature of the testimony against you, have consented to place your life again in jeopardy, at the imminent risk, where you had been acquitted of the highest degree of homicide, by the finding of which alone, your life could be forfeited. The painful duty now remains for the Court to impose the sentence of the law, and I will ask you if you have any thing to say why that sentence should not now be passed?

At the conclusion of the Court's address, the prisoner seemed somewhat affected, and, in reply to the question contained in the last clause, handed to the court a written paper, which, being read by the clerk, was to the following effect:—

Before the court proceeds to pass upon me the sentence of the law I beg to declare, in its presence, and before God and man, that I am innocent of the murder of my father.

The whole course and tenor of my life and character—the affections I bore him while living and the sorrow with which I mourn his cruel and untimely death, make repel the suspicion and crime for which I have been tried, and forbid that the contemplation of which I was accused, ought to be construed into evidence of my guilt. It is, however, my fate, and I must submit to it, knowing that I should be thus situated, and I here call to witness all who are present, and this honorable court, which is about to sentence me, that the blood of my father was not shed by me, and that I am innocent of the guilt for which I am about to suffer.

I bow, with a broken spirit, but conscious innocence to my doom, in the fervent hope that time, and an overruling God, will assist my innocence manifest to the world.

WM. STEWART.

The Court then sentenced the prisoner to confinement in the Penitentiary for 18 years—one twentieth of the time solitary confinement.

Portrait of the Loco Foco Party.

BY A MASTER.

The Editor of the Globe has drawn a portrait of a party now in this country. It evidences an intimate acquaintance with the art of painting, and a deep knowledge of the subject he is portraying. Every tally will recognize the features, and the portrait is described and requisite for its perpetration such an utter destitution of the strongest and most holy of our affections, that it would seem impossible, that such a crime could be committed. An offence, against which the most distinguished law-givers, in all nations, have made no laws, apprehending it impossible that any could be guilty of so shocking and unnatural a battery. An offence to the peace of the State of Maryland, so far as I am informed, not known in our annals of crime. The testimony was of so decisive a character, and so clearly demonstrated the deliberation and premeditation with which the murder was accomplished, that it would have justified and, indeed, seemed to require, a verdict for murder in the first degree, by which you would have forfeited your life to the offended laws of your country. But the jury, influenced possibly by some of those unfounded scruples about the effect of circumstantial testimony, however *clear and conclusive*, here, by what is generally denominated a plain case, withheld your life, and doomed you to confinement in the penitentiary. An effort has been made in your counsel, not upon their own responsibility, but, as we understand, by your express request, to obtain for you a new trial. The motion has been refused by the Court, upon what they conceive to be the settled and established rules of law. If, however, the Court had considered that they could *legally* grant you a new trial, they would not, with their views of the conclusive nature of the testimony against you, have consented to place your life again in jeopardy, at the imminent risk, where you had been acquitted of the highest degree of homicide, by the finding of which alone, your life could be forfeited. The painful duty now remains for the Court to impose the sentence of the law, and I will ask you if you have any thing to say why that sentence should not now be passed?

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AN INQUISITIVE CONFESSION.—The Globe says the Whigs of this city "*had absolute control of the election in every ward, and would admit no non-residents or spurious votes against the party.*" A frank confession by my troth, and disclosing, in an unguarded moment, the secret of our success! We thank thee, Globe, for a slip of the pen by which thou hast once spoken truly.

The Governor of New York has appointed the 29th of the present month as a day of public thanksgiving. The same day is to be observed in Michigan and throughout New England.

From Poulson's American Daily Advertiser.

The New Constitution and Governor's Patronage.

Under the different sections, articles and provisions of the amended Constitution, much speculation and conversation is abroad in the world, respecting the power and constitutional authority of the new Governor, to fill the vacancies in the present Prothonotaries, Clerks of the several Courts, Recorders of Deeds and the Registers of Wills—but upon mature deliberation and examination, there can result but one conclusion on that subject.

And as respects the appointment of other officers, such as the Inspectors of Provisions, &c. the *sine qua non* is in the Legislature, to be determined by law, and not in Executive pleasure.

The amendments to the Constitution become operative on the first day of January, 1839—Schedule, section 2d.

By the 6th section of the Schedule, Governor Ritner's executive term is extended to the third Tuesday of January, 1839, and until which time David R. Porter cannot be inaugurated—and not even then, if the contesting his election shall continue until the third Monday of that month—"in which case the Governor of the last year, [Governor Ritner,] or the Speaker of the Senate who may be in the executive authority, shall continue therein, until the determination of such contested election, and until a Governor shall be duly qualified."—See sect. 14, Art. 11.

It is therefore clear that the amended Constitution comes into operation under the Executive authority of Joseph Ritner, by whom all the offices of the class in our first section will be incumbent, as he cannot otherwise do, being his absolute duty.

And even should David R. Porter be inaugurated on the third Tuesday of January, as per the third section of the second article, he can have no power unless "*vacancies*" happen in the interim of his term of office as portrayed in the third section of the sixth article, viz: "*Vacancies*" in any of the said offices—Prothonotaries and Clerks of the several other Courts, Recorders of Deeds and Registers of Wills, shall be filled by appointments to be made by the Governor."—But it will not be competent to attempt to create a vacancy for the prerogative of filling it—he has no such constitutional power.

The eighth section of the second article is to the same import. He shall have power to fill all "*vacancies*" that may happen in such judicial offices during the recess, of the session of the Senate, by granting commissions that shall expire at the end of their next session. And he shall nominate, and by and with the advice and consent of the Senate, appoint all judicial officers of Courts of record, (*unless otherwise provided for*) in this Constitution.

But the officers of Prothonotaries and Clerks of the several other Courts, Recorders of Deeds and Registers of Wills, are provided for by the third section of the sixth article to the Constitution, who shall at the time and places of election of representatives, be elected by the qualified electors, and the Legislature shall provide by law the number of persons in each county, who shall hold such offices and how many and which of the said offices shall be held by one person.

These then being provided for by the Constitution—the Judicial appointing power of the Executive only applies to filling vacancies, if any, viz: "VACANCIES in *any of the said offices shall be filled by appointments to be made by the Governor to continue until the next General Election, and until successors shall be elected and qualified.*" But this is incompetent for the Governor to do, until the Legislature pass the laws as aforesaid. Therefore the officers as aforesaid who are incumbents on the third Tuesday of January, 1839, and not making a vacancy by death or resignation, will only be superseded by those elected in October, 1839.

Neither can the Governor, under the new Constitution, appoint such officers as Attorney General and prosecuting attorneys, canal commissioners; also, flour, whiskey, lard, butter, pork, beef, lumber, staves, tobacco inspectors, &c. &c.; until directed by law—because the eighth section of the third article is in these words—"*All officers whose election or appointment is not provided for in this Constitution, shall be elected or appointed as shall be directed by law.*" It is therefore certain, that the Legislature can direct an election in the City and County of Philadelphia for all of those port offices, or confer their appointment on the Commissioners of the County of Philadelphia, for the time being—or even in the City Councils (if you please)—the power is a legislative one—and there vested by the Constitution.

But the Convention by the eleventh section of the Schedule to the Constitution, has confirmed the provision for the passage of the requisite laws, &c. in the following words, viz: "Section XI. The appointing power shall remain as heretofore, and all officers in the appointment of the executive department shall continue in the exercise of the duties of their respective offices until the legislature shall pass such laws as may be required by the eighth section of the ninth article of the amended constitution, and until appointments shall be made under such laws; unless their commissions shall be superseded by new appointments, or shall become void by their own limitations, or the said offices shall become vacant by death or resignation, and such laws shall be enacted by the first legislature under the amended constitution."

In this section the words "*unless their commissions shall be superseded by new appointments*"—applies only to the opportunity of Governor Ritner to "supersede,"—the power will not extend to the successor, and the reason is one and obvious. The old Commissions were given away under the Administration of Governor Ritner and the amended Constitution becomes operative—any appointments to be made or superseding done, belongs wholly to Ritner, and don't extend to Porter—but had the inauguration of D. R. Porter been under the old Constitution and before the amendments became operative—the result would have been otherwise, but as it is—he is stripped of patronage and shorn of power.

However, he will have the appointment of Secretary of the Commonwealth.

Also all judicial officers of courts of record not otherwise provided for—but subjects to the laws that the Legislature may pass on the subject. He can fill vacancies as aforesaid—but cannot create a vacancy for any purpose.

He can nominate to the Senate, judges of the several courts, as vacancies occur, as aforesaid, and also vacancies in the office of Sheriff and Coroner—and he can appoint Aldermen and Justices of the Peace, to continue in office until 1840, and fifteen days after the commissions of the elected are issued.

It is therefore obvious that were Governor Porter to presume to fill even a vacancy in the elective offices during the session of the Senate, without its advice and consent, he would be acting against the Constitution and laws of the State