

Winchester Gazette.

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VOL. VI

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I. THE WINCHESTER GAZETTE is published every Saturday evening at Three Dollars per Annum, exclusive of Postage.

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VI. The Postage on all communications to the Editor, must be paid by the writer, or they will not be attended to.

VIRGINIA, PENDLETON COUNTY, SEPT. 11, 1813.
November Term 1813.

John Hiner junr. Plaintiff.

James Sweet Defendant.

IN CHANCERY.

THE defendant not having entered his appearance according to law and the rules of this Court, and it appearing to the satisfaction of the Court that he is not an inhabitant of this Commonwealth—it is ordered, that the said defendant do appear here on the first Tuesday in June next and answer the bill of the plaintiff, and that a Copy of this order be forthwith inserted for two months successively in the Winchester Gazette and another copy posted at the front door of the Court house of said County.

A Copy, Telle.

Nov. 13. Z. DYER, C. P. C.

10 Dollars Reward.

RANAWAY from the subscriber living in Morgan Town a Negro man named SAM,

aged about 35 years, very black, walks lame and is supposed to be 5 feet 5 or 6 inches high—he has been seen several times in the neighborhood of Battletown, and no doubt is lurking about in the settlement adjacent. Any person who will apprehend said fellow and confine him in any jail so that I can get him again, shall receive the above reward by applying to Capt. Edward McGuire.

PAWLEY SCOTT,

Winchester, Aug. 10.

Hardy County, ss.

September Court, 1812.

JONES GREEN, Complainant, against Isaac Lewis, Defendant.

IN CHANCERY.

This day came the complainant by his counsel, and it appearing to the satisfaction of the court that the former order made in this cause for publication has been duly carried into effect, and the said defendant still failing to answer the said complainant's bill: it is, on motion of his counsel, ordered by the court that the said bill be taken, and the matter thereof at a future day be decreed accordingly unless the said defendant on or before the first day of January court next file cause to the contrary; and it is ordered that a copy of this order be inserted in the Winchester Gazette for two months successively, and that another copy be posted against the front door of the court house of the county of Hardy.

A Copy, Telle.

Nov. 6.

Notice.

THE Stockholders in the Ashby Turpentine Company, are hereby notified to attend a meeting of the said Company, at the house of Samuel Henderson, in Middleburg, on the first Monday in December next, for the purpose of electing a President, four Directors, and a Treasurer to serve one year, and doing such other business as may be necessary.

By order of the President,

A. GIBSON, Treasurer.

Middleburg, Nov. 1, 1813.

[From the Boston Palladium, Nov. 10]

BEAUTIES OF STURM.

An Exhortation to Remember the Poor at the Season of Winter.

"Those who are quietly sitting in convenient cheerful houses, and who hear the whistling of the sharp north wind, let them reflect on their unhappy fellow-creatures, many of whom are suffering the utmost severity of poverty and cold.

"Happy these who, at this season, have a house to shelter them clothes to cover them, bread and the fruits of the vine to refresh them, with a bed of down on which they may repose and yield to pleasing dreams! But there

are some poor persons without even the necessities of life! Without shelter, without clothes, often stretched upon a bed of pain, and too modest to proclaim their wants. We ought all to be touched with the misery of this order of people. How many poor creatures distressed with cold and hunger! How many old people with scarce any thing to cover them! How many sick are there without food or nourishment, lying on straw, in miserable huts, where the wind, the cold, and the snow penetrate! Winter renders benevolence to the poor more necessary, because it increases their wants. Is it not the time in which nature itself is poor? And is it not adding double value to our benefactions to bestow them seasonably? If we have been enriched with the summer and autumn fruits, was it not with the intention that we should share them with our fellow creatures now when nature is at rest! The more the cold increases, the more disposed we should be to relieve the necessities; to pour into the bosom of poverty all we can spare.

"What other end could Providence propose in the unequal division of earthly riches, were it not to excite benevolence in the wealthy, by the affecting scenes of the miseries of the poor? Let us, therefore, have compassion on our fellow-creatures, and not let them suffer more than even the brutes.

"It is our duty to soften their evils, and Providence permits us to have a share in this honor. It is our duty to clothe, to feed and to comfort them. Nobody is so poor but they may do some good.—Let us enjoy the sweetest satisfaction that a noble mind can feel, by relieving the wants of others, and of softening and lessening their weight of adversity. How easy is it to do this! We need only to retract a few of our expenses in dress and pleasures. How fit an offering would it be to virtue, were our benevolence to be attended by a conquest over our passions, in retrenching the indulgence of luxury and vanity, in order to bestow our charity on the poor."

From the York Recorder.

THE MILITIA.—Since the declaration of war, we hear great complaints concerning the militia. They have almost unanimously refused to act offensively against the enemy. The federal governors in New-England will not surrender them to the United States officers to be treated as soldiers of the regular army.—The democratic governors reproach their militia men as not having sufficient patriotism to defend their own coasts from invasion. Why do we hear all this clamoring against the bulwark of our nation. Is it because our countrymen are deficient in courage or patriotism, or is it because our rulers have imposed duties upon the militia which are oppressive and unconstitutional? We answer that all this difficulty is to be attributed to the unconstitutional acts of our government. Upon this subject the constitution is plain and explicit—"that the militia shall only be called forth to repel invasion, suppress insurrection and execute the laws of the Union" and with this restriction, that they shall be commanded by their own states officers.

No American will refuse obedience to the orders of his own government if called upon in a legal manner for any of these purposes. Who is so base that he will not assist in executing the laws that give him protection? who is there so void of feeling that he will not risk his life in defence of his dwelling, his wife and family? Where is the man who will not cheerfully march to destroy the wretch who raises the standard of rebellion against the government of his country? Do not the freemen of Connecticut though they are called the partizans of England, step forward to repel the invader from their shores? Did not the Militia of Maryland and Pennsylvania, vie with each other in the expedition against the rebel Albert Gallatin, now secretary of the treasury and minister to the court of St. Petersburg! When have the yeomanry of our country refused to perform the services assigned them by the constitution? When have they shown themselves deficient in courage or patriotism? All disinterested persons will bear testimony in their favor. It is only when they are required to spill the blood of their unoffending neighbors, or like the conscripts of Bonaparte, called into actual service, and subjected to the martial law;—when they are obliged to garrison the coasts for seven or eight months without being relieved by the United States troops;—it is only I say when such unconstitutional services, are required of them that we hear of their disobeying the orders of their government. The framers of the constitution never intended that the militia even when called into actual service—should be considered as the regular army.—They were to be called out upon any sudden emergency; to continue embodied but a short time, and it was expected that

their patriotism and good sense would supply their deficiency in discipline. Upon the same liberal plan are the militia laws of the several states formed. How then can our rulers expect to transform the militia into a regular army. How dare they attempt to introduce the French conscription among American Freemen. By their conduct in the present war they have only disgraced the militia without accomplishing their object. They should have considered before they declared war that a regular army was necessary, that the industrious citizen cannot instantly become the soldier.—and that hostilities commenced without preparation cannot be prosecuted with success.

THE WAR.

As viewed by the Legislature of Connecticut.

The joint Committee, who were appointed to take into consideration the subject of the War, beg leave to REPORT (which has been accepted and ordered to be published.)—

That at the special session of this Assembly, in the month of August, 1812, a resolution was passed, approving of the conduct of His Excellency the late Governor Griswold, in refusing to order the militia of this State into the service of the United States, on the requisition of the Secretary of War, and the Commander in Chief of the armies of the United States. At the same session, a solemn Declaration was made by this Assembly, that THE PEOPLE OF THIS STATE VIEWED THE WAR AS UNNECESSARY. It was, at the same time, also declared, that the military force of this State were to be employed, should the public exigencies require it, in the defence of this State, and of our sister States, in compliance with the Constitution; and that it was not to be doubted that the citizens of this State would be found at the Constitutional call of their country, among the foremost in its defence.

It is well known that near the close of the session of this Assembly in May last, a squadron of the armed ships of the United States, was driven by a superior British naval force, to take refuge in the harbor of New London, in this State, where they have remained, closely blockaded, through the season. The event as might be expected, produced great alarm among the inhabitants, who reasonably feared, from the exposed and defenceless state of that town, and neighbourhood, that an attack would be made by the hostile fleet to destroy our ships;—an event, which would necessarily expose them to great danger and distress. At that period no military force of U. States, capable of resisting an attack of this nature, was stationed at New London. It therefore became necessary, for the purpose of quieting the apprehensions, and defending the habitations of the inhabitants, as well as for the security of the ships of war, that a detachment of the military force of the State should be ordered to that place. The case was considered as coming within the Constitution, of the United States; and the detachment was accordingly made, in pursuance of the principles assumed by the Governor of this State, in the year 1812, which were afterwards approved, and adopted by this Assembly.

Although in the progress of the war, it has happened, that the people of this State have experienced a large share of its calamities, particularly since the blockade of New-London harbor, and have been under the necessity of taking an active part in the services of the camp, the committee see no reason to view the character of the war, or the manner of its commencement and prosecution, in any other light than that in which it ever has been considered by a large majority of the people of this state. They now consider it, as this Assembly did in August, 1812, AN UNNECESSARY WAR;—a war which might have been avoided without the sacrifice of national rights or national honor;—which, having been undertaken without the necessary preparations, has been, with the exception of the brilliant exploits of the Navy, productive of little beside disaster and disgrace.

The Committee cannot forbear to express their opinion on the subject intimately connected with the object of their appointment. They consider the general plan of warfare adopted by the Administration of the National Government, as not conformable to the spirit of the Constitution of the United States. That instrument was formed, and adopted, among other things, for the express purpose of providing for the common defence of the Nation. The war in which we are now engaged, was declared by the government of the United States. The contest is with a nation possessed of an immense naval force, and capable of annoying us in no other manner than by means of that force. To its attacks, a long extent of sea-coast, stretching from one extremity of the nation to the other, and containing a vast proportion of its popular

tion and wealth, was peculiarly exposed. Against the dangers and calamities of a war thus declared, and with such an enemy, the inhabitants of the cities, towns, villages, and plantations, along that coast, had an undoubted and imperative right to such protection as the nation could provide. Instead of which, the regular forces have been, almost without exception, ordered away from the Atlantic frontier, to the interior of the country, for the purpose of carrying hostilities into the territory of unoffending provinces, and in pursuit of conquests, which if achieved, would probably produce no solid benefit to the nation; while the sea-coast is left exposed to the multiplied horrors usually produced by an invading and exasperated enemy.

peace, at all times an object of high importance to a nation, when a war is, like the present, considered by a large proportion of the community to be unnecessary, and by no inconsiderable part of it to be unjust, must be a blessing of incalculable value. The unhappy effects which the war is producing upon the business, relations and enjoyments of life; the evils which it threatens to bring upon moral order; and the general prosperity and interests of society, all combine to induce the Committee to express an ardent wish, in which they feel confident they shall be cordially joined not only by the Gen. Assembly, but by all the friends of their country, that an honorable peace may be speedily established.

[From the Virginia Argus.]

TO THE PEOPLE OF VIRGINIA.

NO. II.

The resolution of the Senate, requesting a respectful conference with the President upon the nomination of Mr. Russell and his refusal.

In the course of the deliberations on the nomination of Mr. Russell, on the 14th of June last, the Senate came to the following resolution:

"Monday June 18.

"The Senate resumed the consideration of the nomination of Jonathan Russell, together with the motion submitted thereon by Mr. Wells, on the 11th inst. and the motion was amended and agreed to as follows:

"Resolved, That the nomination of Jonathan Russell, and the motion of Mr. Goldsborough on the subject, together with the message of the President of the United States of the 7th inst. with the communications therein mentioned, be referred to a committee with instruction respectfully to confer with the President of the U. States upon the subject of the said nomination, and report thereon.

"Ordered, That Mr. Wells, Mr. Giles and Mr. King be the committee."

I shall purposely overlook all the incidents which took place directly between the President, and the committee thus appointed, from this date, till the 6th of July following, when the message of the President declining the proposed conference, was laid before the Senate, because, although these incidents might give rise to some commentaries, which might be captiv- ing to some minds, yet they probably would be of a supplest nature, and if even real advantages in the argument might be derived from them I should cheerfully dispense with this rather than risk the hazard of unintentionally wounding the President's feelings. It is my sole object, to place this subject upon its own intrinsic merits; detained from all incidental considerations. Whether it should ultimately be conceived by the public, that this resolution of the Senate was founded on correct principles, or not, I presume every impartial mind must admit, that if such a proceeding could be justified on any occasion, it was on the one, which induced the Senate to resort to it. The extraordinary dilemma in which that body was placed in, being called upon to act upon a general intimation of unexplained considerations, inducing a measure in its opinions deeply affecting the honor and the interests of the nation, the solicitude naturally felt by it to act understandingly on the subject, and the sense of the high responsibility attached to every Senator in case of acting erroneously thereon, furnished the strongest motives to the Senate to request of the President a frank disclosure of his real objects on the occasion, and respectfully to confer with him thereupon. Without entering into an affirmative exposition of the principles, upon which I presume, the Senate deemed itself justified in adopting the resolution: I shall proceed respectfully to examine the grounds upon which the President felt himself bound to decline the proposed conference altogether; and the replies to them, will sufficiently elucidate the views I entertain of the subject.

Here I cannot help expressing a painful regret that after the most deliberate attention to the reasoning of the Presi-

dent in favour of the position he had taken, I am not able to acknowledge its conviction. It is contained in his message of the 6th of July, commencing in the following words.

"Tuesday, July 6.

"The following written message was received from the President of the U. States, by Mr. Graham.

"To the Senate of the United States.

"I have received from the committee appointed by the resolution of the Senate of the 14th day of June, a copy of that resolution which authorizes the committee to confer with the President on the subject of the nomination made by him of a minister plenipotentiary to Sweden.

"Conceiving it to be my duty to decline the proposed conference, with the

committee, and through them to the Senate, the grounds of my so doing, I think it proper to address the explanation directly to the Senate. Without entering into a general review of the relations in which the constitution has placed the several departments of the government to each other, it will suffice to remark, that the Executive and Senate, in the cases of appointments to office and of treaties, are to be considered independent and co-ordinate with each other. If they agree, the appointments or treaties are made. If the Senate disagrees, they fall. If the Senate wish information previous to their final decision, the practice, keeping in view the constitutional relation of the Senate and Executive, has been, either to request the executive to furnish it, to refer the subject to a committee of their body to communicate, either formally or informally, with the head of the proper department. The appointment of a committee of the Senate to confer immediately with the Executive himself, appears to lose sight of the co-ordinate relation between the Executive and the Senate, which the constitution has established, and which ought therefore to be maintained."

It is here to be remarked, that the President does not even intimate that there is any express constitutional inhibition of a respectful conference, between the Senate itself, or between a committee acting on the part of the Senate, and the Executive upon subjects of their concurrent jurisdiction; but, before its impropriety from the consideration, that "the Executive, and Senate in cases of appointments to office, and treaties, are to be considered independent, and co-ordinate with each other," and after pointing out correctly the useful course of proceeding of the Senate on ordinary occasions concludes.

"The appointment of a committee of the Senate to confer immediately with the executive himself, appears to lose sight of the co-ordinate relation between the Executive and the Senate, which the constitution has established, and which ought therefore to be maintained."

It seems to me a sufficient reply to the reasoning of the President, which conducts him to this result, to observe that the recital of the usual course of proceedings by the Senate on ordinary occasions, affords no reason why some other course should not be resorted to, on extraordinary occasions. The truth is, that the course of proceeding in the Senate upon nominations is variable, suited to the varying circumstances of the case, and always intended to attain the means necessary and proper, to enable it to act understandingly on each. But the principle, upon which the President's inference finally places his obligation to decline the proposed conference is, that the Executive and the Senate are in certain respects, co-ordinate and these substantially draws the inference, that to confer with a committee of the Senate would be derogatory to the Executive character. It is, as far as I am able to judge, this quality of co-ordination between the two departments which alone can justify the principle of their freely conferring together. If this quality would not justify such a proceeding, it is admitted nothing bad. If instead of being co-ordinate with the Senate were subordinate to, the Executive then there would not only be an obvious impropriety, but perhaps some scrupulous minds might fancy that there would be some degree of impertinence in asking a conference. A conference, or as it is sometimes called, a free conference, takes place only amongst equals; a different course of proceeding and phraseology, is applied to subordinates. In the one case a respectful conference is requested; this is the language of one equal to another, both being equally independent of each other. In the other, a communication is directed. This is the language of a superior, to a subordinate.

If the Executive and Senate be co-ordinate, then the request of a respectful conference on the part of the Senate cannot, as it appears to me, offend against the dignity of the Executive; nor do I see, how it can in the remotest