the same article, section 6, clause 2—' No person holding any office under the United States shall be a member of either House during his continuance in office.' In the same article, section 9, clause 7.—' No person holding any office of profit or trust under them (the United States) shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any King, Prince or foreign state.' In article II. section 1. cl. of 2.—' No person holding an office of trust or profit under the United States shall be appointed an elector.' In article VI. clause 3—' No religious test shall ever be required as a qualification to any office or public trust under the United States.' Whenever the constitution speaks of holding an office, and mentions under whom, it is invariable mentioned as being holden under the United States. The officers themselves are uniformly styled officers of the United States, and not of the President. In article II. section 2, clause 2—mention is made of judges and other officers of the United States. In the same article, section 3—the President 'shall commission all the officers of the United States.' In article VI. clause 3—' all executive and judicial officers both of the United States and of the several states shall be bound, by oath or affirmation, to support this constitution.' The third article says, ' the judges shall hold their offices during good behaviour.' And the second article says, ' the executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years.' If all offices are holden under the President, under whom does he himself hold his office? As it respects the power under which their offices are holden, the constitution speaks of the judges and of the president, in precisely the same terms. According to the manifest principles of the constitution, they all hold their offices under the United States.

In England the principle is different. There every thing, every office, all landed property, public or private, is supposed to be holden of and under the monarch, because he is regarded as the sovereign. There the doctrine of feudal tenure prevails; and, according to this, the whole realm is considered as holden of the monarch. But it is a novel opinion, that, notwithstanding the express language of the constitution on this subject, the feudal prerogatives of the British monarch are to be adopted as the rule for construing the powers of the President of the United States. I had before supposed, that the principle of tenure in this country, since the establishment of independence, was essentially different from that in England. I had supposed that the doctrine of allodial tenure was the true doctrine here, and that the landed proprietors in the United States were regarded, by our constitution and laws, as the lords of the soil. Such I know is the declared principle of tenure in one of the states.—Is it to be now assumed as a rule of construction in this house, that the President of the United States, like the monarch of Great-Britain, is clothed with sovereign power? Where then is the sovereignty of the United States?

The sovereign in this country is, not the President, but the great body of the citizens, the whole people of the United States. This is the import of the constitution. The result of the principle is, that all offices are holden under the people, who have ordained a constitution, in order to establish justice, and have declared it to be their will, that the judges shall hold their offices by the tenure of good behaviour. The first words in the constitution, ' We the people of the United States,' and every succeeding part of it, may be cited to prove, that all the powers of this government have originated from the people, and that the offices of those in power are all holden under the people as sovereign.

Gentlemen have dwelt on the word *services*, as used in the constitution, with respect to the judges. To whom are their services to be rendered? Are they to be rendered to the President as feudal lord paramount? Or are they to be rendered to the United States, for the public good? Whose judges are they? By whose authority do they sit in judgment? In administering justice the judges of the United States render their services to the people.

In England the principle and language of the government are different. From the crown are supposed to be derived, power, honor, office and privilege. According to the feudal principle, the monarch was regarded as the general, the legislator, and the universal magistrate of the realm.—Even to this day the style of acts of parliament has reference to the legislative powers of the crown. ' May it please your majesty, that it be enacted, and be it enacted by the king's most excellent Majesty, by and with the advice and consent of the lords and commons in parliament assembled.' His majesty's army, his majesty's parliament, his majesty's judges, his majesty's officers, his majesty's revenue, the accustomed forms of language, all have reference to the feudal prerogatives of the monarch.—Are gentlemen disposed to imitate all this with respect to the President? And must we now learn to say, the president's army, the president's judges, the president's officers?

If gentlemen are not prepared to go so far as this, the argument about the doctrine of tenure, which has been founded upon the supposed technical import of the term hold, must be given up. And, if they stop short of attributing sovereign power to the president, and should wish to avail themselves of the doctrine of subinfeudation, their British precedents utterly fail them; for it was the law of England, as early as the reign of Edward the first, that in cases of feoffment the feoffee should hold only of the chief lord of the fee, and has ever since been the law.—Any idea of regarding the president as a sort of intermediate lord, therefore, is inadmissible in the present case.

Indeed the whole argument drawn from the practice under the British monarchy is inconclusive, even upon the principles of that government. It is contended in favor of the present bill, that the same power which can create a judicial office may destroy it at pleasure, and thereby deprive the judge of his office. And hence gentlemen would have it inferred, that the office of circuit judge, which was established by act of Congress, may be rightfully abolished by enacting the present bill. But the constitution has directed, that the judges of inferior courts, as well as those of the supreme court shall hold their offices during good behaviour. Gentlemen, therefore give to this part of the constitution a construction accommodated to their own purpose and say, that it has reference solely to the president's power of appointing and removing officers, and not to the power by which offices may be established. This is the scope of the argument. Let us now try it according to English principles, on which the gentlemen so much rely for the support of their cause.

In England, according to sir William Blackstone, the king is considered as the fountain of justice. The judicial authority has immemorially been exercised by the king or his substitutes.—All jurisdiction of courts are, either mediately or immediately, derived from the crown. Of consequence, the judicial proceedings are held in his majesty's name, and all delegations of judicial authority are regarded as grants flowing from the royal prerogative. The whole of the royal prerogative is considered as a family estate, descendable to the heirs of the blood royal. It participates of the nature of an entertainment; and the monarch for the time being is accordingly regarded as having an estate in the prerogative but for his own life. It is too an acknowledged principle, that a person who has an estate only for his own life, cannot make a grant of any part of it which shall be valid for a longer time. If he should make a grant for the life of another, yet, upon his decease, the person next in expectancy becomes entitled to the whole estate. This idea serves to explain the doctrine that all judicial processes were abated and all commissions discontinued by the demise of the crown. These and other public inconveniences resulted from the principle, that a reigning monarch has an estate in the prerogative but for his own life, and that he could not alienate any part of it to the prejudice of his lineal heirs. The interposition of parliament was therefore esteemed requisite to enable the king to make grants of judicial authority, which should be valid after his decease.

These indeed, are not the doctrines of our constitution. But, if they were, they would not authorise the measure now proposed. In England, the power which erects courts of judicature, and establishes judicial offices, cannot abolish the offices at pleasure. This power is uniformly acknowledged to be controlled in every case where the judges hold their offices during good behaviour. Speaking of the king, Sir William Blackstone says, ' he has alone the right of erecting courts of judicature.' This clearly results from his being considered as the fountain of justice. It is, at the same time, within his power, to determine what number of judges shall compose any of the courts. This is but conformable to the principle, that he is the fountain of honor and of office. It is in fact his acknowledged prerogative, to create judicial offices by his grants, which are matter of public record. These grants, or letters patent must pass by bill, prepared by the attorney and solicitor general. And yet it is indisputably the law of England, that the offices of the judges cannot be abolished at pleasure by the same power which established them. The offices cannot be abolished while the judges behave themselves well. This is settled by the statute. (12, & 13, Wm. 3, c. 2.) ' For the farther limitation of the crown, and better securing the rights and liberties of the subject.' From its relation to the crown, this statute, of course, forms a part of what is called the constitution of England. There is therefore, a strong analogy between the two cases. After limiting the succession of the crown in the protestant line the statute contains various provisions which were deemed of importance to the liberties of the realm. One relates to the judges; it directs, that their commissions, after the limitation should take effect, be made *quamdiu bene se gesserint*, and their salaries ascertained and established.

Since that time, it has been the settled principle, that the power by which the offices of the judges are established, cannot constitutionally abolish them during the life of the judges respectively, unless there should be a forfeiture by breach of the condition of good behaviour. This gives to the judges a title to exercise judicial power, and to receive determinate salaries. But the provisions respecting the judges were not deemed sufficient; for the king, having an estate in the prerogative but for his own life, was not considered as having the power to make a valid grant of any part of the prerogative of his successor. A subsequent statute was therefore passed (1, Geo. 3, c. 23.) in relation to the commissions and salaries of the judges. By this statute, provision was made, that the commissions of judges should be in full force during their good behaviour, notwithstanding any demise of the crown, and that their salaries should be paid so long as the patents or commissions should continue in force; and the funds were designated out of which the salaries were to be paid after the king's demise.

The constitution of the United States was undoubtedly framed with a view to the provisions of the two statutes. But there is reason to believe, it was intended to give to the judges of the United States a greater stability in office than it secured to the English judges. In England, according to both the statutes, any of the judges may be removed upon the address of both houses of parliament. The amount of this is, that the two houses of the legislature, together with the executive, may divest a judge of his office. There is no such provision in our constitution; but this omission did not result from inattention to the subject.—From a message of the President of the United States, to the House of Representatives, in the year 1796, it appears, that he had deposited the journal of the general convention in the office of the department of state. The president referred the house to a vote which appeared on that journal respecting the power of treaties, and alluded to the security of the smaller states under the constitution, which he considered as being the result of a spirit of mutual concession. On examining that journal, it is found that a motion was made in the convention to this effect, that the judges might be removed by the executive on application of the senate and house of representatives. On taking the question by states, the motion was explicitly rejected. And yet, if the present bill should be passed by both houses of congress and presented to the president, is not this in principle and effect an application to the executive for the removal of the judges?

Evidence too may be found, which goes to disprove the doctrine that the tenure during good behaviour has reference solely to the power of the president, with respect to appointments and removals. Among the documents deposited in the office of state, there is a printed draught of a form of government for the United States. From this, it appears, that the convention had agreed, that the judges of the supreme court should be appointed by the senate, although they were to be commissioned by president, and should hold their offices during good behaviour. In this case, the terms during good behaviour could not be intended to guard the judges against any supposed power of the president to remove, for he had not the power to appoint. These facts any member of this house may ascertain for himself at the office of state. They are decisive as to the opinion entertained by the general convention in '87, and prove it to have been the reverse of the construction now attempted to be given to the constitution.

Much has been said about the principle of responsibility, as if that could vindicate the passage of the present bill.—The true principle on this subject, sir, is that of personal responsibility.—But where do the gentlemen find their doctrine of a collective responsibility? The president is personally responsible; but not the executive authority as such, for this is one of the three integral departments of government. The members of congress are personally responsible; but not the collective body. So the judges as individuals are responsible; but there is no such thing in the constitution, as a collective responsibility of the whole body of judges.

(To be continued.)

NOTICE.

By virtue of a writ of Fieri Facias, issued out of the circuit court of the district of Columbia for the county of Washington, will be exposed to public sale on Wednesday the fourteenth day of July next, at Rhodes's City Tavern.

THE right, title and interest of THADY HOGAN, to one framed house together with one moiety of lot No 17, in square 377, on which the said house is built—Also one feather bed, one pair sheets, bolster, pillows and coverlet. Taken as the property of Thady Hogan, and sold to satisfy three executions in favor of Robert Brown. The sale to commence at eleven o'clock in the forenoon—Terms cash.

DANIEL C. BRENT,
Marshal

June 25, 1802. epts

WASHINGTON CITY.

FRIDAY, JUNE 25, 1802.

The legislature of the Mississippi territory which met on the 3d of May 1802, has passed an act establishing a college to bear the name of "*Thomas Jefferson*, President of the United States, and President of the American Philosophical Society."

They appointed on the 7th of May, as delegate to Congress, to supply the vacancy occasioned by Mr. Hunter's death, *Thomas M. Green*, who is represented to be a respectable, independent, and judicious farmer, warmly attached to the United States, and to the principles of the American revolution.

We shall in our next paper insert governor Claiborne's communication to the legislature.

The Editor of the National Intelligencer is indebted to an obliging correspondent for the following information from St. Domingo.

A respectable character at the Cape writes, under date of the 12th June, that a malignant disease continues to rage there, with such peculiar violence on individuals just arriving, that every one attacked died. The other parts of the colony were not subjected to it.—M. Desperoux, the chief justice, represented to be a man of the most distinguished talents, and of eminent virtue, had also died. Toussaint, with his staff, had been arrested by general Brunet, commandant at the Gonaives, and put on board a frigate momently expected at the Cape. Christophe had been ordered to repair to the Cape but had disobeyed the order. Dessalines, a black, was at the Cape, and the public opinion was in favor of naming him inspector of the cultivators, as he was supposed the best fitted of all men in the Island to reestablish good order among the negroes. The assembly of the landed proprietors had held their second session, and the new organization of the colony was expected to take place in a few days.—No troops had arrived at the Cape.

DIED, in Georgetown, after a few days illness, on Tuesday evening last, in the 19th year of his age—Mr. Joshua Morsell, student of law and the youngest son of James Morsell Esq. of Calvert county, Maryland.

The many amiable qualities of this young gentleman, endeared him to all who had the pleasure of his acquaintance. To an enlarged and discriminating mind, he united an uncommon ardour for the acquisition of every species of rational and useful knowledge, and a perseverance and industry in his studies, which gratified the most sanguine expectations of his friends as to his future usefulness and respectability in life.

On Thursday his remains were conveyed to the Presbyterian burying ground in Georgetown, accompanied by a number of respectable citizens, to whom the Rev. D. Gantt, delivered an appropriate address.

From Boston.

The bill respecting a statue of general Washington, came down from the Senate, altered from *bronze* to *marble*, on motion of the hon. John Q. Adams. The question of concurrence was then taken, and lost by a great majority.—The original question being then in order to be taken, and *bronze* to be inserted instead of *marble*, a warm and animated debate ensued, and the whole subject was referred to the next session, as we hear, by a majority of 14 members.

[From the Baltimore Telegraphe.]

The following letter and proclamation were last evening received at Bryden's coffee house, from a French gentleman lying off the Fort, at quarantine, which has been translated for the Telegraphe.

At the Fort of Baltimore,
June 21, 1802.

There is an avenging God who punishes perfidy.

The traitor, the cunning villain, is at length in irons.—Toussaint has been arrested at Georges plantation, of Gonaives district, the seventh of this month as well as his captain, guides, and seven companions of his crimes, by an officer named Ferrary, and five of his brave soldiers—all resistance became vain, they were seized bound hand and foot, mounted upon horses and conducted to Gonaives, where they were instantly embarked on board the Creole frigate. The correspondence of the villain has been discovered; he meditated new crimes. They were principally directed against the general in chief Le Clerc, his family and body guard. Fontaine his first aid-de-camp, arrested same day at the cape, and imprisoned, was charged with furnishing him details, and preparing a new conspiracy. The chief Sylla is actively engaged in counteracting his schemes; as supplies of all species of military stores, particularly gunpowder packed in flour barrels, were promised him by some persons of the United States, and which he was assured of receiving by some time [illegible] bloody enterprise! We may indeed exclaim with the poet—

"Quid non mortalia pectora cogis auri sacra fames!"

I annex the proclamation, signed by the general in chief, of an event so interesting to the human race, and the future prosperity of St. Domingo. It is impossible to describe the joy which this publication has produced amongst all the inhabitants of the Cape.

In the evening all the city was voluntarily illuminated without public orders, and effigies representing this hypocritical original, were burnt by the negroes in different places.

I am with respect, &c.

F. LESTART,
Merchant and Planter of St. Domingo.

LIBERTY. EQUALITY.

ARMY OF ST. DOMINGO.

The general in chief to the citizens of St. Domingo.

General Toussaint not being contented with enjoying the amnesty which had been granted him, attempted again to kindle the flames of civil war.

I have thought proper to cause him to be arrested. The proofs of his bad conduct since the amnesty, shall be extensively published.

This measure which insures tranquility to the colony should by no means alarm those who have laid down their arms, and shall have submitted with good faith to the republic.

At head quarters of the Cape, the 20th Prairial—10th year of the republic.

(Signed) LE CLERC.

At the Cape at the office of P. Roux, printer to the government, Place d'Ar-

Extract of a letter, dated Cape Francois, June 10.

"I take this opportunity to inform you that the infamous Toussaint L'Overture has been arrested and put on board the French frigate Creole. After having obtained a pardon from the general in chief, he had refused to obey orders, and intended to revolt again. General Le Clerc commanded general Brunette to arrest Toussaint either dead or alive. By his prudence and zeal, this general secured the monster with Dessalines, Christophe, Jingamine, Teprfort, late commander of the Bogne, with 59 other satellites. Every thing proceeds well, and by the protection and policy of the government, we shall have this year a great quantity of produce, as the crops appear abundant. The town is rapidly rebuilding. Flour 13 dollars—duty 5 per cent.

MISS JONES,

First House west of the President's, Pennsylvania Avenue,

HAS received in addition to her former stock, an elegant assortment of goods with the latest fashions—to be sold at the most reasonable prices.

June 25, 1802.

Benjamin G. Orr,

HAS just received from Philadelphia by capt. Hand, and now offers for sale at his store in Jefferson street, in addition to his former extensive assortment of liquors, groceries, &c. &c.

Old and genuine Madeira } Wines.
And Sauterne }
Hare's best porter in bottles,
English cheese,
Rappee and macouba snuff,
Fine flavored and fresh Imperial, hyson, and young hyson teas,
China setts for tea, and by the doz.

As usual he has on hand shad and herrings in barrels, of the best preservation and lowest prices; and hammered and cut nails of all sizes.

June 25, 1802. eptf

FOR SALE,

A large quantity of Mahogany, sawed into different sizes to accommodate purchasers. Apply to the subscriber in Fairfax-street, near the market, Alexandria.

RALPH DOUGLAS,
BEN. ADAMSON, Cabinet-Maker and Joiner.

Alexandria,
June 12. 1aw3t

Twenty Dollars Reward.

RAN away from the subscriber on the 4th inst. Negro BILL, he calls himself Billy Bailey, he is a very brisk active lad about nineteen or twenty years of age, five feet 8 or ten inches high, his complexion of a yellowish cast, when he speaks chews his teeth very much, he has been bred up as a waiter, and is a very good one. The above reward will be given to any person who will deliver the said lad to the subscriber, or securing him in any manner so that he gets him again.

FRANCIS M. HALL.

Prince Georges County, near }
Queen Ann, June 23, 1802. } 1aw3w

District of Columbia, }
County of Washington }

By the Orphan's Court June 8, 1802.

JOHN A. BURFORD and Hugh Develey, having applied for letters of administration on the estate of William Clarke, late of the frigate President seaman, deceased—It is ordered, That they give notice of their application by inserting a copy of this order once a week four successive weeks, in the National Intelligencer, and that letters issue to them, unless cause to the contrary be shewn on or before the 13th day of July next.

Test.

JOHN HEWIT, Regr.

June 16, 1802. 1aw4t