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From the Richmond Examiner.

The following communication from Edmund Pendleton Esq. president of the court of appeals, will no doubt attract the particular attention of our readers.—It will afford pleasure and instruction to every friend of the constitution; and, of the present administration. It will be perused with particular interest by the gentlemen of the law. This venerable patriot, who, like Nestor, has seen almost three generations rise and pass away before him, still possesses the same depth of reasoning, accuracy of thought and precision of expression, which belonged to the prime mover and author of the instructions to the Virginia delegation in Congress, to declare the *then* American colonies FREE AND INDEPENDENT STATES.

For the Examiner.

November 12, 1802.

Mr. Jones,

The following observations were written for my own use during the long and arduous debate in Congress, on the subject to which they relate; some friends have lately requested me to publish them, which I have consented to, not from a vain idea of affording any new light on a subject so ably and extensively discussed in Congress; but because they tend to draw the scene closer, and bring the question more to a point. They are at your service, if you think them worthy of a place in your paper.

Your obedient servant,

EDMD. PENDLETON.

The expediency of the repealing act seems unquestionable, since justice having been fully administered under the original system, and additional judges unnecessary, the community had a right to be eased of the expence of sixteen new judges, which the law, about to be repealed, had introduced. As to the inconvenience to the judges of the supreme court, in their being obliged to travel—all in office were appointed when this was a legal duty, and accepted the office, no doubt, from a conviction that the liberal salary was a full compensation for the whole service required. Of the expediency, Congress are the judges; nor can they be justly suspected of a malignant intention to attack the judiciary department; since this was only a part of a general system, adopted and pursued, to ease the people from the expence of all unnecessary offices. *(a)*

The question whether Congress can constitutionally repeal the act in question, is all important, since real democrats are warm friends to the Union, and to the constitution, (even as it is) the pillar of its support, and will yield the most favorite point rather than violate that instrument. I wonder indeed to discover from the debates, some gentlemen, warm advocates for the constitution, and pathetically lament it's downfall from a fancied violation, who on former occasions had stretched it almost to its bursting to serve their purposes, and one of whom publicly bestowed on it the epithet of a *rotten parchment*, which the people of Virginia must be compelled at the point of the Bayonet, to give up. To those gentlemen it belongs to reconcile the inconsistency; or suspicions will arise that, with them, the constitution is waste paper when interposed to preserve the rights of the citizens, but a seven-fold shield to protect favorites in useless offices.

Is this repeal unconstitutional?

That any legislative body can bind itself, from a power to change any of it's acts, is a political solecism; and I suppose it is conceded that although the constitution binds all its creatures, the agents of government, during its existence, it does not restrain the people who made it, from a change, or entire abolition of it; suppose them in convention to form a new constitution, in which a supreme court shall not be authorised, can it be imagined that the present judges must continue pensioners for life on the salaries given as a compensation for services which the community no longer require, or have occasion for. This applies directly to Congress and the inferior courts; since it is confided to Congress to establish them or not, that body has the same power over them as the people have over the supreme court; experiments may be made in forming them, subject to be changed by the power which makes them, when discovered to be inconvenient or mischievous.

The words, "such inferior courts as Congress *may from time to time ordain* and *establish*," convey to the mind a strong impression that such a power was meant to be given to Congress to *ordain* the courts changing them from time to time, as experience should suggest, before they were established.

But it is said that this will contravene the independence of the judges, which is by the constitution extended to the inferior as well as to those of the supreme court. Consider the ground of this independence; 'tis not for the sake of the judges, to give them a certain provision for life, but for the public good, that they may act impartially, and be under no bias in judgment from fear of being removed, or of having their salaries diminished, so long as the office is continued to which they are appointed, and they behave well in it; their state of independence therefore, is to stand or fall with their courts, provided the discontinuance of the office, be made by the power which created it; that is, the supreme court by a change in the constitution, and the inferior court, by a repeal of the law which created it.

Consider then the spirit of the federal government, a *representative democracy*, justly preferred to every other form, from its *elective principle*, enabling the people by a change of agents to correct or remove any oppressions, or useless burthens, which error or corruption in former agents may have produced: But if this palladium of good government may be evaded by connecting judges with the executive department, it will follow that a party in power, finding that in future, that power is to be in other hands, and feeling resentment instead of affection for, and responsibility to their constituents, *(b)* may introduce not only two inferior courts in each state, but one in each county or parish, to injure the people and provide for an host of favourites—the judges may be immediately appointed, and according to this novel doctrine a subsequent Congress cannot touch the sacred mischief, or discontinue these expensive and useless courts, because it will take salaries from this host of judges, though merely sinecures, and they must be fixed pensioners for life.—Drones, to be supported from the labor of the industrious citizens; this idea surely cannot accord with the spirit of the constitution.

I am willing to admit it to be very improbable that the extreme case supposed will ever happen; but at the same time, think it is more to that the legislature will at any time discontinue a court, beneficial to the society, merely to remove the judges.

The memorial of the judges of Virginia, don't apply. The law complained of, imposed upon all the judges a new and laborious duty, without increase of salary; and also required chancery and admiralty judges to sit originally in criminal and common law trials. Upon the whole it seems to me, that either this extreme extension of judicial independance, or the valuable or rather *invaluable* elective principle of the government, must be sacrificed! Let wisdom decide between them.

(a) This is further evinced by the law passed afterwards, for accommodating the judges in their circuits.

(b) The elections for members of Congress in several states, are made in the summer, to take place in March following, so that there is always an intervening session, in which men may be, who are not re-lected which seems improper—it would appear to be best to have all the elections on one day, not before, but immediately after the 4th of March.

FOR SALE.

By public vendue at STILLES *Hotel, in the city of Washington, on Thursday the 12th day of January next, at 12 o'clock, the following tract of Land*—

Situate in Northumberland County, state of Virginia late the residence and property of PRESLY THORNTON, Esq. containing 2,300 acres, lying immediately on the river Potomac—250 acres of which are the most valuable kind of low grounds on the river, between 3 and 400 heavily timbered; the remainder is wavy high land, extremely productive. The soil at this place is equal to any in the state for the culture of corn, wheat, tobacco, timothy and small grain of all kinds. On this tract are a large commodious two story Brick Mansion House, and two offices, a large brick stable, valuable barn, corn house, and many other out houses, all in good repair. The orchards and garden contain a variety of valuable fruit trees, and the waters abound with excellent fish and oysters. It is situate about a day's sail from Alexandria, Baltimore and Norfolk. There are two good mill seats for grist or saw mills on this estate, and plenty of cedar and chestnut timber, exclusive of the heavy timber, which if sawed up into planks, will command a price in the city of Washington nearly equal to the value of the land.

The terms of sale will be one third cash, and the residue of the purchase money in payments which will be made known at the time of sale.

RICHD. PETERS, jun.

December 3. eptes.

Foreign Intelligence.

SWITZERLAND.

BERNE, Sept. 21.

At eight o'clock in the evening of the 18th, M. Watteville arrived here, wearing in his hat the red and black cockade. He waited immediately on M. Dolder; and the following convention was settled between them:

1. "A suspension of arms for 24 hours.

2. "In that space of time, that which assumes the name of the government shall, with all its troops, leave the city. The Bernese army shall furnish the necessary accommodations for the removal of the said government to Lausanne."

This convention was concluded, in consequence, of an obstinate action, fought with much blood-shed, immediately before the walls of Berne. The army, commanded by Messrs. Watteville, D'Erlach, and Effinguer, was composed of peasants, from Argovia, Soleure, Oberland, Petit Lac, Niddaw, and Arberg. Dolder's troops fired from the ramparts; and the peasants threw some cannon-balls into the town, which damaged nothing but the town-house. Mr. Effinguer was introduced to a parley, with his eyes under a bandage. No agreement could be effected, and the attack was renewed. After a severe and warmly sustained combat, at one of the gates, the usurpers proposed to capitulate. It is doubtful whether they may find a gracious reception at Lausanne. The whole Pays de Vaud is in commotion—the peasants are up in arms—but whether to support the revolutionary cause, we know not.

General Andermatt, abruptly recalled by the now exiled government, from Zurich, left to the townsmen his heavy artillery. He proceeds by forced marches towards Lausanne. But, he is pursued by Reding: he is between the army which has conquered at Berne, and that of the small cantons: and unless he be comprehended in the capitulation, his troops will be entirely dispersed.

M. de Watteville was, on the 29th, named commander in chief, and paid a visit to the French minister, Verninac, who gave him a very obliging reception. The bears, and the colours of Berne, are already restored to their wonted places. Fribourgh has surrendered to the peasant army. Soleure likewise surrendered on the 17th. All Switzerland, except the Pays de Vaud, will soon enjoy the renovated authority of its ancient constitution. The two demi-brigades promised by Buonaparte are to come from Italy, and cannot arrive within less than fifteen days. In the mean time, all will be over. And, it is expected, that France will not, then, think its interposition necessary.

The following is the plan of the constitution now in circulation:—

Art. I. The cantons shall each have a month's time to form each its own government, adapted to its usages, its local situation, and its existing circumstances.

II. The Cantons being once constituted, shall each name its deputies, who shall receive the instructions of its constituents, and be furnished with necessary full powers—III. To assemble in a general diet, and to organise a central power. 2d. To make in the first instance the nominations for the central power.

III. The central government shall be charged with the management of external, political, and commercial relations, and with the organization of a general military force. It shall have the guaranty of the cantonal constitutions. It shall decide the differences that may arise on the subject of these constitutions, as well as those that may arise between canton and canton. Sufficient sums shall be assigned to it for the ordinary expences.

IV. Every deputy to the central government shall be indemnified by the canton by which he is appointed.

V. The new cantons which, like Thurgovia, have yet had no constitution, shall be at liberty either to chuse one for themselves or to unite with some of the other cantons.

VI. The cantonal government shall possess all the powers which have not been expressly delegated to the central government.

BERNE, Sept. 22.

In giving an account of the taking of this city, the numbers of the besiegers have been much exaggerated. The fact is, this grand affair was effected in two hours, with only two hundred and forty men. After the convention which followed the second bombardment of Zurich, General Andermatt, with the 1200 men which remained with him, marched to Ergen, from which place an equal number of insurgents had marched for the relief of Zurich; but as they had taken a different route, they did not fall in with General Andermatt. That General, however, was stopped in his march near Arau, by a body of 500 men, under the command of M. May, who compelled him to sign a convention, by which he agreed to retreat to Berne, and not to interrupt the proceedings of the Bernese army. Twelve hundred men of that army marched to Soleure, and took possession of it on Friday, 18th September. On the next day 1000 men proceeded from Soleure to Berne. The advanced guard of this corps consisted of 240 men, and was commanded by M. Effinguer Mullinet. In his march he met M. Laharpe, who was recnoitering with 300 men. The latter immediately prepared to defend himself, but at the same time offered an armistice of two hours. To this M. May consented, on condition that Laharpe should retire into Berne without leaving a guard upon the heights. M. Effinguer having passed Warbien, collected his force at Breitfold, which then amounted to 800 men; he advanced to attack the out-posts of Berne, in hopes of entering the city with the fugitives; but there were no out-posts. Being arrived upon the heights, he formed the resolution of going himself to the city, and summoning the Landamman to surrender, allowing only half an hour to deliberate upon the proposition, which was rejected.

At three o'clock the attack commenced. M. Effinguer chose 240 men who were the best armed, and ordered them to advance under the command of Messrs. Wagner, Kirchberguer, Delobe, and Delverth. M. de Lutteroman placed three pieces of cannon on a height which commands the town; M. Wagner conducted the riflemen by the way which leads down to the Esplanade; and Messrs. Kirchberguer and Delverth, with four peasants, volunteers, had the boldness to drag a small piece of cannon opposite the gate of the bridge, though exposed to a most dreadful fire. They exhausted all their ammunition without being able to succeed in destroying the beams of the draw-bridge, which they battered in vain with their small balls. M. Delverth received a wound, of which he died in the course of the night. They brought back the piece of cannon: at that moment a flag of truce came from the city, with proposals to capitulate. There were then 1100 men in the city, and General Andermatt was only six leagues off. The capitulation was agreed upon, and the city taken possession of.

Two State Papers have been circulated throughout the Cantons.

The first of these pieces is a letter from the Deputies of the five democratic Cantons of Uri, Schwytz, Underwalde, Glaris, and Appenzel, to General Andermatt, the Commander in Chief of the Helvetic troops. It is dated Schwytz, Sept. 18, and is signed by M. Aloys Reding, who was the President of the Deputies. "The total dissolution of the Central Government of Berne (says he) authorises us, as well as every patriotic inhabitant of Switzerland, no longer to recognise a Government, springing originally from faction, and formed by the influence of a few individuals. All your obligations to obedience have ceased, and as you, as well as your troops, no longer belong to any legal Government, whatever opposition you make against the troops of the Democratic States, whatever hostilities you are guilty of against the inhabitants, villages, cities, or districts of Switzerland, will be considered as acts of personal hostility, and you and your officers shall be personally responsible for the consequences, since we cannot longer consider you as troops paid by a government legally formed and recognised.

"On the other hand, it is in your power, and in the power of your officers and soldiers, quietly to return to your homes, and if you there conduct yourselves as orderly and peaceable citizens, a preference will be given to you at the period when a new legal central Government is formed by order of the respective Cantons.—You are charged to communicate *our pleasure* to your officers and soldiers, and to answer within three hours at farthest after receiving our letter, by a declaration whether, as Swiss attached to their country, you wish to put an end to civil war, or whether you are desirous of being considered as wandering banditti, who menace the repose, the liberty, and the safety of their fellow citizens?"

The conclusion of these letters assumes the form of a proclamation of the five democratical Cantons to the inhabitants of the other Cantons of Switzerland. It begins in these words:

"The Swiss name is for ever degraded by the most detestable of all crimes with which the *soidisant* Helvetic Government closed its career (the bombarding of the town of Zurich). We are fully resolved to rescue our country, and to break the chains which tyrants were preparing to impose upon it. We enter into your country and cantons, not as enemies, but as friends, animated by a laudable anxiety to establish an equal participation of rights and of liberty between the towns and the villages, and to second you by every finew of our strength in order to secure to you a re-union between the towns and villages by means of a Central Government, emanating from the Cantons.

"To that effect we call upon you to send two delegates to Schwyz before the 24th of September, one of them representing the towns, the other the villages. You will at the same time also take care to establish in your Canton an adequate armed force in the following proportion: for Zurich, 2000 men; for Berne, 3000; for Lucerne, 1200; for Fribourg, 800; for Soleure, 1000; for Schaffhausen, 500; for Basle, 400; for the Grisons, 2000; for Bellinzona, 600; for Lugano, 600; for Turgovia, 500; for St. Gall, 1200; for Baden, 400; and for the democratic Cantons, 6000 men."

This address bears date Schwytz, Sept. 18, and is signed by the President, REDING.

THE HAGUE, Sept. 28.

The Prince of Nassau Orange has at length put himself into the possession of his indemnities; not, however, by the aid of the military, but by that of two deputies, Messrs. Van Platt and Roth; who, arriving at Weingarten, on the 13th, took possession of that Prelacy, as also of the country of Blumanegg, the manors of Brechetzel, Libenau, Hagenau, and other subordinate places.

BASLE, Sept. 23.

Citizen Aloys Reding, who may be considered as the author of the great changes which have been effected at Berne, shews himself as a Chief on our new political horizon. As President of the five Democratic States, Uri, Schwitz, Unterwalden, Glarus, and Appenzel, united in conference, he has invited all the Cantons of Switzerland, and the States depending on it, to send each on the 24th two Deputies, one for the town and another for the country, to form a general Diet which is to occupy itself in a new Constitution.

We are assured that the same Aloys Reding, who will now resume the post which he occupied before the Revolution of April 17th, has summoned the troops of Andermatt to return to their homes. The old Petty Council is already in activity; our town was not the last to shew itself—as soon as we heard of the bombardment of Zurich, we declared for the old order of things. The papers of the two Prefects have been sealed up. The bombardment of Zurich has been of great advantage to the Insurgents. Our political troubles have obliged a great many strangers of rank to leave us; among these is the Princess of Dessau, the Poet Matthison, and Mr. King, the American Envoy. More than fifty Englishmen quitted Berne in one day. Madam Verninac has remained in the town.

FRANKFORT, Sept. 26.

One very important question has been completely decided in the last Sittings of the Deputation of the Empire. Some time since, and chiefly in the Congress at Rastadt, the members of the Imperial Nobleffe who had possession on the left Banks of the Rhine, addressed the most pressing remonstrance to the power interested in the changes which have taken place in Germany, in consequence of the plan of indemnification, respecting the destruction of their Feudal and Seigniorial Rights. These remonstrances were renewed to the Deputation of the Empire. That Assembly, after having considered the petitions of the Baron De Helmstett, a proprietor in the *ci devant Lorraine*, have resolved that all those who have neither a vote nor a seat in the Germanic Diet, and who consequently do not form a part of the states of the Empire, are not justified in claiming any indemnities provided for by the Treaty of Luneville. The Deputation, however, agreed to recommend the individuals comprised in those schedules, to the generosity of the French Government, with a view that the sequestration may be taken off from such parts of their estates as have not yet been alienated. M. De Gemmingen, who has lately been legitimated at Ra-