tures of three-fourths of the ſeveral ſtates." There is no idea expreſſed that the concurrence of two-thirds of the legiſlatures ſhall be neceſſary. Hence I ſee no weight in this remark.

Dr. Euſtis explained.—He had no idea that two-thirds of the ſtate legiſlatures were required; but he had ſaid that the Houſe might, with the ſame propriety require the ſanction of two-thirds of all the members of the ſtate legiſlatures as of the other branch of Congreſs.

Mr. Thatcher proceeded. The gentleman from New-York (Mr. Thomas) is equally unfortunate. By recurring to the Journals of the Senate for the year 1789, it will be found that ſeveral ſtates were not then in the confederacy. Rhode-Iſland, North Carolina, and Vermont were not then in the union.

Mr. Thomas explained. He ſaid he had referred to the Journals of the Senate to ſhew that, by declaring amendments carried by two thirds of the members preſent, they had conſidered two-thirds of the members preſent a conſtitutional majority.

Mr. Thatcher. The gentleman from Penſylvania has cautioned us againſt going too far. Caution I would myſelf advocate. He ſays the amendments heretofore adopted are not valid, in caſe our conſtruction be juſt, inaſmuch as they were paſſed by leſs than two-thirds of the whole members of each branch. But he has ſhown no precedent. Such precedent it is incumbent on gentlemen to advance. There is none within my knowledge.

MR. J. RANDOLPH. I riſe to adduce the precedents the gentleman calls for. They will be found in the Journal of the Houſe of Repreſentatives, under the date of Auguſt 21, 1789. Congreſs then conſiſted of the thirteen original ſtates, excepting Rhode Iſland and North Carolina. It will be found that the whole number of members of the Houſe of Repreſentatives at that time was 59. Of thoſe 59, 40 compoſed two thirds. By turning to the Journal, the gentleman will perceive that ſome of the moſt important amendments that now form a part of the Conſtitution were paſſed, not by 40 members, but by two thirds of the members preſent. Among theſe amendments are the following:

"Congreſs ſhall make no law eſtabliſhing religion, or prohibiting the free exerciſe thereof, nor ſhall the rights of conſcience be infringed."

"The freedom of ſpeech, and of the preſs, and the right of the people peaceably to aſſemble and conſult for their common good, and to apply to the government for redreſs of grievances, ſhall not be infringed."

"A well regulated militia, compoſed of the body of the people, being the beſt ſecurity of a free ſtate, the right of the people to keep and bear arms, ſhall not be infringed; but no one religiouſly ſcrupulous of bearing arms, ſhall be compelled to render military ſervice in perſon."

"No ſoldier ſhall in time of peace be quartered in any houſe, without the conſent of the owner; nor in time of war but in a manner to be preſcribed by law."

"The right of the people to be ſecure in their perſons, houſes, papers, and effects, againſt unreaſonable ſearches and ſeizures, ſhall not be violated; and no warrants ſhall iſſue, but upon probable cauſe, ſupported by oath or affirmation, and particularly the place to be ſearched, and the perſons or things to be ſeized."

"In all criminal proſecutions, the accuſed ſhall enjoy the right to a ſpeedy and public trial; to be informed of the nature and cauſe of the accuſation; to be confronted with the witneſſes againſt him; to have compulſory proceſs for obtaining witneſſes in his favour; and to have the aſſiſtance of council for his defence."

Theſe are by far the greater number of amendments that now exiſt, and which, according to the doctrines of gentlemen, compoſe no part of the conſtitution, and ought to be expunged from our records. I hope the Houſe is not diſpoſed to countenance ſuch a doctrine.

MR. G. W. CAMPBELL. I do not riſe to enquire into the intrinſic merits of the arguments advanced by the gentleman from Connecticut, but to demand by what authority we make the enquiry into the vote given by the Senate on this occaſion. We have received a reſolution from the Senate in a regular way by which it appears to have been paſſed by a conſtitutional majority. I am at a loſs to know how the gentleman can aſcertain that it is not paſſed by a conſtitutional majority. I believe each Houſe is a judge of its own proceedings; and I believe that when a reſolution or bill comes to this Houſe under the uſual forms, we are bound to conſider it as paſſed conformably to the conſtitution.

Mr. Campbell ſaid he believed by an examination of the Conſtitution, it would be found that the word *Senate* was uſed barely to deſignate the number of members to which each ſtate was entitled; and that when they came to do buſineſs they were called a *Houſe*. In the 5th ſection, the term Houſe is uſed in three places. In the 1ſt, it is ſtated that "each Houſe may determine the rules of its proceedings &c." Here the word *Houſe* muſt mean a *quorum*.—"Each Houſe ſhall keep a Journal, &c." The meaning, here, likewiſe, of *Houſe* muſt be a quorum. There is another inſtance not noticed by gentlemen—"Neither Houſe, during the ſeſſion of Congreſs, ſhall without the conſent of the other, adjourn for more than three days, &c." I will aſk, if the ſole queſtion is the definition of the word *Houſe*, whether this ſingle paragraph will not clearly eſtabliſh it. Can it be ſaid with any degree of plauſibility that in this inſtance, the word *Houſe* means any thing more than a *quorum*. Certainly the word in the 5th ſection means the ſame thing, unleſs there is ſome reſtrictive language attached to it, which is not to be found. I believe alſo that the conſtruction, proper to be given on this, as well as on other occaſions, ought to comport with the practical ſenſe of mankind.

MR. DANA.—The gentlemen aſks by what authority we examine the manner in which this reſolution has paſſed the Senate. I will endeavor to anſwer the enquiry. The conſtitution ſays each houſe ſhall keep a journal of its proceedings. The Senate keeps a journal, which is public, and from that we are enabled to aſcertain the fact how it paſſed. This is a ſufficient authority to enquire.

The queſtion, I apprehend to be decided, is whether two thirds of a Houſe can be leſs than a majority? Frequent reference has been had to the 5th ſec. of the 1ſt article of the conſtitution;—"A majority of each Houſe ſhall be a quorum to do buſineſs."—What then is this majority?—A majority of the whole.—When the conſtitution in another place requires two thirds, will it be ſaid that two thirds is leſs than a majority? In examining the conſtitution it will be found that it is not the ordinary buſineſs of Congreſs to amend the conſtitution; it is not a uſual legiſlative power; it is an unuſual power for thoſe with limited authority to change or extend or limit their own power. In doing this then Congreſs does not act in their legiſlative capacity. In all inſtances in which they do act in ſuch capacity, their acts muſt be ſubmitted to the Preſident for his approbation. Whereas in propoſing an amendment to the conſtitution this is not neceſſary. Why? Becauſe the meaſure does not partake of legiſlative character; it is in virtue of a ſpecial grant of power. As then in this caſe there is a complete deviation from the ordinary authority of Congreſs, as there is a deviation from the principle of the conſtitution which confers limited powers, as there is a deviation from the general principle of agency, it ought not to authoriſe a change but on the agreement of a majority of the whole members compoſing the confederacy. To the gentlemen from Maſſachuſetts (Dr. Euſtis) I anſwer that there is no precedent of a bill paſſed, returned by the Preſident with his veto. The queſtion is the ſame in that caſe as in this. There is no precedent for either; that is undecided, and to ſettle one caſe which is undecided, reference is had by gentlemen to a caſe equally diſputed. Theſe are the principal ideas, which have occurred to me, in addition to thoſe ſuggeſted by others, and which I forbear to repeat.

MR. THATCHER ſaid that in the caſes alluded to by the gentleman from Virginia (Mr. Randolph) the yeas and nays were not taken: it therefore did not appear what the majority was. He admitted, that from the language of the Journal, the Clerk of the Houſe entertained the idea that the concurrence of two thirds of the members preſent was ſufficient; but ſuch an opinion was not binding upon them.

MR. RODNEY.—Notwithſtanding the reſpect I entertain for the opinion of the gentlemen who ſupport this conſtruction of the conſtitution, it ſeems to me to be utterly without foundation. The ideas of the gentleman from Tenneſſee (Mr. Campbell) are, I think, concluſive—That gentleman has aſked by what authority we enquire into the proceedings of the Senate, of which they are excluſively the conſtitutional judges. It is replied that they are obliged to keep a public journal, and that it appears therefrom that this amendment has not received the votes of a conſtitutional majority. Is this a fair anſwer? By the conſtitution each Houſe may determine the rules of its own proceeding. If the Senate then have a right to decide on their own rules, they are the only competent judges whether the amendment has been approved by the number which the conſtitution requires. On what foundation is this objection taken? Do we know the proceedings of the Senate but through the medium which the conſtitution has provided? We have received then this amendment to the conſtitution through their legitimate organ, the Clerk. He has in due form notified us of its paſſage. And to day we are told, on the evidence of his certificate that the Senate has not paſſed it at all, or what is the ſame thing, that they have not paſſed it by a conſtitutional majority. Now, are we to believe the information we have received from the Senate in the regular and eſtabliſhed way, or are we to take their proceedings on a certificate given to a member of this Houſe? Are we to take this information from them, or are we to ſend a committee to watch their proceedings, and are they to ſend a committee to watch ours. Surely there is a reſpect due to the Senate when they tranſmit to us a reſolution declared to be adopted by them, by which we are bound to give credit to it. If this is not the caſe, all intercourſe between the two Houſes muſt be ſtopped. For if the Senate are to watch us to determine by what majority and in what manner our acts are paſſed, and we do the ſame in relation to their proceedings, we may conſume the whole time of the ſeſſion in diſcuſſing theſe previous queſtions, without reaching the merits of the meaſures propoſed. Theſe ideas appear to me concluſive. The Conſtitution is predicated on the exiſtence of a principle of moral integrity in the two Houſes, and without ſuch confidence in them it cannot exiſt for a day.

But taking the fact, as the gentleman from Connecticut has ſtated it, I think this reſolution has paſſed the Senate by a conſtitutional majority. The gentleman contends that it has not, becauſe it has not received the aſſent of two thirds of all the Senators elected; he ſays that when the Conſtitution requires the aſſent of two thirds only of the members preſent, we always find it expreſſly ſo ſtated, whereas when it requires two thirds of either Houſe, it merely calls for two thirds of the members; and he contends that there is here a wide diſtinction and eſſential difference in the meaning. But all this ariſes from a mere play upon the term *Houſe*. That term, according to the gentleman, is of wonderful import! He has now diſcovered that at the firſt organiſation of the government, when every ſentiment that gave it birth was freſh on the recollection, when we find among others two venerable members from the ſtate of Delaware, members of the Senate and likewiſe members of the federal Convention, giving their aſſent to amendments to the conſtitution, all theſe proceedings were unconſtitutional. How was the aſſent of the two Houſes to theſe amendments given? Was it by two thirds of all the members of each Houſe? The Journal proves the reverſe to have been the fact. It expreſſly ſays they were adopted by two thirds of the Senators *preſent* concurring. It is ſaid however that this is only the record of the Clerk, and that it ſhews no more than his opinion. But this is not ſo. For it is the practice of each Houſe on the next day, to read the Journal of the proceedings of the antecedent day, and if there be errors to correct them. Now, if we look to this record, at a period immediately after the adoption of the Conſtitution, we ſhall find that in September 1789, it is declared on the Journal of the Senate that amendments paſſed, and which are now part of the conſtitution, were ratified by two thirds of the *members preſent*.

I have ever underſtood it to be a ſound rule of conſtruction, becauſe a ſound rule of reaſon, that a conſtruction of an inſtrument once received ſhall not be changed, even if the conſtruction be not ſo proper as might be given. As then it appears that ſuch was the conſtruction given to the conſtitution by many of the members whoſe labours contributed to its formation, and who may, therefore, be conſidered as the moſt perfect maſters of its true meaning, ſhall we at this diſtant day undertake to give a different conſtruction? Shall we ſay that we are wiſer than all who have gone before us, and expunge from the Conſtitution thoſe amendments, which have been propoſed by two third of the members preſent of each Houſe, and have been afterwards ratified by three fourths of the ſtates?

I believe this conſtruction to be the true one. In the conſtitution the term *Houſe* means merely a majority of all the members; and an examination of that inſtrument will ſhew them that *Houſe* and *Quorum* are convertible terms. "Each Houſe ſhall be the judge of the elections, returns and qualifications of its own members; and a majority of each ſhall conſtitute a quorum to do buſineſs; but a ſmaller number may adjourn from day to day, and may be authoriſed to compel the attendance of abſent members, in ſuch manner and under ſuch penalties as *each Houſe* may provide." According to the diſtinction of gentlemen a majority ſhall be a quorum. Thus a majority, being aſſembled, may proceed to buſineſs—Now let us ſee how we are to ſeparate. We muſt, according to the arguments of gentlemen, work night and day until we get the whole members preſent. We have, therefore, been tranſgreſſing the Conſtitution every day we have met. We have made rules—by a great quorum, it is true, but every member was not preſent—and if every member were not preſent it was not a Houſe, and therefore we had no right to form rules! And yet every gentleman knows that ſome rules are indiſpenſibly neceſſary. "The Yeas and Nays of the members of either *Houſe* on any queſtion, ſhall, at the deſire of one fifth of thoſe preſent, be entered on the journal." Therefore, we cannot have the Yeas and Nays entered unleſs every member be preſent!—"Neither Houſe ſhall, without the conſent of the other, adjourn for more than three days."—In every clauſe of this particular ſection the term *Houſe* is made uſe of. The *Houſe* is to determine its rules, and to keep a journal. Gentlemen then muſt admit, if they are right in their conſtruction, that, without the preſence of every member there can be no rules and no journal, and that though we are obliged to keep working without rule or record, yet we cannot adjourn. Is this, Mr. Speaker, poſſible? Do gentlemen ſeriouſly contend for ſuch an abſurdity?

Gentlemen have referred to a ſection of the Conſtitution where two thirds of the members preſent are required, and to other ſections where a different language is uſed; and have thence inferred that a different meaning was intended. But I believe we may uſe different terms and yet mean the ſame thing. In the caſe of treaties and impeachments different language is uſed to convey the ſame meaning. If then in theſe caſes different language is uſed to mean the ſame thing, will not the like liberty be allowed in other caſes? I do not know that the framers of that inſtrument are bound to uſe on all occaſions the ſame words to convey the ſame idea, more than the members of this Houſe are.

(To be continued.)

WASHINGTON CITY.

MONDAY, DECEMBER 19.

Extract of a letter from a gentleman who some time since travelled through the Western country.

"Late in the fall of the year 1798 as I went down the Ohio in company with 3 or 4 others, we lodged one night at a houſe on the bank of the river oppoſite to the upper end of a ſmall iſland about 13 miles above Marietta, in the morning our landlord aſked us if we would go over to the iſland to ſee the big tree—I had ſeveral years before heard of a remarkably large tree ſome where on the Ohio, but had not recolected, neither had I much curioſity to ſee it—however the company being very deſirous to go, I went with them—the iſland is ſuppoſed to contain about 10 or 12 acres of land, lying low, juſt above high water. I thought it one of the fineſt or richeſt pieces of land I had ever ſeen. At a few perches from the ſhore our conductor brought us to the ſtump of a large tree, indeed. The ſtump was about 12, or 15 feet high, and being hollow, there was a kind of door cut in one ſide, where I went in, the ſhell was about 2 or 3 inches thick, and the cavity nearly circular. We had the curioſity to meaſure the diameter on the ground inſide, and found it upwards of 18 feet, and as high as we could reach up, it was about 13 and a half feet on the outſide, on the ground, the circumference was about 60 feet, but not quite ſo much higher up, though it kept its thickneſs remarkably. The tree had two large branches or limbs, which were broken down, and had fallen in oppoſite directions. One of theſe limbs, at the diſtance of 20 ſteps, or about 60 feet from the root of the tree, we all ſuppoſed to be 6 feet in diameter, the other I did not ſo particularly attend to, but one of the young men in company told me he had ſtood upright in the hollow, in this end of it, as it lay near the root of the ſtump. Theſe branches had ſeparated from each other, perhaps 15 or 20 feet high."

HOUSE OF REPRESENTATIVES.

FRIDAY, December 16.

A meſſage was received from the Senate ſtating that they had paſſed the ſalary bill, with ſundry amendments—alſo that they had reſolved to poſtpone till the 1ſt Monday of September, the amendment to the Conſtitution ſent to them by the Houſe of Repreſentatives.

[This is the amendment, in lieu of which the Amendment agreed to by the two Houſes was paſſed.]

The Houſe went into committee of the whole—Mr. DAWSON in the chair—on the bill giving effect to the laws of the United States, in the territory ceded by France to the United States.

The amendment of Mr. Lattimore, having for object the preſervation of a port of entry in the Miſſiſſippi territory, was again taken into conſideration.

Mr. Lattimore moved that the committee ſhould riſe, to allow further time for obtaining information.

This motion was ſupported by Meſſrs. Lattimore and Sandford; and oppoſed by Meſſrs. J. Clay and J. Randolph; and loſt—Ayes 48—Noes 50.

Meſſrs. Lattimore, Gregg, Sandford and Griſwold then ſpoke in favor of the amendment; and Meſſrs J. Randolph, S. L. Mitchill, J. Clay, Euſtis, Macon, and Varnum againſt it. When the queſtion was taken on it, and carried in the negative—Ayes 25.

Mr. Lyon offered a motion to exempt from duty goods exported from Louiſiana, to the ports of the United States, ſince the 22nd day of October laſt.

This motion was oppoſed by Meſſrs. J Randolph and J. Clay, and rejected without a diviſion.

The committee then roſe and reported the bill with ſeveral amendments, which the Houſe immediately conſidered, and agreed to with other amendments, when the bill was ordered to a third reading on Monday.

PHILADELPHIA;

Wedneſday, Dec. 14, 1803.

By the Matild from New Orleans we learn that on the 19th, a Spaniſh frigate had juſt arrived in the river Miſſiſſippi with ſpecie to pay off the Spaniſh civil and military eſtabliſhment there prior to the removal of thoſe of the Spaniſh officers who chuſe not to remain.

Various articles of ſubordinate importance have reached us by the ſame medium.

It was underſtood at New-Orleans that the marquis Caſa Calvo had been ſent to New Orleans, by his court to arrange with the French commiſſioner (Lauſatt) the delivery of the colony to France. A diſpoſition however was manifeſted on the part of the old incumbents of office under the Spaniſh government, and who ſtill remained under the circumſtances of the caſe in diſcharge of their functions, to procraſtinate the delivery of the colony to the United States as long as poſſible. This we are aſſured did not ariſe from any hoſtile diſpoſition of the government of Spain but from the deſire of the individuals to hold ſtations, under which a moſt extenſive and uniform ſyſtem of bribery had been exercifed in every department of the inferior adminiſtration. The love of office, however, is not likely to be gratified in this reſpect—as we learn from another quarter, that our government, which it has been ſo cuſtomary to deſignate as puſillanimous and deſtitute of energy, has directed that the place be taken poſſeſſion of firſt *according to treaty*—and to *palaver* afterwards.

Gen. Wilkinſon left Penſacola on the 5th November, for the head quarters of the United States detachment, at Fort Adams—whence he was to proceed for New Orleans with an eſcort of about 2000 men, on or about the 20th inſt.

Gen. Wilkinſon's detachment is thought ſufficient to do the honors which courteſy requires—as one nation receives the favor, a little holliday parade and rejoicing is a cheap ſervice on the occaſion.

The Americans reſident at New Orleans at this time, are ſaid to be very numerous—and great feſtivity is expected to take place at the transfer of the ſovereignty of Louiſiana.

The Lodges No. 15 and 35, will leave their Lodge Room at 11 o'clock A. M. on *St. John the Evangeliſts Day*, and proceed to the EPISCOPAL CHURCH in this City, where a Maſonic Diſcourſe will be delivered by the *Rev. Brother A. T. M'Cormick.*—The attendance of all regular Maſons is requeſted.

In the case of JAMES M'DONALD, A BANKRUPT.

This is to give notice that the commiſſioners named and authoriſed in a commiſſion of bankruptcy awarded and iſſued againſt James M'Donald of Waſhington county in the diſtrict of Columbia dealer and chapman—intend to meet on the third day of January next, at four o'clock in the afternoon of that day, at the houſe of William Rhodes Inn keeper in the city of Waſhington, where the creditors who have not already proved their debts may then and there come and prove the ſame, and aſſent or diſſent from the allowance of the certificate to ſaid bankrupt.

By order of the commiſſioners,
LEWIS FORD, Sec.

Dec. 19—3t

NEW STORE,

WHOLESALE & RETAIL.

THE ſubſcriber reſpectfully informs the public that he has opened a ſtore in Bridge ſtreet, near High-ſtreet, at the left, running from the city, where he will ſell very cheap the following freſh imported goods:

Superfine and ſecond London mens' and childrens' hats, firſt and ſecond broad cloth, caſſimeres, coating and naps of a variety of the new & faſhionable colors, flannels, Iriſh linen of the very fineſt and middle ſort, Oſnaburg, cambric, cambric muſlin, laces, cotton, calicoes, fancy waiſtcoatings, Engliſh and French ſilk ſtockings and gloves, worſted hoſiery, handkerchiefs, ſilk and other threads, fringes, gold and ſilver watches, razors, pen knives, &c. &.

The ſubſcriber has a large quantity of broad cloth, caſſimeres, coatings, &c on hand which he wiſhes to ſell off, and offers them therefore by wholeſale at the very low price of 11$ advance.

TH. W. PAIRO.
George Town 19th Dec.—3tatawtf

LECTURES.

THE public are reſpectfully informed that the delivery of the Lectures by the Subſcriber, is poſtponed untill after the hollidays, and due notice will be given the ſubſcribers and the public of their commencement.

ROBERT W. PEACOCK.
Waſhington, Dec. 17, 1803.