office remains without the judge having any duties to perform. On this point, as if its occurrence had been foreseen by the Constitution, it speaks an explicit language, and at once crushes the absurdity, by declaring that "the judges shall hold their offices during *good behaviour*, AND shall, at stated times, receive for *their services*, a compensation, which shall not be diminished during their continuance in office."

Thus does the constitution render inseparable the tenure of office with the rendering services, and the rendering services with receiving a compensation. The union is indissoluble. If there are no services, there can be no compensation.

If the *alledged* officer is divested of duties, which is an equivalent term for services, and of compensation, what remains?

It is no mean confirmation of this reasoning, that congress have made the constitutional judges of the services rendered, by that article of the constitution, which provides that "no money shall be drawn from the treasury, but in consequence of *appropriations made by law*." By this provision and the antecedent one requiring service, congress are prohibited from giving a cent to a judge except for his services.

It may be said that this is an *indirect* way of abolishing the office. Let this for the sake of argument, be granted. It cannot be denied that the power, *indirectly* to abolish, by taking away by piece meal the parts which compose the office, until nothing remains, involves the power of *direct* abolition, which is no more than doing that, by one legislative act, passed at one point of time, which, in the other case, was accomplished by several acts, passed at different times.

Other arguments in favor of the constitutionality of the repealing act were adduced; but this, of itself, is sufficient. In natural science, it has become a standing rule that no more causes shall be assigned than are sufficient to account for particular effects; it would be well if this fundamental rule were applied to moral disquisition. It would probably free it from much of the ambiguity in which it is at present involved; and it would certainly save much time at present unprofitably spent.

It is not a little extraordinary, notwithstanding the use made of the term, that the word "independence," as applicable to the judiciary, is not to be found in the constitution. That wise system, so far from countenancing the independence of any public agents, legislative, executive, or judicial, has provided the most efficient checks to make them all dependent. By declaring that the judge shall hold his office during good behaviour, it has made him independent of the executive; but that circumstance, so far from creating a claim to legislative independence, really produces a necessity in several cases for legislative interference.

This consideration presents a great question, not on the constitutionality of the power exercised by congress, but on its expediency. Many of the most important laws passed by congress require the aid of the judiciary to carry them into effect. We all know that the judges have assumed the power of pronouncing laws unconstitutional; and of refusing to execute them. Such laws may be of vast importance. They may affect the lives and properties of citizens, and may implicate the peace of the nation. Opinion may be divided on them. A great majority of congress, the president, and the people may consider them constitutional; the judges alone may pronounce them unconstitutional. It is as probable, nay more probable that the judges should err on this point, than the legislature, elected for the special purpose of passing laws. Their decision, supported by that of another department of the government, and by the people, greatly multiplies the probabilities on their side. Still the judiciary put their veto upon the laws, and thereby jeopardise life and property, and the peace of the country. Are the legislature, in this case, to submit? Are they to give an absolute control over the laws to the judiciary? For it is apparent that the power of impeachment may be futile, as any number over a third of the senators may frustrate a conviction, and as this number may be found among those senators who do not represent quite one sixth of the people of the United States. If this absolute control is not to be given, then the power of abolishing the office is the only effectual remedy. This absolute authority is opposed to the whole theory of our government, and opposes all responsibility to public opinion.

Grant the legislature to be in error. The opinion they express is that of the people most directly expressed, and if incorrect, the people themselves will experience the evils resulting from it. Unless supported by the enlightened and permanent impressions of the people, it will be short lived; it will not be likely to endure for more than two years. But an error of the judges, if paramount, will be of great duration, and will admit of no remedy until the existing judges die and new ones are appointed. Before this shall occur, the liberties of the people may be destroyed.

To bring these remarks to a close, there is one criterion of the constitutionality of the repealing act, which ought, in our government, to be conclusive; one, which could not be urged when the law passed. A lively appeal has been made to public opinion; and the people have been called upon to displace those who supported the measure. In every instance, except one, they have re-elected those who supported it; and in numerous instances they have ejected its opponents. In the congress that passed this act the republicans in the House Representatives were sixty-eight, and the federalists thirty-eight; and in the Senate the republicans were eighteen, and the federalists fourteen. In the present congress the republicans in the House are ninety six, and the federalists thirty-eight; and in the Senate the republicans are twenty five; and the federalists nine. The encrease of republican members in the House is twenty-eight; and in the Senate seven; while the federalists have lost five senators, and have not gained a single representative, notwithstanding the increased representation. More than two thirds of both branches, and three fourths of the states are likewise republican. Public opinion, therefore, the highest and the only competent tribunal, in litigated cases, has decided this question, with a strength adequate to effecting, if necessary, a correspondent alteration in the constitution, had that been necessary.

CURTIUS.

WASHINGTON CITY,

MONDAY, September 24.

Attempts have been recently made, by letters from, and representations of occurrences at Madrid, to excite the feelings of the public on the issue of a question of great magnitude to the United States. It is said that the king of Spain has refused to ratify the Convention for the indemnification for spoliated property, on several grounds, among which is assigned the legislative authority given to the President to erect a port of entry on the Mobile and its waters emptying into the Gulph of Mexico east of that river. Whether it be true that Spain has refused on this, or any other ground, to ratify the Convention, we shall not undertake to say; much less to determine the accuracy of the fact that Mr. Pinkney has demanded his passports and is about returning to the United States; or whether we are on the eve of a war with Spain. We shall only observe that the pictures drawn in some of the Eastern prints appear to us so extravagantly coloured as to lead to a suspicion that they are intended to cover some commercial project. Waving, however, all considerations arising out of these circumstances, as unlikely from the little knowledge respecting them in possession of the public, to afford much important light, we have considered it proper to attempt laying before the public a view of the merits of the interesting question, "What are the boundaries of Louisiana," as acquired by the United States from France by the late treaty of cession. This point, independent of any connection it may have with the ratification of the convention, or with any pending negociation, is extremely important; and although the discussion of it, at this time, may be premature, as it has been brought into public notice, it appears necessary, to avoid erroneous impressions, to state the prominent facts on which its decision must depend. We shall at present attempt little more than this; our object being to take sure ground, and to exhibit a short and clear view of facts, & to draw those inferences only which immediately flow from them.

In order to exhibit this view the more distinctly, it is necessary to go back to an early period of the colonization of Louisiana.

In the year 1673, M. Joliet and Marquette, two French Canadians, excited by the information of the Indians, explored and struck the Mississippi, which they descended to the Arkansas. Their representations awakened the curiosity of M. de la Sale, who, in the year 1680, under the permission of the French government, explored the Mississippi. On the lower part of the Illinois he garrisoned a fort called Crevecour; and he sent father Hennepin down the Mississippi until he reached the ocean. In 1682, M. la Sale and M. Jonti went down the river with sixty men, named the country Louisiana, built a fort in the Chickasaw territory, 60 leagues below the Ohio, by the name of Prudhomme. M. la Sale then returned to France. The French government, entering with ardour, into his scheme of forming settlements along the St. Lawrence and Mississippi from sea to sea, placed under his direction four vessels, with men and stores. He sailed in 1684; but missing the mouth of the Mississippi, landed on the 18th of February in the Bay of St. Bernard. Here he made two successive establishments.

About this time the Chevalier Tonti to descended the mouth of the Mississippi, and on ascending the river formed a permanent settlement on the Arkansas. Not long after this period several other small settlements were made by enterprising Frenchmen.

In 1689 war commenced between France and Spain, which lasted till 1697, during which period nothing appears to have been done by France to succour her colony. In 1698, M. D' Iberville was dispatched as Governor. He established two settlements, one at Isle Massacre, which he called Isle Dauphin, and the other at Mobile. It may be proper to observe that during the war, in 1696, Spain had taken post at Pensacola.

From these facts it follows that France enjoyed the actual and undisturbed possession of the coast from the Mobile to the Bay of St. Barnard, and from the mouth of the Mississippi to the Illinois, which, together with other territory, comprises what is now called West Florida, but which then, together with the country as far as Canada, went by the common name of Louisiana.

In this condition things stood, when Louis XIV. by letters patent, on the 14th Sept. 1712 granted to M. Crozat, the exclusive commerce of this country for fifteen years. This document is important, as it appears to contain the first formal recognition of the extent of the French possessions. The extracts in point, are as follows:

"Louis by the grace of God, King of France and Navarre: To all who shall see these Letters, Greeting. The care we have always had to procure the welfare and advantage of our subjects having induced us, notwithstanding the almost continual wars which we have been obliged to support from the beginning of our reign, to seek for all possible opportunities of enlarging and extending the trade of our American colonies, *we did in the year 1683 give our orders* to undertake a discovery of the countries and lands which are situated in the Northern part of America between New France and New Mexico. And the Sieur de la Sale, to whom we committed that enterprize, having had success enough to confirm a belief that a *communication might be settled from New France to the Gulph of Mexico* by means of large rivers; this obliged us immediately after the peace of Ryswick to give orders for the establishing a colony there, and maintaining a garrison, *which has kept and preserved the possession*, we had taken in the very year 1683 of the lands, coasts and islands which are situated in the gulph of Mexico *between Carolina on the East, and Old and New Mexico on the West*. But a new war having broke out in Europe shortly after there was no possibility, till now, of reaping from that new Colony the advantages that might have been expected from thence because the private men, who are concerned in the sea trade were all under engagements with other colonies which they have been obliged to follow: *And* WHEREAS upon the information we have received concerning the disposition and situation of the *said Countries known at Present by the name of the Province of Louisiana*, we are of opinion that there may be established therein a considerable commerce, so much the more advantageous to our kingdom in that there has hitherto been a necessity of fetching from foreigners the greatest part of the commodities which may be brought from thence, and because in exchange thereof we need carry thither nothing but commodities of the growth and manufacture of our own kingdom; we have resolved to grant the commerce of the country of Louisiana to the Sieur Anthony Crozat, our Counsellor, Secretary of the Household, Crown and Revenue, to whom we entrust the execution of this project. We are the more readily inclined hereunto, because his zeal and the singular knowledge he has acquired in maritime commerce encourage us to hope for as good success as he has hitherto had in the divers and sundry enterprises he has gone upon, and which have procured to our kingdom great quantities of gold and silver in such conjunctures as have rendered them very welcome to us.

"For these reasons, being desirous to shew our favor to him, and to regulate the conditions upon which we mean to grant him the said commerce, after having deliberated this affair in our Council, of our certain knowledge, full power, and Royal authority, We by these Presents, signed by our hand, have appointed and do appoint the said Sieur Crozat solely to carry on a trade in all the lands possessed by us, and bounded by New Mexico, and by the lands of the English of Carolina, *all the establishments, ports, havens, rivers, and principally the port and haven of the Isle Dauphine, heretofore called Massacre; the river of St Lewis, heretofore called Mississippi from the edge of the sea as far as the Illinois, together with the river of St. Philip, heretofore called the Missouries, and St. Jerome, heretofore called Ovabache with all the countries, territories, lakes within land, and the rivers which fall directly or indirectly into that part of the river St. Lewis.*

"The ARTICLES—10—Our pleasure is, that all the aforesaid lands, countries, streames, rivers and Islands, be and remain comprised *under the name of the government of Louisiana*, which shall be dependent upon the general government of New France, to which it is subordinate; and further that all the lands which we possess from the Illinois be united, so far as occasion require to the general government of New France, and become part thereof, reserving however to ourselves the liberty of enlarging as we shall think fit the extent of the government of the said country of Louisiana."

This is a solemn declaration that the waters running directly or indirectly into the Mississippi, and the country they embrace, constituted the province of Louisiana. Within these limits France continued without disturbance to extend her settlements till the year 1763. During this period were formed the treaties of Ryswick in 1697, of Utrecht in 1713, and of Rastadt in 1714. to which Spain was a party, and which in none of their provisions invalidate the rights of France.

In 1718, the French took Pensacola from Spain, to whom it was restored at the peace of 1719; since which the Perdido, between Mobile and Pensacola, has been the acknowledged boundary between Louisiana and Florida.

The boundaries of Louisiana, then, as held by France, were the coast and islands from the Perdido to the Rio Norte; up that river to its source; thence to the high lands and round the sources of the Missouri and Mississippi, and their waters to the Allegany mountains, along those mountains and the high lands surrounding the waters of the Mobile to the head of the Perdido, and down that river to the ocean.

There was, it is true, a collision between these claims and those of the English colonies, whose charters extended from sea to sea; but these interfering claims were adjusted by the treaty of Paris of 1763; by which the Mississippi and Iberville were made the limits of the English possessions on the East, and Louisiana on the West.

Thus far then, that is to the year 1763, there is no doubt that, what is now denominated West Florida, was a part of Louisiana.

To the war which commenced between France and England in 1755, Spain in 1762 became a party on the side of France. England having been so successful as to conquer a considerable portion of the Island of Cuba from Spain, negociations were entered into for a peace. In these negociations Great Britain required Florida and that part of Louisiana between the Iberville and the Perdido, in exchange for Cuba. To enable Spain to offer these as an equivalent, France, by a secret treaty dated November 3, 1762 (the same day on which the preliminary treaty of peace was signed) consented to cede to Spain all Louisiana. By the definitive treaty, signed on the 10th February, 1763, France ceded to England all Louisiana east of the Mississippi, except the Island of New Orleans; which, with the remainder of the province she ceded to Spain. The cession to England, although *formally* on the part of France (for the treaty between France and Spain was still secret) was *substantially* made by Spain, who had become the real proprietor of all Louisiana.

England immediately divided her newly acquired possessions into two distinct governments; to one she gave the name of *West Florida*, which embraced the tract west of the Apalachicola; and to the other, embracing the residue of her possessions, she gave that of East Florida. This is the first that we hear of *West Florida*, it being a name given by Great Britain to a subdivision of her territory.

At the close of the American war in 1783 Great Britain restored to Spain Florida, and the country east of the Iberville. Spain, on taking possession, continued, with some modification, the English arrangements, placing, however, West Florida under the jurisdiction of the governor of Louisiana, who resided at New Orleans; and since that time this territory, as well in public instruments, and in general conversation, has gone by the names of Louisiana or West Florida, sometimes the one and sometimes the other name being used.

On the 1st of October, 1800, by the treaty of St. Ildefonso, Spain receded to France the "colony or province of Louisiana, with the same extent that it actually has in the hands of Spain—that it had when France possessed it—and such as it ought to be after the treaties passed subsequently between Spain and other states."

On the 30th of April 1803, France ceded to the United States all the territory which she had thus acquired from Spain.

These are the facts on which a decision is to be made whether the cession by France to the United States does, or does not embrace that portion of country called West Florida?

In the *first place*, Spain stipulates to recede *Louisiana with the same extent that it actually has* [in 1800] *in the hands of Spain*. To determine the import of this stipulation it is only necessary to ascertain the extent of country embraced by the term *Louisiana*. It has been clearly shewn that previous to the cession of France to Spain Louisiana extended to the Perdido. Had any thing occurred previously to the date of the treaty of St. Ildefonso, to contract its limits? If nothing had occurred, the limits must be considered as unaltered. That portion of territory, ceded in 1763 to Great Britain, was receded to Spain in 1783 with the new name of West Florida, given by England. Restored to Spain, although this name was not formally dismissed, the territory which it covers, was re-annexed to the government of Louisiana, and the old arrangements, previous to its cession to England, re-instated. By these arrangements Louisiana, as to its extent, was replaced in the same situation it occupied previous to the cession of a part of it to Great Britain, which was the same with that it held when possessed by France under whose arrangements West Florida formed a part of it.

But as if solicitous to remove all ambiguity, the treaty proceeds to stipulate, in the *second place that Louisiana shall be ceded in the same extent it had when France possessed it* (that is previously to the year 1763). Now the fact is that France never possessed this province, with any extent which did not include the English province of West Florida—It may have occurred to the framers of the treaty of St. Ildefonso, that doubts might arise as to the meaning of the term "the province of Louisiana," after the cession of a part of it to Great Britain, and its recession to Spain. Hence the propriety of dissipating all such doubts by declaring that the new cession should be in *the same extent it had when France possessed it*. This effectually set aside all regard to the regulations of England. Supposing, then, the *first* stipulation to be of doubtful import, the *second*, so plain as not to admit of any other construction, comes in to remove all doubt. For it is an established principle of construction, that where there are two passages tending to the same end, one of which is doubtful, and the other clear, the last shall preponderate. The denial of this construction to the stipulation will be tantamount to saying that it shall have no meaning at all, which in so solemn an instrument as a treaty, and on so important an occasion as the transfer of territory, is altogether inadmissible.

In the *third place it is stipulated that the cession shall be such as it ought to be after the treaties passed subsequently between Spain and other states*—that is, subsequently to the cession by France, which was in the year 1762. Now, subsequently to this was formed the treaty of 1795 between Spain and the United States, by which the former confirmed to the latter a degree of latitude (from 32 to 31 degrees) which she had alledged to be a part of Louisiana unceded to France, and consequently belonging to her.

According to these stipulations, taken together, Spain ceded Louisiana to France exactly as France possessed it previous to the year 1762, with the only exception of a reservation of the rights acknowledged by Spain to attach to the United States, and in this precise shape France, thus possessed of Louisiana has ceded it to the United States. If the facts we have stated, and the inferences deduced from them be correct, it follows that the Perdido is the boundary of Louisiana, and consequently that West Florida is a part of the cession to the United States.

The subject may admit of a much wider illustration; and several of the points, which we have thus cursorily noticed would doubtless be enforced by many incidents and arguments that might be associated with them; but we wave these for the present, under the persuasion that the concise sketch now offered is sufficient to evince the just pretensions alleged to be entertained by our government. It is possible that some of the facts assumed may not be correct; though we have taken pains to avoid error, and have omitted to introduce all doubtful matter.

New Hampshire Election.

By the returns from 180 towns, the votes stand as follow:

Federal, 11,000 Republican, 10,908

ERRATA in our last—In the advertisement respecting the dividend declared by the Board of Directors of the Bank of Columbia—Third line, for "*this*" read *the*, and instead of "6 *per cent*" read 8 *per cent*.

FURNITURE AT AUCTION.

To be sold at public sale, on Tuesday the 2nd October, adjoining Stelle's hotel on Capitol hill, a large and complete assortment of Household Furniture, consisting of beds, bedding, tables, chairs, kitchen utensils, &c. &c. Terms of sale will be cash for all sums not exceeding forty dollars, and approved endorsed negociable notes at 90 days for larger, at either the bank of Washington or Columbia. Sale to begin at ten o'clock.

Washington, Sept. 24—4t

THE Copartnership between Nicholas Voss and Charles Glover & Company, is this day dissolved—all those indebted to the said firm are requested to settle with Nicholas Voss, under the firm of

CHARLES GLOVER, & Co

Bank of Columbia.

THE Board of Directors having declared a Dividend for the half year, ending this day, at the rate of 8 per cent. per annum, the same will be paid to the stockholders or their representatives.

WM. WHANN, Cash'r.

September 21, 1804—4w