which, however in practice it might operate as an obstruction to legislation, was in theory only a matter of form, or at most but a temporary check upon the executive power. In oligarchies, the legislative power is vested in the rich and noble, and in aristocracies, in a few individuals who are presumed to be the wisest and the best in the community. In governments of the democratic form, this power resides in the great body of the people, and is exercised by themselves or their representatives. The base of the temple of American liberty is democracy, or the sovereignty of the people; representation and confederation are the principal pillars which support the great superstructure. As the state governments are unquestionably representative democracies, the general government is a representative federal republic. In every government of the representative form, the representatives of the people are vested with power to pledge the public faith, and to alienate the vacant territory of the nation. Were the members of the legislature of Georgia, in 1795, invested with this authority? Certainly it was within the sphere of those constitutional rights and powers, which had never been surrendered to the general government. We have since recognized that authority by receiving a solemn deed of cession of the territoy, from a subsequent legislature of Georgia, transferring to us not only the soil, but the right of jurisdiction. Was this authority exercised in 1795. In the act of the legislature of that state of the 7th of January in that year, granting this territory to those from whom the present claimants derive their claims, certain lands are described, and it is enacted that those lands *shall be sold* to such and such persons, *as tenants in common and not as joint tenants.* The lands shall be sold, or in other words, the right of soil shall be alienated. A proper distinction is taken between the *dominium utile* and the *dominium directum* of the civilians. No transfer was made of the right of jurisdiction, although such imaginary transfer forms a prominent article in the reasons assigned by the legislature of 1796 for passing the rescinding act. From this view of the subject, whatever may be the present state of the question of legal title, who can doubt that the present claimants, honest purchasers from the original grantees, upon the faith of an independent state, and innocent of fraud, if fraud existed, possess such a color of title, such an equitable claim, as to render it prudent and politic to enter into a compromise with them upon reasonable terms?

Were the Members of the legislature of Georgia in 1796, invested with the constitutional power of rescinding the acts of their predecessors in relation to such sale, and did they rescind them?

Congress is incompetent to the decision of this question. Nor is such decision necessary. I will however make one or two enquiries & state one or two principles, which are applicable to the subject, which at the same time will go to strengthen the ground I have taken as to colour of title in the claimants, and the policy of extinguishing their claims.

Can a legislature rescind a contract made by its predecessors?

Writers on national law make a distinction between laws which operate in the nature of contracts, and those which have no such operation. Every enlightened and reasonable man will subscribe to the opinion that a pledge of the public faith, given by the competent authority, ought to be irrevocable. Laws which pledge the faith of the community, which create contracts, which vest rights in individuals or in corporate bodies, it may safely be assumed as a general principle, are irrepealable. Laws of merely municipal operation are alterable or repealable at the pleasure of the existing legislature.

Can the judicial power declare a legislative act void as having been passed by means of corruption?

Different opinions have existed in our country as to the right claimed by the judiciary of deciding upon the constitutionality of laws. The better opinion seems to be, that from the nature of our government, and the very terms of the constitution itself, by which that instrument is declared to be the supreme law of the land, the judges not only ought to exercise that power, but that they cannot avoid its exercise. If I am not mistaken, some gentlemen who deny that the judges possess this right, are prepared to invest them with the more dangerous one of setting aside a legislative act on the ground of corruption. To admit that the judiciary may examine into the motives of the legislature in passing laws, or that they may receive and decide upon evidence tending to prove corruption in the legislative body would certainly be going much farther than those have gone who have claimed for that department the right of deciding upon the constitutionality of laws.— Suppose a trial of title between a person claiming under the act of Georgia of 1795, and another claiming under the under the United States, and suppose evidence offered to the court to prove the corruption of the legislature of Georgia, in what a peculiar situation would the judges be placed? And would they listen for a moment to an application for the admission of such evidence? It may well be doubted. Do not then the present claimants possess a very strong colour of title? Is it not prudent to extinguish claims of this description?

Were claims or the pretended claims of the present claimants in any manner recognised by the act of cession of the territoy in question from Georgia to the United States? And,

Do justice and policy, or either justice or policy, require that the whole or any part of the five millions of acres, reserved by the act of cession from Georgia to the United States, for the purpose of satisfying claims of a certain description against Georgia, in reference to the said territory, should be appropriated for the purpose of satisfying the claims of the present claimants?

I have anticipated the principal arguments in favor of the equity of the claims, and the policy of a compromise with the claimants.—The memorialists state that their claims were particularly contemplated by the commissioners, both of the United States and of Georgia.—They have offered us no evidence of this fact, and we are not to take it for granted. Indeed I am far from thinking it my duty either to advocate or answer the pamphlet of the memorialists, and I shall make but this single allusion to it. Whatever may be its merits, it has had no influence upon my mind in forming my opinion. An examination of the official documents upon our tables will evince, however, that by a very strong implication, if not by express provisions, these claims have been recognised, both by the act of cession, and by the law of Congress passed in consequence. The first condition of the first article of agreement and cession, provides for the payment of one million two hundred and fifty thousand dollars to the State of Georgia, out of the first nett proceeds of the sales of the lands then ceded; the second provides for certain British & Spanish grants; and the third is as follows; "That all the lands ceded by this agreement to the United States, shall, after satisfying the above mentioned payment of one million two hundred and fifty thousand dollars to the State of Georgia, and the grants recognised by the preceding condition, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever: provided however, that the United States, for the period & until the end of one year after the assent of Georgia, to the boundary established by this agreement shall have been declared, may, in such manner as not to interfere with the abovementioned payment to the state of Georgia, nor with the grants herein before recognised, dispose of or appropriate a portion of the said lands, not exceeding five millions of acres, or the proceeds of the said five millions of acres, or of any part thereof, for the purpose of satisfying, quieting, or compensating *for any claims other than those herein before recognized,* which may be made to the said lands, or to any part thereof. It being fully understood, that if an act of Congress making such disposition or appropriation shall not be passed into a law within the above mentioned period of one year, the United States shall not be at liberty thereafter to cede any part of the said lands on account of claims which may be laid to the same, other than those recognised by the preceding condition, nor to compensate for the same; and in case of any such cession or compensation, the present cession of Georgia, to the right of soil over the lands thus ceded or compensated for, shall be considered as null and void, and the lands thus ceded or compensated for, shall revert to the state of Georgia."— It is unnecessary to enquire into the motives which dictated a provision so singular; they are obvious to all who are acquainted with the whole history of the transaction. It was well understood that Congress was to pass the law, and it was passed on the third of March 1803. The eighth section appropriated so much of the reserved five millions of acres, as might be necessary to satisfy the claims, not recognized by the preceding agreement, which were embraced by the two first sections of the act, or derived from British grants for lands not regranted by the Spanish government; and also contained the following appropriation—"so much of the residue of the said five millions of acres, or of the nett proceeds thereof as may be necessary for that purpose, shall be and is hereby appropriated for the purpose of satisfying, quieting and compensating for such other claims to the lands of the United States south of the state of Tennessee, not recognised in the above mentioned articles of agreement, *and which are derived from any act or pretended act of the state of Georgia,* which Congress may hereafter think fit to provide for; *Provided however,* that no other claims shall be embraced by this appropriation but those the evidence of which shall have, on or before the first day of January next, been exhibited, by the claimants, to the secretary of State, and recorded in books to be kept in his office for that purpose, *at the expence of the party exhibiting the same.*" The following are the opinions of the commissioners, the Secretary of State, Secretary of the Treasury, and Attorney General of the United States, upon this subject. On the claims pretended to be derived under the act of Georgia of the 21st December 1789, they observe, "upon a full view of the subject, the commissioners do not perceive that those companies have any equitable claim either for the land, or for compensation from the United States." Very different is their opinion upon the claims under the act of 1795. "The commissioners think those propositions inadmissible, and without pretending to affirm that the legislature of Georgia was competent to make the decision, they feel no hesitation in declaring it as their opinion, that under all the circumstances which may affect the case, as they have come within their knowledge, and as herein stated, the title of the claimants cannot be supported. But they nevertheless believe that the interest of the United States, the tranquility of those who may hereafter inhabit that territory, and various equitable considerations, which may be urged in favor of most of the present claimants, render it expedient to enter into a compromise on reasonable terms."—Here I cannot but remark how very difficult it is for feeble minds to decide important questions upon which great men disagree. The gentleman from Virginia (Mr. Randolph) is of opinion that it would not only be impolitic to compromise these claims, but that the only claims of the applicants are fraud and villainy; the commissioners, who probably examined the subject with as much attention, at least with as much coolness, as that gentleman, believe that not only the public good requires the compromise, but that *various equitable considerations* may be urged in favour of most of the present claimants. The Secretary of the Treasury, in his letter of the 9th inst. to the chairman of the committee of claims observes, "My own impression was, that the five millions of acres would be sufficient to cover all the claims of settlers, British grantees, and others not expressly provided for by the articles of agreement, *and also to make a reasonable compensation for claims derived or pretended to be derived from Georgia*; and it appeared to me that the effect of the clause would be—1st to prevent Congress from voluntarily confirming, at some future time, the said Georgia claims. 2d. To leave it in their power to compromise with that description of claimants, by allowing so much of the surplus of five millions of acres as they might think proper; without, at the same time, pledging government to enter into a compromise, if upon a full view of all the circumstances of the case, a different course was thought more eligible." The committee of claims who, must have paid more attention to the subject than it is possible for other members to do, "On considering these various transactions, are of opinion, that it is proper to make some legislative provision for the purpose of setting the existing claims on such terms as shall appear to be reasonable," and they recommend the appointment of commissioners for that purpose. Can there any longer be a doubt that the claims are recognized by the act of cession? Can there be a doubt that Congress, by making the appropriation of the five millions of acres, and by subjecting the claimants to great expence in recording and supporting their claims, have tacitly pledged the public faith that some provision shall be made for them? And do not justice and policy require the adoption of the resolution reported by the committee?

The gentleman from Virginia, has expressed his surprise that the chairman of the committee of claims has contented himself with reporting facts and principles, and that he has not adopted the novel procedure of reporting something tantamount to an elaborate speech in favor of the claims. As the speech of the gentleman from Virginia is unfortunately destitute of argument against the claims, and as it might be possible to deduce from it reasons in their favor, it might perhaps be proper for him to print it and annex it to the report, as a substitute for that which he thinks the chairman ought to have subjoined, for the edification of the House. My feeble optics have been able to discover but one attempt at argument, which is in those observations which relate to the message of the President, and the proceedings of Congress, on the act of Georgia, in 1795, and which it is contended, were notice, to purchasers and to the world, of fraud. At that time it was not suspected that fraud had been committed, and the reason for those proceedings was, that the United States possessed, or were supposed to possess, certain claims to the territory. There are certain subtile, sublimated, etherial, heaven descended geniuses, the soft and silken texture of whose minds would suffer infinite discomposure from the contact of, that rude and knotty thing, an argument. That gentleman is not of this description. Too often have we witnessed his argumentative powers, to entertain this idea. I regret that he has declaimed instead of reasoning upon this occasion, as I believe that argument, particularly upon important subjects, is more useful than mere declamation. From motives which I cannot develope, for I ascribe improper views to no one, the present is attempted to be made a party question. The people are told that the capitol has become a scene of political and private iniquity, of fraud and federalism; that the majority of their representatives are committing a stupendous robbery upon the public patrimony; and their indignation is invoked upon the plunderers. What facts exist to justify these denunciations? Are we about to barter away the rights and interests of the people? Are we about to be guilty of a wanton waste of the public property? Are we guilty of political apostacy? No such thing. We are about to make arrangements for carrying into effect a solemn stipulation in the treaty with Georgia, and a solemn act of our predecessors, by devoting a part of the five millions of acres, specially reserved for that purpose, for which the United States never paid a cent, and never will pay a cent, to the extinguishment of the colourable claims of equitable claimants. Yet we are told that this act of equity, good faith, and good policy, is a stupendous crime, compared with which the flagitious acts of the former "unprincipled administration" dwindle into "petty larcenies." I am a republican, a democratic republican. I was opposed to the general system of that administration. But I do not think it magnanimous or honorable, malignantly to triumph over fallen foes. Nor do I dread the union of honest men. It can be dreadful only to the dishonest.

It is said that the press is under the influence of a virtual sedition law. No, Sir. The press, I speak without allusion to political distinctions, is incorrigibly licentious. Has the gentleman from Virginia read, in one of the oracles of our country, mingled with his own praises, the denunciation of the whole representation of one of the largest states in the union, (Massachusetts) as composed of men destitute both of public and private integrity, and conspirators against the peace of the union, merely because they differ in opinion from that gentleman upon this single question? Does he know that these denunciations are echoed and re-echoed, by means of the presses called exclusively republican, through almost every village of the nation? Has he heard that the representatives of remote districts are denounced to their constituents as traiterous to their rights, and that their independence of his imperious mandates is made the powerful evidence of the treason? I hope, Sir, that we shall never see the day when a private caucus of a few individuals shall be enabled to dictate to the people in whom to invest their confidence. And I also hope that the day is not distant when independence of sentiment, when independence even of party, shall be the surest passport to public confidence and public honours.

It is said that the circumstance that one of the great officers of the government is numbered among the claimants, ought to scatter consternation through this House. It is unnecessary for me to undertake a vindication of the character of that gentleman. Does his office divest him of the common rights of a citizen? Does it deprive him of the right of petitioning the national legislature? But his contracts are resorted to for the purpose of proving that he has extended his official influence within our walls. Unfortunate indeed is the application of this argument. By the report upon the table it appears that three members are contractors, and we all see that two of them are opposed to the present claims.

Believing, Mr. Speaker, that this act of enormous robbery, this wanton dissipation of the public treasure, this abominable league between corruption and federalism, of which we hear so much, is neither more nor less than an act of just national policy; believing with the Secretary of State, the Secretary of the Treasury, and the late Attorney General, that "the interest of the United States, the tranquility of those who may hereafter inhabit that territory, and *various equitable considerations*, which may be urged in favor of most of the present claimants, render it expedient to enter into a compromise on reasonable terms;" and believing that this compromise ought to be delayed no longer, I shall give a decided vote in opposition to the proposed amendment, and in favor of the original resolution, as reported by the committee of claims.

(To be continued)

A LOST BROTHER.

IF SANDFORD EDWARDS, or any of his children (who resided about thirteen years ago, within thirty miles of Edenton in North Carolina, near Perquimons river, and in a county probably of the same name) are now living and will apply to me by letter or otherwise, they may hear of something to their advantage, and very much relieve and oblige an anxious and affectionate brother.

BEN. EDWARDS.

Bairdstown Kentucky, January 1.

N. B. All printers of new papers in the United States, south of Potomac are requested to give the above a few insertions. B. E.

Feb. 20—

WASHINGTON CITY

WEDNESDAY, FEBRUARY 20.

By a decree of the Governor and Intendant of Havana dated 20th November last, the importation of horses is restricted to Spanish vessels, after the 1st January last.

The Senate have passed a bill providing for the territory of Orleans a territorial government similar, in most respects, to that in force for the Mississippi territory, and providing for their admission as a state into the union so soon as their free white population shall amount to sixty thousand.

The House have made this bill the order of the day for this day.

HIGH COURT OF IMPEACHMENT.

MONDAY, FEBRUARY 18, 1805.

The court was opened at 10 o'clock A. M.

Present the MANAGERS, accompanied by the House of Representatives, and

Mr. CHASE, attended by his counsel.

William Rawle, Edmund Lee, Philip Gooch, Gunning Bedford, Nicholas Vandyke, Archibald Hamilton, John Hall, Samuel Moore, —— Wynder, and Judge Winchester, were examined on the part of Judge Chase.

When the court rose about 3 o'clock.

TUESDAY, February 19.

The court was opened at 10 o'clock A. M.

Mr. Tilghman was called in and examined respecting the mode of procedure of the circuit courts of the United States.

When the counsel for Judge Chase proceeded to examine witnesses relative to that article of the impeachment which is founded on the charge delivered at Baltimore.

Thomas Chase, —— Moore, Judge Dorsey, John Purviance, Nicholas Price, James P. Boyd, William McMeachin, William Gwinne, John Campbell, and William Cranch, were examined.

Mr. Harper then adduced sundry charges of Judges, containing political matter, to shew that for the last thirty years such charges had been very usual; he particularly cited a charge of William Henry Drayton, chief justice of South Carolina, delivered April 23d, 1776; a recommendation of the executive council of Pennsylvania, in the year 1785, to the judges to inculcate certain principles and measures, conceived to be conducive to the morals and general welfare of the community; a charge of Judge Iredell, delivered in 1799; a charge delivered by chief justice M'Kean, on the 27th November, 1797, to a grand jury, relative to matters conceived to be libellous, which were published by William Cobbet; and an address lately made to the legislative council of Orleans by Governor Claiborne.

Thomas Hall, a witness summoned by the managers, but absent when he was called in the regular course, was sworn and examined, relative to the charge delivered at Baltimore.

George Hay, D. M. Randolph, and John Montgomery, were further examined, principally in explanation of their previous testimony.

The testimony having been closed on the part of Judge Chase, Mr. Harper rose, and in the name of Judge Chase, read a written paper of the Judge, stating that in consequence of a severe indisposition, he was unable any longer to keep his seat in the court—expressing his thanks to the court, for the patience they had manifested during the course of the trial, and declaring his full reliance upon their impartiality and justice; and concluding with the request that he might be permitted to retire.

Mr. Harper added that for several days a fit of the gout had been coming on the judge, which had so far progressed as to disable him from further attendance—not, however, intimating any wish, on that account, to interfere with the progress of the trial.

The President observed that the presence of the Judge was not, according to the rules of the Senate, required.

When Judge Chase immediately withdrew.

Mr. Randolph then (about 1 o'clock) in the name of the Managers requested a postponment of the trial until to-morrow, that the gentlemen who should open the argument, on the part of the House of Representatives, might be enabled to collate, compare and digest the testimony offered.

The counsel for Judge Chase said they did not ask, though they should not oppose the delay.

Nothing further being offered, the President put the question whether the Senate would retire, which was carried.

It was previously stated by the managers and counsel, on enquiry from the chair, that the case would be opened by the managers, replied to by the counsel for Judge Chase, and closed by the managers.