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WASHINGTON CITY.

MONDAY, AUGUST 11.

Our readers are presented with an interesting paper, entitled an "Address of the Legislative Council [of Orleans] to the People."

WE are too remote from the scene of action, and the prints of New-Orleans furnish too imperfect details of the proceedings of the Legislative body, to enable us, on this interesting document, to form an opinion, free from possible error. Although it is written with temper, it would be but fair, before we give judgment, on the matters in dispute, to hear the reasons of the governor for interposing his veto. Every one, conversant with the proceedings of public bodies, knows hows easy it is to disguise the object *really* contemplated under some false pretext, and to cover *personal* with *public* views.

Without then venturing any decision of the point in issue between the governor and the legislative body, we may be permitted to make some remarks, which will at any rate establish the importance of the decision which shall ultimately prevail.

The veto of the governor is the necessary effect of the system of government provided for the territory of Orleans. Congress, by giving them a territorial system, have virtually decided the incompetency of the people to govern themselves, and have placed the responsibility of their government, in a great measure, on the Executive power. We consider then the principle of self government as at present out of the question, and that the legislature can claim nothing on this ground. It is their right, to propose laws for their own government, but it rests ultimately with the Executive of the U. S. whether they shall be passed. We say with the Executive of the U. S. for as the governor holds his office at his will, we must consider his measures as those of the Chief Executive, in all cases of a serious collision of opinion.

What then are the duties of the President of the U. S. so far as they bear on the point at issue? It is his duty to sanction those laws, and those only, which shall best promote the general interests of the U. S. He cannot constitutionally consider himself as governed by different principles, as charged with the general concerns of the union, and as charged with the special concerns of Louisiana. He is bound to promote to the utmost both. He cannot conscientiously favor one to the prejudice of the other. Should then the interests of Orleans require different measures from those required by the good of the whole community, she cannot, under her present government expect them. The President of the U. S. cannot morally sanction them. It may be proper further to observe that the President of the U. S. is cloathed with certain powers which he is bound to exercise not merely with a view to the present time, but with a view to the future as well as the present. The whole government is under an obligation to take those steps, and those only, which will best conduce to the *general interests*, unrestrained by time, or by local or personal considerations.

If this exposition of the duty of the Executive of the U. S. be correct, the question whether the *civil* or the *common law* shall form the basis of legislation in the territory of Orleans is a point which, in its present form, can only be settled by determining which code it is most for the interest of the whole U. S. to adopt.

Were the question propounded individually to each citizen of the U. S. it is probable that a vast majority of suffrages would concur in preferring the *common law*: This decision would not emanate from any learned inquiry into the comparative merits of the two codes; but from a desire to retain the system of laws to which its citizen had become familiarised. For, although it be a fact that there is no such thing as a common law of the U. S. unless of a very narrow range, yet it is a fact that nearly the same system under that name is common to the individual citizens of all the states. What they have been accustomed to they would prefer.

But it may be said that the benefit of the people of Orleans ought to be the only guide in this discussion. Allowing, however, this declaration to be correct, it may be made a question whether the temporary interests of a few inhabitants of Orleans should be exclusively consulted to the prejudice of the interests of the citizens of the U. S. who have already settled there, and of all those who shall hereafter emigrate to that country. If it be admitted that a large majority of the present inhabitants consists of those who have heretofore been under the subjection of the civil code, it may be enquired how long this will be likely to continue to be the case; and whether it is not probable that before the present generation shall have passed away, they will be outnumbered by the emigrants from the U. S.

But there is another point of light in which this subject may be presented, of still greater importance, & which serves to shew that it is one in which the interests of the whole nation are deeply involved. What was the principal cause of the purchase of Louisiana? That we might command the free and undisturbed navigation of the Mississippi. For whose benefit was this acquisition made? For the benefit of the people of the then U. S. and not for that of the people of Orleans. It was not to break their chains, but to advance our own interests that we agreed to pay fifteen millions of dollars—The preservation of the benefits of this purchase must greatly depend on the assimilation of the people of the newly acquired territory to the people of the U. S. on their adopting the same principles, conforming to the same manners, & above all yielding obedience to the same laws. It is in this way that the acquisition, with all its benefits, will be rendered most secure; *and it is in this way that the people of the territory will most eloquently urge their pretensions to the possession of all the political rights enjoyed by the citizens of the U. S.* In this view of the subject, they are, perhaps, more deeply interested in embracing the common law, than the citizens of the U. S. For it is manifest, that unless they become by similarity of principles, manners and laws, capable of self government, it will continue necessary for the U S. to keep an armed force in constant readiness to check any internal disaffection which unprincipled men may cherish among them, or to repel that foreign hostility which, calculating on their want of cordiality to the U. S. might meditate their dismemberment from he union.

FROM THE LOUISIANA GAZETTE.

ADDRESS

Of the Legislative Council t People.

Extract from the minutes of the legislativ council, May 26, 1806.

"Whereas the most essential and salutary measures adopted by this legislature, have been successively rejected by the governor of the territory; and whereas this legislature, the members of which had been induced to accept of their appointments only by the hope of being useful to their fellow-citizens, must now be convinced that they can do nothing but cause them a considerable expence:

"*Resolved*, That the General Assembly be immediately dissolved."

THE ADDRESS.

The legislative council think themselves in duty bound, to explain to their fellow citizens, the motives by which they have been determined to propose the resolution cited above, and which have made them consider the act, consecrating the same, and rejected by the governor, as that on which most essentially depended the happiness and future tranquility of this country. The public will judge, whether these motives have been pure and divested of all private passion.

The most inestimable benefit that can be conferred on a people, is the preservation of its laws, its usages and its customs. It is this preservation alone that can soften the sudden transfer from one government to another, and it is by indulging this natural attachment that the heaviest yoke becomes supportable. The Congress of the U. States has seemed desirous to respect these sacred principles, and to render its dominions still easier to the inhabitants of the territory of Orleans, by preserving to them their ancient laws; such at least is the natural and rational meaning of 4th art. of the act of the 2d of March, 1805, which makes ulterior provisions for the government of the territory of Orleans, and is conceived in these terms; "the laws which shall be in force in the said territory when this act shall begin to be put into effect, and which shall not be contrary to the dispositions of the said act, shall continue to be in force until they be modified, changed or repealed by the legislature."

What then are the laws which Congress have pretended to preserve to us by this provision? What are the laws that shall be liable to be revised and rectified by the legislature of this territory? The question is not doubtful. It is evident that the laws here alluded to, are the ancient laws that reigned in this country, before the cession made thereof to the U. States of America. For Congress have taken care to apply to us as much of the common law as they have thought it indispensible to prescribe to us, in order that our system should not be in direct contradiction to that which is in force in all the states of the union, namely the right of being tried by our peers, and the writ of *habeas corpus*, those two grand palladiums of liberty. So far as this we can make no change in what congress has thus constitutionally determined; but it is plain that with respect to all the rest, we are at liberty to adopt or reject as much of the common law as we may think proper.

Since then we have the power to preserve our ancient laws as far as they do not militate against the constitution of the *United States*, or against the special acts that have been passed for our territorial government, we are indispensibly entitled to the advantage of remaining under a system to which we are accustomed, and which contains nothing that is hostile to the affection we owe to our government. For in the laws by which a state is governed, a distinction must be made between such of them as belong to its constitution and government, and such as regulate contracts and agreements among individuals. The former ought indispensibly to be common to all parts of the republic, but with respect to the latter, differences may exist without inconvenience. Thus the constitution of the U. S. and the other federal laws, being general throughout the union, it would be absurd to pretend that this territory ought not to submit thereto: but with respect to the laws concerning contracts, wills and hereditaments of what consequence can it be that such acts are here governed by the civil law, whilst in the other states of the union they are regulated by the common law? Whence comes it that the diversity of customs that prevails in England does not injure the general harmony? Do these differences arising from local laws, prevent Englishmen from being good citizens, and submissive to the constitutional laws of their country? The case is quite the contrary, and that person would probably expose themselves to alienate their affections, and to excite general disorder and discontent, who should touch these customs to which each province is attached by the ties of experience and long habit.

Even in the United States there exists not a general civil code. The common law of England is not adopted there as a constitutional article. From the origin of the establishment of the colonies of New England, it had not been received in each province without certain modifications and alterations, which are so great that the common law of Virginia no more resembles that which is received in South-Carolina, than the latter resembles that which has been adopted in the state of New York. At the time of the general confederation, and after the war of the American revolution, congress had too much wisdom to bring these differences to bear against each other, by establishing a general and uniform system of common law, to pervade all the states in the union, and has left to each state the right of preserving or of modifying what it thought proper to adopt, of the common law, or even of changing it for other laws, according as they may seem more suitable to its particular situation.

It is, no doubt, in consequence of this prudent and judicious policy, that Congress has been induced to grant to this territory the privilege of preserving its ancient laws, or of changing or modifying them as its legislature may think it necessary. No person can be ignorant that these ancient laws, are nothing more than the civil or Roman law, modified by the laws of the government to which this country was subject before its cession to the United States. Let people be ignorant of the very title of the book in which these laws are contained—let these titles appear to be barbarous or ridiculous—perhaps the greatest eulogium that can be paid to them, is to prove by the ignorance of those who have hitherto obeyed them unknowingly, how great is their mildness and their wisdom, and how few are the inconveniences which can exist from their being put into execution. At all events, it is no less true that the Roman law, which forms the basis of all the civil and political laws of every civilised nation in Europe, presents an assemblage of grandeur and of prudence that is above criticism. How pure these decisions, drawn from the source of natural equity—How luminous this digest, the work of the greatest lawyers, animated by the encouragement of the wisest emperors—How simple the forms of these contracts, and how sure and prompt the means of obtaining the remedies prescribed by law for the reparation of civil evils of every description.

We surely do not pretend to make any comparison between the civil and common law, but the wisdom of the civil law is acknowledged by all Europe, and nineteen twentieths of the population of Louisiana know it, are accustomed to it from their infancy, and could not without despair see themselves deprived of it. If the inhabitants of this territory had never known any laws, if until now they had always lived without making any agreements or contracts, it would probably be indifferent to them what system they adopted, and it is even probable that their attachment to their new country would make them, prefer that which would bring them the nearest to their new fellow citizens.—But here there is a question of overturning usages generally received and known, and the uncertainty succeeding thereto would to them be equally productive of injustice and of despair. Every person now knows by long experience how inheritances are transmitted, how great is the power of fathers over their children, what proportion of their estates they can dispose of to their prejudice, what rights result from marriages performed with or without contract, the manner in which goods may be devised by testament, the manner in which one may with safety sell, exchange or alienate his property, and the assistance which the law grants in cases of non-payment. Every one of the inhabitants dispersed over the vast extent of this territory, however uninstructed he may be, has a tincture of this general and familiar jurisprudence, which is so necessary for conducting affairs of the least importance, and which so firmly secures the repose of families. This knowledge every one has imbibed with his milk, has received by tradition from his fathers, and has perfected by experience and a long and laborious life.—Overturn this system on a sudden—supply by new laws the deficiency of the old——what an upset would be the result? What becomes of the experience of old age, of the facility and security of transfers? Who will venture to make contracts under a new system of which he knows not the effects? What shall be the lot of an inhabitant so unfortunate as not to be sufficiently educated to obtain a knowledge of these new laws, at least by reading them, if we suppose that the knowledge thereof is facilitated to him, by having them translated into his own language? Will not he shudder as often as he may be inclined to dispose of his property? Will he not dread thereby to throw himself into a bottomless and inextricable abyss, and to effect his total ruin? Or must he always have recourse to the knowledge of a lawyer, in the most common transactions of civil life.

(To be Continued.)

FROM THE AURORA.

ERRORS CORRECTED.

On the late trial of col. Smith in New York, col. Platt was called on as a witness. In his evidence he made an allusion to a letter which he had seen in the hands of col. Smith, from capt. Duncanson of Washington city, and represented the contents of that letter, as bearing an interpretation that the letter did not justify, as shall be seen in the sequel; capt. Duncanson being in court, col. Platt pointed to him and seemed to appeal to him for the correctness of this evidence, to which of course capt. Duncanson could make no reply then and in that place. There can be no doubt that col. Platt believed that his conceptions of the letter to which he alluded were such as he expressed; but they were not by any means warranted by the letter itself, or by the facts to which the letter had reference; and which it is the purpose of this article to place on its true ground; to do justice to all parties, and to put it out of the power of any thing but predetermined malice to doubt or pervert it.

As soon as capt. Duncanson had an opportunity, he represented to the counsel of col. Smith, that col. Platt had totally mistaken the letter to which he had made reference, and requested that the mistake might be rectified. The counsel replied that they took the evidence as it was given, and that it rendered the evidence or the attendance of capt. Duncanson as a witness thenceforth unnecessary. Capt. Duncanson thereupon applied to col. Smith, and appealed to him; col. Smith with an honorable magnanimity, declared that he would not suffer his case to derive any advantage from the *mistake* of col. Platt, and that he would himself, if col. Platt did not, undertake to have it rectified, and accordingly, col. Platt did go into court and correct the mistake which he had made, with a frankness which showed that his original ideas were his real ideas at the time, but he was convinced they were erroneous.

Such is a general outline of the occurrence, which has been seized on by the *Evening Post* with a spirit of prevarication and deceit, by no means uncommon in that paper.

We have now to narrate the transactions which gave rise to the letter itself, and it will for this purpose be necessary as an act of justice to capt. Duncanson, to give some account of him, in order to correct the indecorous mention made of him in the Citizen—no man in this country can speak with more certainty, because it is the result of an acquaintance which commenced more than sixteen years since, when he held an important military command over the rich and populous country of *Coos Behar*; where he distinguished himself by shielding the native princes from the rapacity of the E. India company's civil officers; he relinquished this lucrative command, when he could no longer protect them from that rapacity, and when the government of *Cornwallis* screened the delinquent, and connived at the plunder of an unfortunate native prince. These facts are glanced at because they come within the Editor's own knowledge, and they serve to prove the honorable character of the man. He determined on his leaving India to spend the remainder of his life in the United States—and provided with ample fortune he settled at Washington city; where the goodness of his heart is universally acknowledged, and where if any evidence were wanting, the prey that has been made of his fortune by every variety of accomplished swindlers, would be a full proof. In this particular, however, he has only to complain with thousands of others—and that he has been swindled by those who have swindled in every part of the continent.

The loss of dear relatives has left Mr. Duncanson almost a solitary man; and being bred to the military profession, and feeling a generous attachment to the President of the U. S. upon the rumor of an expected war with Spain, he made a tender of his services: the particular circumstances that led to this proffer we shall now state.

Mr. Stephen Sayre on his route thro' Washington, fell in with capt. Duncanson at Duane's book store—and Mr. Sayre threw out hints of an expedition against some part of the Spanish colonies; and intimated to captain D. that col. Smith of New York knew all about it, & had the disposition or arrangement of the affair. No hint was given as to its being of a foreign nature; and the apparent hostility of the Spanish officers and troops on our frontiers at that period, and the visible outrageous hostility of the then *Spanish ambassador*, rendered it highly probable that Spain meditated a war against us; and of course that preparations on our part were matters of inevitable necessity.

In this view, and without any other clue, captain Duncanson determined to offer his services, and accordingly tendered them to the President:—the whole correspondence on the subject we now subjoin, without the omission of a single word, and we apprehend that these letters will at once prove the original mistakes of col. Platt, and the propriety of his subsequent correction of his evidence: and it will do honor, we are persuaded, to the spirited and manly views of col. Smith and captain Duncanson, and at the same time prove that there was no ground whatever in these letters for believing or even suspecting that the Executive was acquainted with any thing concerning Miranda—but on the contrary was more confident than the public generally at that time of the pacific disposition of Spain.