Congress to provide for the general defence? No. Congress are impowered "to regulate commerce with foreign nations and among the several states, and with the Indian tribes." The Embargo act is then justifiable under this power of Congress as a regulation of trade. *It is a regulation of trade.* The new interpolations not merely on the law of nations, but even the *common tyranny of power*, rendered the seamen and the shipping of the U. States in danger on the ocean. To shield them from the storm the government provided that they should remain in port. That their ships should not put to sea in the political tempest. This is as much a regulation of trade as would be the command of an owner, who apprehending a hurricane forbade his captain to put to sea. The two clauses of the constitution assist us in determining the meaning of its framers, and the legitimate powers of Congress. Agreeing to the position formerly maintained by that wise and intelligent statesman Mr. Madison, whose great political talents have long honored and benefited his grateful country, that the power of Congress to provide for the general defence gave them no authority not expressly defined, we nevertheless perceive that the last provision quoted from the constitution, as taken in connection with the former is clearly indicative of their power. Congress are to "provide for the general defence," and one among many other provisions for that purpose is the "regulation of trade." Countervailing duties, discriminating acts, *partial non-intercourse, total suspension*, are among the several "regulations of trade," often resorted to by other nations, and by which "the common defence and general welfare" of the Union is preserved. It was thought by the President and Congress to be a better mean of defence than war with its armies and its navies, its miseries and poverty.

It is objected that by the present Embargo acts the commerce is destroyed, not regulated. It is stopped—not destroyed. Its materials and their arrangement remain. It is stopped, as an artist stops a watch, the better to arrange the work and give it afterwards a more correct and equable motion.

We have before shown that the suspension of trade is not required by the constitution to be of any determinate length of time. We now proceed to refute the objection that is offered in consequence of a pretended want of limitation, by showing,

2d. *That the present Embargo acts do in their nature contain a limitation and are not permanent laws.*

That only can be considered a perpetual act, which no known power in the government can lawfully repeal; and however technical names may be impressed into the enquiry it is easy to perceive that what may be and often is of a very short duration, can by no fair use of language be called perpetual and eternal. It is conceded that some laws unless containing an express limitation of duration are perpetual, because they are of a nature not to be repealed, and can never be abrogated consistently with the principles of justice; of this nature are all grants of land, money or other valuable property, privileged charters, corporations, &c. by the making of which acts an individual or set of men acquire certain indefeasible rights, which can never be taken away, if there be no term for which they are granted; and which cannot lawfully be impaired for the term of their grant, if there is a term limited in the act. With this exception no act of the legislature can be called perpetual. Although made with all the solemnities of legislative proceeding, it is no sooner done, than the breath which created, can destroy it. Its abrogation is prevented by no moral principle and by no constitutional provision; and if the minds of the legislators should change before the ink was dry by which it was engrossed, this *perpetual* act, notwithstanding all the forms of eternal duration, which accompanied it, would expire, and the authority which enacted would now abrogate its provisions.

The American Constitution guards against the perpetuity of legislative acts with the most rigid attention. The legislature is returned from the people at short intervals of time and the President every fourth year. The authority of one Congress is no greater than its predecessors, and whatever one has enacted (with the limitations before mentioned) the latter may repeal. *This provision of the Constitution is in fact a virtual limitation of every legislative act to a period not exceeding two years.* UNLESS IT IS THEN RENEWED, IT MUST EXPIRE. By being renewed I do not mean that the bill must be read again from the Speaker's chair and put to vote; but I mean a virtual and implied assent given by Congress to its provisions, resulting from the fact of their not exercising an acknowledged power in order to repeal it. As the act is completely within their power, their adoption of its principles is as much implied by a silent acquiescence in its continuance, as was that of the Congress enacting it, by discussing and adopting it. This Embargo act of the American legislature requires the assent of the next legislature either express or implied, and the requisition amounts to a two years limitation at furthest, and entirely destroys the idea of a perpetuity to the act.

The idea that an act without any limitation in the body of it, was a perpetual act, undoubtedly arose from the ancient parliaments of Great Britain, who, before the reign of William and Mary, were limited in their session, only by the pleasure or the death of the king. Of course so long a time intervened between the acts of one legislature and an appeal by the people to the next, that the edicts of the first might well be considered perpetual acts: and if our legislature when chosen for two years, like the English parliament, when chosen for three, could vote themselves into office for seven, there could be little doubt of the propriety of supposing that their acts might be perpetual. Had we an hereditary House of Lords never to be changed—or a king, who in contemplation of law never dies, the same result might be formed. The act would then be perpetual—But in the ever changing formation of an elective republican legislature, the same assertion cannot be made. An act of the American legislature is permanent and perpetual, when it is of a nature that can never be repealed. It is of this nature when it vests an interest absolutely and without any limitation. An act *is not perpetual*, which will expire at a given and fixed period; or which is repealable at the pleasure of the sovereign power. This distinction quadrates with common understanding, and the genius of our government. It is consistent with the uniform rules of legislation. Congress have power to declare war and to make peace. The declaration of war must be a legislative act. It would be worse than folly to limit the war to a day certain. The act would proclaim the United States to be at war precisely as it laid the Embargo. According to the argument of the opposition the country would be engaged in a *perpetual* war. Bidding a final farewell to the comforts of civilized life, the citizens of the United States would become the Spartans of modern times, and live forever by the carnage and misery of war!! Futile and ridiculus presumption!

Suppose however, what would certainly after some years be true, that both parties should incline to peace—an arrangement and treaty is made; and a legislative act, in the common language of such instruments, proclaims *a perpetual peace* with a nation on whom before they had waged a *perpetual* war! Is there any one foolish enough to suppose that this peace would be perpetual? Instances need not be multiplied; the statute book is full of examples of acts passed in the same form with the embargo, and repealed by the same or a succeeding Congress. To say, that what is repealable is perpetual, is a solecism in language; as well might it be said that what is mortal is eternal.

We say nothing of the power given by Congress to the President to suspend the act. It is so perfect a limitation of the act to the continuance of the causes by which it was produced that no man, with his senses, could possibly deny it. In consequence, petitions have been forwarded by the most turbulent of the opposition to beg of the President a suspension of an act, which with most ludicrous inconsistency they proclaim to be perpetual. From this view of the subject the embargo, heretofore shown by able writers in the Intelligencer to be wise and expedient, is clearly seen to be a *constitutional act of the government.*

FRANKLIN.

ORDERS IN COUNCIL.

The Lords of the Committee of Council for Trade and Foreign Plantations, having authorised us to make public the following Answers to certain Questions proposed by us to their Lordships, we publish them for the information of all whom they may concern:—

THOS. BARING,
A. GLENNIE,
THOS. MULLETT.

London, 15th August.

QUESTION.

1. His Majesty's order in Council of the 4th July, 1808, having ordered, that all hostilities against Spain on the part of his Majesty shall immediately cease, and that the Blockade of all the Ports of Spain, except such as may be still in possession, or under control of France, shall be forthwith raised?

Can an American vessel proceed from a port in the United States of America, with a cargo, the produce of the United States, or colonial produce, direct to any port of Spain or Portugal, not being in the possession of the enemies of Great Britain, and return back to a port in the United States direct, with a cargo the growth or produce of Spain or Portugal, without being liable to capture and condemnation, under the Orders of Council of the 11th and 25th of November, 1807, and the several Acts of Parliament passed to carry them into effect?

ANSWER.

American vessels may proceed from a port in the United States of America, with a cargo, the produce of the United States, or colonial produce, provided such produce be not the produce of the enemy's colonies, direct to any port of Spain or Portugal; such port not being in the possession or under the control of the enemies of Great Britain, and return back to a port in the United States direct, with a cargo, the growth or produce of Spain or Portugal.

QUESTION.

Can an American vessel, having entered a port in Spain previous to the commencement of hostilities by the Patriots against the enemy, proceed from such port with a cargo, the growth and produce of Spain, direct to a port in the United States, without being liable to seizure and condemnation as above?

ANSWER.

An American vessel having entered a port in Spain, previous to the commencement of hostilities by the Patriots against the enemy, may proceed from such port with a cargo, the growth and produce of Spain, direct to a port in the United States, without being liable to seizure and condemnation as above, unless the vessel entered in breach of the Orders in Council.

A letter from London, received by the Montezuma, states that Col. Burr, had an interview with the British ministry, on the subject of his visit to England, but that he had completely failed in his object. This object is stated to have been to make an arrangement with Gen. Miranda, for another attack upon South America. The insurrection in Spain, however, it is added, has rendered the execution of this project unnecessary.

Charleston Courier.

Charleston, Sept. 29.

We are informed, by competent authority, that Wm. Loughton Smith, esq. has declined offering himself as a candidate at the ensuing election as a member of Congress, in opposition to Mr. Marion. We therefore have every reason to believe that all the friends of that gentleman will support Mr. Marion. As it is now well established that Mr. Smith has generally approved of the late measures of the administration, and considered the Embargo as the best thing that could have been done at the time it was laid on, it cannot but be believed that the opinions of such an able statesman will weigh forcibly with all those who have heretofore confided in his opinions, & if any of them are still in opposition to the government, they will feel it their duty to desist and follow the patriotic example he has set them.

Extract of a letter from Brownville to a respectable merchant in Albany, dated Sept. 23.

"A circumstance happened on the lake this week, about 15 miles above the harbor, at a place called Sandy Creek, within Macey's district, that has alarmed the people considerably. Mr. Handford obtained a clearance from Macey's office, to bring 32 barrels ashes from Sandy Creek to the harbor, and had got them to the creek, over land from Rome. The collector at Oswego got information of it, and dispatched a lieutenant with a company of men, who took the ashes, which were in a barn—a boat, a swivel and pair of pistols which they found in the house, and removed them to the lake shore. The person in whose custody the ashes had been, immediately got out a warrant for the lieut for breaking open the doors. The Sheriff, supposing he might want assistance, requested the *posse comitatus* to attend him. Immediately upwards of twenty men, armed with rifles and muskets, went down to the place where the troops were encamped—the soldiers would not permit the sheriff to do his duty and he had not courage enough to call or did not call on the *posse* for assistance—the lieutenant then ordered the people to be taken into custody; part of them fled, but ten men including their capt. were taken, disarmed, put into the boats, and carried to Oswego.—The capt. was armed *cap-a-pie*—hanger by his side, and a rifle in his hand."

New-York, Oct. 8.

The ship Flora, from London, came up yesterday morning. She left Falmouth on the 24th of August. A commercial friend has favored the Editor of the *Mercantile Advertiser* with a file of the "Courier" to the 19th, from which the subjoined articles are copied.

London, August 15.—By private advices from Holland, down to the 10th inst. it appears that the Dutch view with great apprehension the expected rupture between the Austrian Emperor and Bonaparte, as they suppose that the latter will enforce a conscription for his armies in that country. All these advices concur in stating, that the utmost activity prevails in the Austrian dominions, and that the army is, as we before stated on the best authority, on an excellent footing. The Archduke Louis, who is inspector of the frontiers, has recently visited the whole of those frontiers, accompanied by engineers and other officers of known experience. It is strongly reported that the movements of the court of Vienna, are entirely in conjunction with those of the Russian Cabinet.—As a proof that the Corsican despot views these movements with an eye of jealousy, it is said, that the old expedients of interception and murder have been put in force by the French government, and that a Russian Courier who was sent from Prince Woronsky, at Paris, to St. Petersburgh, with dispatches, was way-laid in the department of La Meurre, and assassinated. The dispatches were, of course, secured by the French ruffians. A similar attempt was made to intercept an Austrian messenger, from Vienna to Baron Vincent, but this messenger fortunately escaped, though not without being severely wounded.

AUGUST 16.

The dispatches from Sir Charles Cotton announcing the landing of Sir Arthur Wellesley, were brought by Mr. Basilico, the messenger. He had been sent with dispatches to Sir Arthur at Cork, but the general had sailed from thence before he reached Cork. Basilico therefore proceeded after him to the coast of Spain.

Sir Arthur, as we stated yesterday, landed at Figueira on the 1st.—By an article, however, from Coimbra, in the Coimbra Gazette of the 28th ult. it appears that he appeared off Figueira on the 26th. Baffling winds, however, we suppose, prevented him from landing sooner than the 1st. As soon as the artillery and every other necessary had been landed, the general began his march for Lisbon. Private accounts describe the joy with which the troops were received by the Portuguese as excessive. As the boats advanced to the shore, acclamations from the people upon the beach rent the air, and nothing was heard but blessings upon the name of G. Britain, the deliverer of the oppressed. Yesterday evening the following Bulletin was exhibited in the city:—

"Mr. Basilico arrived this morning from off the Tagus, which he left on the 3d inst. Gens. Wellesley and Spencer had formed a junction, and landed all their troops.

"A summons had been sent to Junot, who had proposed to capitulate on certain conditions, which, however, his brother-officer, General Laborde, would not consent to.

"The Portuguese were in arms, & had joined the British in great numbers.

"Junot had not been able to correspond with France for three weeks."

The above bulletin was not, we believe, circulated by the authority of government. The substance of the intelligence, which government had received, we published in our paper of yesterday. It stated that sir Arthur effected his junction with gen. Spencer on the 3d.

A mail from Gottenburgh arrived this morning. So far from Buxhowden having beat the Swedes, it is reported that the latter with an inferior force have gained a victory over the former.

Extract of a letter from Stockholm, dated 30th July, 1808.

"There is a report here that the Swedes under Klingspor have defeated the Russians near Luppo, between the 18th and 19th inst. The Swedes were only 3800 strong, and the Russians 6000. The Swedes lost in killed upwards of 20 officers. It is said to have been a bloody affair. Klingspor could not avoid giving battle for fear of being cut off."

Another expedition is about to sail from Cork. The following information respecting it is from the Cork paper of the 10th instant:

Cork, August 10.

Lieut. General sir David Baird and brigadier general Slade, are expected in town to join the expedition prepared to sail from Cove,

August 11. Murat it appears has resigned to Bonaparte the Grand Duchy of Berg. This resignation was probably made as a preparatory step to his being made king of Naples. We should think, however, that the recent occurrences in Spain would rather tend to embarrass this arrangement.

The captain of an American vessel which arrived at Deal yesterday from Holland, states that the Austrian and Russian ambassadors had been recalled from the Dutch court previous to his sailing. We give this report, as it has reached us, without pledging ourselves for its authenticity.

ST. PETERSBURGH, JULY 9.

"The following Ukase has appeared here—

"The Imperial chamber of commerce hereby makes known to the merchants belonging to the port of St. Petersburgh, that no merchant ships with Russian produce, belonging to any nation whatever, shall sail from those ports of the Baltic which are blockaded by the English or Swedes, so long as the blockade continues."

August 19.

The captain of a vessel which arrived yesterday from the Elbe, which he left on the 8th inst. states, that the whole of the French force had evacuated Berlin by the 15th ultimo, and had taken a direction towards Silesia.

Copenhagen, July 26.—The intelligence of a rupture between Sweden and England is now fully confirmed. The King of Sweden has set out for Finland.

Vienna, July 23.—It is rumored, that a courier from Trieste has brought advice, that the American ships which were lying there being disposed to set sail, a protest was taken by the parties interested against their departure, and that this proceeding occasioned some disturbances, which however were completely appeased by the presence of his imperial highness the Archduke John. Mercantile letters from the place to the 20th inst. make no mention of this affair.

MARRIED, at Sweet Air, the Residence of Mrs. Carroll, on the 6th inst. by the Rev. Mr. Beeston, DANIEL CARROLL, Esq. of Duddington, to MISS ANN BOYCE.

A CRAFT FOR SALE.

WILL be sold by Public Auction, for cash, on THURSDAY next the 13th instant at 11 o'clock in the forenoon at LAIRD'S WHARF in Georgetown, a SCHOONER, about 32 1-2 tons burthen. She is well calculated to carry WOOD: draws only 3 1-2 feet when loaded and carries about 20 CORDS.

October 12—1t

PUBLIC SALE.

BY Order of the Orphan's Court of Calvert county, the subscriber will offer at Public Sale, at "*Gods Graces Levels*," in Calvert county, the late residence of Mrs. Rebecca Mackall, deceased, on THURSDAY the 10th day of November next or the first fair day after, the *HOUSEHOLD FURNITURE, Plantation Utensils, stock of Horses, Cattle, Sheep & Hogs*, of the said Rebecca Mackall; and also a number of *Law Books* and other *Books*. The sale will be on a credit of six months, the purchaser giving bond with security, and will commence at 9 o'clock in the morning and continue from day to day if necessary.

RICHARD POTTS, Adm'r. of
Mrs. Rebecca Mackall.

Calvert county, October 12—w3t

UNITED STATES PATENT
FOR THE IMPROVED
LIFE BUOY OR SEAMAN'S FRIEND.

A PATENT having been granted by the President of the U. States of America, for the "Improved Life Buoy or Seaman's Friend, the public are respectfully informed that they may be accommodated with this highly useful machine at the shortest notice and very reasonable. Their utility must be generally allowed, and it is hoped now that they may be had in this city, *American Manufactured.* The lives of many may be saved, which for want of such precaution are untimely launched into eternity, to be lamented by their families and friends. Their power is so great that it is impossible for the wearer to sink, and if in danger of their vessel being wrecked a man may have it on and not be hindered from working at any thing. The subscriber flatters himself that their utility is too well known to all those who are any ways connected with the waters to need any commenting on. Orders from any part of the United States, (post paid) will meet with punctual attendance by

WILLIAM FLOWER,
General Commission Agent, No. 58,
Walnut street Philadelphia.

October 12—

FOX's NEW HISTORICAL WORK.

Just received from Philadelphia, the History of the Early Part of the Reign of JAMES II.—by the Right Hon. Charles James Fox,

With an Appendix, containing the correspondence between Louis XIV. and M. Barrillon on English affairs, and other original and important papers—Published by Birch & Small, Philadelphia, and for sale by J. MILLIGAN Georgetown, D. RAPINE and R. C. WEIGHTMAN, Washington city, and J. KENNEDY, sen. Alexandria.

Price in Boards 2 Dolls. 50 Cents, and Bound 3 Dolls.

September 26—6t