

MAY 1787.
THE
HAMPSHIRE GAZETTE.

WEDNESDAY, MAY 23, 1787.

NORTHAMPTON: PRINTED BY WILLIAM BUTLER, A FEW RODS EAST OF THE COURT-HOUSE.

The following CIRCULAR LETTER has been transmitted by the UNITED STATES, in CONGRESS assembled, to the GOVERNORS of the respective States.

OUR Secretary for foreign affairs, has transmitted to you copies of a letter to him from our minister at the court of London, of the 5th day of March, 1786, and of the papers mentioned to have been inclosed in it.

We have deliberately and dispassionately examined and considered the several facts and matters urged by Britain as infractions of the treaty of peace on the part of America, and we regret that in some of the States too little attention appears to have been paid to the public faith pledged by the treaty.

Not only the obvious dictates of religion, morality and national honour, but also the first principles of good policy, demand a candid and punctilious compliance with engagements constitutionally and fairly made.

Our national constitution, having committed to us the management of the national concerns with foreign States and powers, it is our duty to take care, that all the rights which they ought to enjoy within our jurisdiction by the laws of nations and the faith of treaties, remain inviolate, and it is also our duty to provide, that the essential interests and peace of the whole confederacy be not impaired or endangered by deviations from the line of public faith, into which any of its members may, from whatever cause, be unduly drawn.

Let it be remembered, that the thirteen independent foreign States, have, by express delegation of power, formed and vested in us a general though limited sovereignty, for the general and national purposes specified in the confederation. In this sovereignty they cannot legally participate (except by their delegates) nor with it have current jurisdiction; for the ninth article of the confederation most expressly confines to us the sole and exclusive right and power of determining on war and peace, and of entering into treaties, and alliances, &c.

When therefore the treaty is conditionally made, ratified and published by us, it immediately becomes binding on the whole nation, and superseded to the laws of the land, without the intervention or fiat of State legislatures. Treaties derive their obligation from being compacts between the sovereign of this and the sovereign of another nation; whereas laws or statutes derive their force from being acts of a legislature competent to the passing them. Hence it is clear, that treaties must be implicitly received and observed by every member of the nation; for as State legislatures are not competent to the making of such compacts, or treaties, so neither are they competent in that capacity, authoritatively to decide on, or ascertain the construction and sense of them. When doubts arise respecting the construction of State laws, it is not unusual nor improper, for the State legislature, by explanatory or declaratory acts, to remove those doubts; but the case between laws and compacts, or treaties, is in this widely different; for when doubts arise respecting the sense and meaning of a treaty, they are so far from being cognizable by a State legislature, that the United States, in Congress assembled, have no authority to settle and determine them: for as the legislature only, which constitutionally passes a law, has power to revise and amend it, so the sovereign only, who are parties to the treaties, have power, by mutual consent and posterior articles, to correct or explain it.

In cases between individuals, all doubts respecting the meaning of a treaty, like all doubts respecting the meaning of a law, are, in their instance, mere judicial questions, and are to be heard and decided in the courts of justice, having cognizance of the causes in which they arise, and whose rules and maxims established by the laws of nations for the interpretation of treaties. From these principles it follows of necessary consequence, that no individual State has a right, by legislative acts, to decide, and point out the sense in which their particular citizens and courts shall understand this or that article of a treaty.

It is evident that a contrary doctrine would not only militate against the common and established maxims and ideas, relative to this subject,

but would prove no less ludicrous in practice, than it is irrational in theory; for in that case, the same article of the same treaty might, by law, be made to mean one thing in New-Hampshire, another thing in New-York, and neither the one nor the other of them in Georgia.

How far such legislative acts would be valid and obligatory, even within the limits of the State passing them, is a question which we hope never to have occasion to discuss. Certain, however, it is, that such acts cannot bind either of the contracting foreigners, and consequently cannot be obligatory on their respective nations.

But treaties, and every article in them, be (as they are and ought to be) binding on the whole nation; if individual States have no right to except some articles and reject others, and if the impropriety of State acts to interpret and decide the sense and construction of them be apparent; still more manifest must be the impropriety of the State acts to control, delay or modify the operation and execution of these national compacts.

When it is considered, that the several States, assembled by their delegates in Congress, have express power to form treaties, surely the treaties so formed are not afterwards to be subject to such alterations as this or that legislature may think expedient to make, and that too without the consent of either of the parties to it. That is, in the present case, without the consent of all the United States, who, collectively, are parties to this treaty on the one side, and his Britannic Majesty on the other. Were the legislatures to possess, and to exercise such power, we should soon be involved as a nation, in anarchy and confusion at home, and in disputes which would probably terminate in hostilities and war with the nations with whom we may have formed treaties. Infrances would then be frequent of treaties fully executed in one State, and only partially executed in another; and of the same article being in one manner in one State, and in a different manner, or not at all, in another State. History furnishes no precedent for such liberties taken with treaties under form of law in any nation.

Contracts between nations, like contracts between individuals, should be faithfully executed, even though the sword in one case, and the law in the other, did not compel it. Honest nations, like honest men, require no constraint to do justice; and though impunity and the necessity of affairs may sometimes afford temptations to pare down contracts to the measure of convenience, yet it is never done but at the expense of that esteem, and confidence and credit, which are of infinitely more worth than all the momentary advantages which such expedients can extort.

But although contracting nations cannot, like individuals, avail themselves of courts of justice to compel performance of contract; yet an appeal to heaven and to arms is always in their power, and often in their inclination.

But it is their duty to take care that they never lead their people to make and support such appeals unless the sincerity and propriety of their conduct affords them good reason to rely with confidence on the justice and protection of heaven.

Thus much we think it useful to observe in order to explain the principles on which we have unanimously come to the following resolution, viz.

Resolved, That the Legislatures of the several States cannot of right pass any act or acts, for interpreting, explaining or construing a national treaty, or any part or clause of it; nor for restraining, limiting or in any manner impeding, retarding or counteracting the operation and execution of the same; for that, on being constitutionally made, ratified and published, they become, in virtue of the confederation, part of the law of the land, and are not only independent of the will and power of such legislatures, but also binding and obligatory on them.

As the treaty of peace, so far as it is a law to the United States which cannot by all or any of them be altered or changed, all State acts establishing provisions relative to the same objects which are incompatible with it, must in every point of view be improper; such acts do nevertheless exist; but we do not think it necessary either to enumerate them particularly, or to make

them severally the subject of discussion. It appears to us sufficient to observe and insist, that the treaty ought to have full course in its operation and execution, and that all obstacles, interposed by State acts be removed. We mean to censure with the most scrupulous regard to justice and candour towards Great-Britain, and with an equal degree of delicacy, moderation and decision, towards the States who have given occasion to these discussions.

For these reasons we have in general terms Resolved, That all such acts, or parts of acts, as may be now existing in any of the States, repugnant to the treaty of peace, ought to be forthwith repealed; as well to prevent their continuing to be regarded as violations of that treaty, as to avoid the disagreeable necessity of their being otherwise the subject of a difficult and dangerous question touching their validity and obligation.

Although this resolution applies strictly only to such of the States as have passed the exceptionable acts alluded to, yet to obviate all future disputes and questions, as well as to remove those which now exist, we think it best that every State without exception, should pass a law on the subject. We have therefore, Resolved, that it be recommended to the several States to make such repeal rather by describing than reciting the said acts; and for that purpose to pass an act, declaring in general terms that all such acts, &c. parts of acts repugnant to the treaty of peace between the United States, and his Britannic Majesty, or any article thereof, shall be, and thereby are repealed; and that the course of law and equity in all cases and questions cognizable by them respectively, and arising from or touching the said treaty, shall decide and adjudge according to the true intent and meaning of the same; any thing in the said acts or parts of acts to the contrary thereof notwithstanding.

Such laws would answer every purpose, and be easily formed. The more they were of the like tenor throughout the States the better. They might each recite, Whereas certain laws or statutes made and passed in some of the United States, are regarded and complained of as repugnant to the treaty of peace with Great-Britain, by reason whereof not only the good faith of the United States, pledged by that treaty, has been drawn into question but their essential interests under that treaty greatly affected. And whereas justice to Great-Britain, as well as regard to the honour and interests of the United States, require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do or may be continued to proceed from the laws of this State, be effectually removed. Therefore, Be it enacted by the authority of the same, that such of the acts or parts of acts of the legislature of this State, as are repugnant to the treaty of peace between the United States and his Britannic Majesty, or any article thereof, shall be, and hereby are repealed. And further that the course of law and equity within this State, be, and hereby are directed and required in all cases and questions cognizable by them respectively, and arising from or touching the said treaty, to decide and adjudge according to the tenor, true intent and meaning of the same, any thing in the said acts or parts of acts, to the contrary thereof, and in any wise notwithstanding.

Such a general law, would, we think be preferable to one that should minutely enumerate the acts and clauses intended to be repealed: because omissions might accidentally be made in the enumeration, or questions might arise, and perhaps not be satisfactorily determined, respecting particular acts or clauses, about which controversy might be entertained. By repealing in general terms all acts and clauses repugnant to the treaty, the business will be turned over to its proper departments, viz. The Judiciary and the courts of law will find no difficulty in deciding whether any particular act or clause is or is not repugnant to the treaty. Besides, when it is considered that the judges in general, are men of character and learning, and feel, as well as know the obligations of office, and the value of reputation, there is no reason to doubt that their conduct and judgment relative to these, as

towns in this State have resolved not to send any representatives to the ensuing General Court. Among the number are Canterbury, Epping and Lee. Their reasons for so doing we have not been fully able to ascertain; but from what we can collect, they principally centre in this—that the Legislative body is too large—that all the good members do, to use their phrase, is “to sit on their bottoms, and eat up the provisions,” and that they only serve to increase the expences of the State without contriving any means to lessen them.

A correspondent from Dover informs, that the inhabitants of that town, at their late meeting for the choice of town officers, reposing special trust and confidence in the abilities & good conduct of the “gentlemen of the order,” resident in that town, have made choice of them to serve as hogreeves. The hogs, adds our informant, are very uneasy at this unexpected appointment, and give over all thoughts of future liberty.

NEWPORT, April 19.
A correspondent requests us to publish the following lists of votes in this town for general officers, as it will evince to the good people of this and our sister States, that there is a large, and we can truly say, a respectable majority here against our present administration and their astonishing measures.

For Governor.
William Bradford, Esq. 281
John Collins, Esq. 13

Commonwealth of Massachusetts.
In the House of Representatives, April 28, 1787.

WHEREAS some of the commissioned Officers of the Militia of this Commonwealth, have entered on the business of their offices, having taken but not subscribed the declaration and oaths prescribed by the Constitution. And whereas doubts have arisen respecting the validity of the doings of those officers in their military capacity:

Therefore Resolved, That the doings of those officers in their said capacity, as far forth as they have been conformable to the duties of their several offices, be, and they hereby are established as legal and valid, the formal deficiency aforesaid notwithstanding. Provided those officers shall subscribe the declaration and oaths prescribed by the constitution, on or before the first day of June next ensuing.

Sent up for concurrence.
ARTEMAS WARD, Speaker.
In SENATE, April 30, 1787.

Read and concurred.
SAMUEL PHILLIPS, jun. President.
By the Governor,
Approved.

JAMES BOWDOIN.
True Copy. Attest.
JOHN AVERY, jun. Secretary.

Commonwealth of Massachusetts.
In the year of our Lord one thousand seven hundred and eighty-seven.

AN ACT for repealing any Acts, or parts of Acts heretofore passed by the Legislature of the Commonwealth, which may militate with, or infringe the Treaty of peace, entered into by the United States of America, and Great-Britain.

WHEREAS certain laws or statutes, made & passed in some of the United States, are regarded, and complained of as repugnant to the treaty of peace with Great-Britain, by reason whereof not only the good faith of the United States, pledged by that Treaty, has been drawn into question, but their essential interests, under that Treaty, greatly affected. And whereas justice to Great Britain, as well as regard

to the interest of the United States, require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do or may be continued to proceed from the laws of this Commonwealth, be effectually removed; Therefore,

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That such of the Acts, or parts of Acts, of the Legislature of this Commonwealth, as may be repugnant to the Treaty of peace between the United States and his Britannic Majesty, or any article thereof, and to the said treaty, and any article thereof, and to the said treaty, and any article thereof, shall be, and are hereby repealed: and further that the Courts of law and equity within this Commonwealth be, and they hereby are directed and required, in all cases and questions cognizable by them respectively, and arising from our touching the said Treaty, to decide and judge according to the tenor, true intent and meaning of the same, any thing in the said acts or parts of acts, to the contrary thereof, in any wise, notwithstanding.

In the House of Representatives, April 30, 1787.

This bill having had three several readings, passed to be enacted.
ARTEMAS WARD, Speaker.

In Senate, April 30, 1787.
This bill having had two several readings, passed to be enacted.
SAMUEL PHILLIPS, jun. President.
By the Governor. Approved.

JAMES BOWDOIN.
True Copy. Attest.
JOHN AVERY, jun. Sec'y.

Commonwealth of Massachusetts.
In Senate, April 30th, 1787.

Resolved, that all accounts, for supplies which belong to the department of the Commissary-General, furnished by the Selectmen of Towns or other persons, for the troops that have been employed for suppressing the late Rebellion, be adjusted, liquidated and paid by Richard Doreen, Esq; Commissary-General; and that all supplies and transportation furnished as above, belonging to the department of the Quarrier-Master-General, be also adjusted, liquidated and paid by Amasa Davis, Esq; Quarrier-Master-General.

And whereas many of the accounts aforesaid, have charges against both departments, which cannot be separated without putting those who present them to insupportable difficulties.

Therefore, Resolved, That the said Commissary-General, & Quarrier-Master-General, keep their Offices contiguous while transacting said business, and that they conduct the settlement of those accounts in such manner as shall be attended with the least difficulties to the persons who present them, and also preserve each his accounts separate, and clear, with proper vouchers for their settlement.

Sent down for concurrence,
SAMUEL PHILLIPS, jun. President.
In the House of Representatives, April 30, 1787.
Read and concurred.

ARTEMAS WARD, Speaker.
Approved.
JAMES BOWDOIN.
True Copy. Attest.
JOHN AVERY, jun. Sec'y.

B. PRESCOTT,
HAVING enlarged his Wool-Card manufactory, is now able to supply his customers with all kinds of Wool Cards as cheap as they are sold in America.

Northampton, April 17, 1787.

OHIO Adventurers.
THOSE who wish to be with the first, from which many advantages will accrue, may have an opportunity if they apply soon, at Messrs. Prescott and Dexter's Store in Northampton, where the subscription papers and articles of association are lodged.

April 25, 1787.

ALL Persons indebted to, or having any demands on the estate of JOSEPH MONTAGUE, late of Granby, deceased, are desired to bring in and exhibit their claims immediately to the subscriber, who is fully authorized to take care of the same.
JOHN MONTAGUE, Administrator.
Granby, April 23, 1787.

A new T A X proposed.
Professed cold is at once the most disagreeable and obnoxious being in the world. She not only renders herself completely disagreeable, but casts a general stigma on her sex; and I will venture to say, there are many old bachelors, who would have long since entered into the state of wedlock, had they not been deterred from it by some female relation or acquaintance, whose great talents in this way made them fear they might meet with such a wife whose genius was of the same turn. The maidens and widows of this country have a just plea to petition for the transportation of every professed vixen; or, if this should be thought too severe they should at least be taxed to silence them, though probably they might scold the more for it. I know a very ingenious old gentleman, who never had the courage to engage in matrimony, and gives it as his opinion, that the many bachelors every where to be found remain so, more through fear of being scolded to death than from any mercenary cause, or far less for any real disposition to celibacy. He has furnished me with the hints of taxing the race of shrews, having put into my hands the following proportion, which he thinks very reasonable:

Scolding every morning, 13l. per an.
Twice a day, 15
Three times, 20
Every other day, 5
Once a week if not Sunday, 2 10
Scolding a husband into a

consumption, the jaundice, 50
or any other lingering disorder,
Scolding herself into hysterics, 000

This calculation is made for a woman who brings 1000l. to her fortune, which indeed my friend says, is the least portion a vixen should have; so that the penalties should be proportionably augmented to the increase of this fortune.

ANTI-VIXEN.

From the PORTLAND GAZETTE.
Who's findeth a wife, findeth a good thing.—
O SOLOMON, SOLOMON—little didst thou think what mischief this same proverb of yours was like to bring upon your reputation. Half the husbands of Massachusetts, at least, are at variance with you for it.

The first three or four weeks after marriage, husbands will read it perhaps with a good relish, shut up the book, smile upon spoufy, say that the wife man was right, and that she is a good thing.—Some months elapsed, and a few cross-gained sentences exchanged, the husband will peruse the same passage doubtfully.

Solomon might be a good man, he will say, but, asking his pardon, he must be mistaken in this particular: Wives, if they are all like mine, may not prove to be the good things he tells of. But hear him when a year hath expired, and he will read this proverb (if he reads it at all) with all the ill nature peculiar to his situation. He will swear that Solomon was a fool; that he knew nothing about it. He will acknowledge, that a good thing might be found among Solomon's regiment of wives; yet to be obliged to take them one at a time, as is now a-days the fashion—Who's findeth a wife, findeth a miserable thing.

This is the language of many husbands; but not of all. Some are yet of the wife man's opinion.—I will enquire who these are, and tell you next week.

TRIM.

PORTSMOUTH, April 14.
We hear from the country, that several