

of a quarter before the services were rendered, would create a demand at a time when there might and possibly there would not be a single shilling in the Treasury arising out of the appropriations to satisfy it."

It is not pretended, that there is an established right in the effects to claim their salaries by anticipation, at the beginning of a year, or at the beginning of a quarter—No such right exists. The performance of the service must precede the right to demand payment. But it does not follow that because there is no right in the effects to demand payment, it may not be allowable for the Treasury to advance upon account for good reasons. A difference of this sort in the head of the department can at least involve no embarrassment to the treasury, none of the formidable evils indicated for the officer who makes the advance being himself the judge whether there is a competent fund, and whether it can be made with convenience to the treasury—he will only make it, when he perceives that no evil will ensue.

Let me recur to the example of advances to contractors for supplying the army. Suppose that in the terms of contract certain advances were stipulated and made—but it turned out nevertheless, that the contractor, disappointed in the funds on which he had relied, could not execute his contract without further advances.—Here there would be no right on his part to demand such further advances, but there would be a distinction in the Treasury to make them.—This is an example of a difference to the extent of this.

The existence of this difference can do no harm, because the head of the treasury will judge whether the date of its

permits the required advances. But it is essential, that the difference should exist, because otherwise there might be a failure of supplies, which no plan that could be substituted might be able to avert.

Yet the difference is in neither case an arbitrary one—it is one which the head of the Department is responsible to exercise with a careful eye to the public interest and safety. The abuse of it, in other words, the carelessness and wanton exercise of it would be a cause of disaffection for incacity or of punishment for mal conduct.

That advances on account of salaries, or to contractors for procuring public supplies might be carried so far, and so improvidently managed, as to be highly culpable and duly punishable; but this is a distinct question from the violation of Constitution or law; in all the cases, it is a complete answer to the objection of encumbrance to the Treasury, that not the will of the parties, but the judgment of the head of the department, is the rule and measure of the advances, which he may make, within the bounds of the sums appropriated by law.

I consider the law, which has been cited with regard to the pay of the army, as a legislative recognition of the rule of practice at the Treasury. The Legislature could not have been ignorant that it was impracticable to collect the money of one year to convey the money to the army; to fulfil their injunction, without an advance from the Treasury before the pay became due. They pre-suppose a right to make this advance, and enjoin that the troops shall not be left more than two months in arrears.

The origin of this law enforces the observation. It is known that it is passed in consequence of representations, that the pay of the army was left too long in arrear, and it was intended to quicken the measures of payment. No person in either house of the Legislature, I believe, doubted that there was power to precede the service by advances, so as to render the payment even more punctually than was enjoined.

Indeed such advances, when the army operated at a distance, were necessary to fulfil the contract with it. Its pay became due monthly, and in strictness of contract was to be made at the end of each month, a thing impossible unless advanced from the Treasury before it became due. No special authority was however given for this purpose to the Treasury, but it appears to have been left to come on the principle, that the disbursement might take place as soon as there was an appropriation, though in anticipation of the term of service.

The foregoing observations vindicate, I trust, the construction of the Treasury as to the power of making disbursements in anticipation of services and supplies, if there has been a previous appropriation by law for the object, and if the advances never exceed the amount appropriated, and at the same time evince, that this practice involves no violation of the constitutional provision with respect to appropriations.

(Remained in our next.)

P A R I S , Sept. 28.

On the 20th of September, Maastricht surrendered by capitulation, to the victorious arms of the French Republic. This acquisition was made without the loss of a single man, or the discharge of a single gun. Let me add the articles of capitulation, signed by general Pichepot, on the one part, and by the governor of Maastricht, and the Minister of the Elector Palatine on the other.

CAPITULATION OF MANHEIM.

1. The French shall be left in possession of the city and fortresses of Maastricht, with all the ammunition, magazines and artillery, until the conclusion of a peace, when they shall be restored in the same state to the Elector.

2. The garrison shall march out with their arms and baggage, within twenty four hours.

3. The Magistrates, and Ministers of Religion shall not be interrupted in the exercise of their different functions.

4. The prisoners of war shall be released on both sides.

B R I D G E - T O W N . (Barbadoes) Oct. 3.

We already know that the enemy have

I proceed to examine that clause which respects the pay of the President. It is in these words:—"The President shall at stated times receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emoluments from the United States or any of them."

I understand this clause as equivalent to the following: "There shall be established by law for the services of the President a *pecuniaria comparsis*, which shall not be increased nor diminished during the term for which he shall have been elected, and neither the United States nor any state shall allow him any emolument in addition to his periodical compensation."

This will, I think, at first sight appear foreign to the question of a *provisoria* advance by the Treasury on account of the compensation periodically established by law for his services.

The manifest object of the provision is to guard the independence of the President from the legislative control of the United States or any state, by the ability to withhold, lessen, or increase his compensation.

It requires that the law shall affix him a definite compensation for a definite time; it prohibits the Legislature from increasing or diminishing this compensation, during any term of his election, and it prohibits every state from granting him an additional emolument. This is all that the clause contains.

It is therefore satisfied as to the United States, when the Legislature has provided that the President shall be allowed a certain sum for a certain term of time, and so long as it refrains from making an alteration in the provision. All beyond this is extraneous to the subject.

The Legislature having done this, an advance by the Treasury in anticipation of the service cannot be a breach of the provision.—Tis no less an *additio al labore* by the United States.—Tis a mere advance upon account of the established periodical compensation. Will it afford a real or common pernicious warrant giving the denominations of additional compensation to the mere anticipation of the term of an establish allowance? If they will not, "plain such advances is no breach of this part of the constitution.

If the clause is to be understood literally, it leads to an absurdity. The terms are; "The President shall at stated periods receive." And again: "he shall receive within that period," &c.

His allowance is at the rate of 15,000 dollars per annum, 6250 dollars quarterly.

Suppose at the end of a year an arrear of 3000 dollars was due to him,

which he omitted to receive till some time in the succeeding year, and in the second year actually receives that balance with his full salary for the last year, 'tis plain that he would not have received in the whole more than he was allowed by law, and yet in the stated period of one year he would have received 30,000 dollars, five thousand more than his salary for the year. In a literal sense then the constitutional provision as to *actual pay* would not have been complied with; for within the first of the stated periods he could not have received the compensation allotted, and within the second of them he could have received more. In a literal sense, it would be necessary to pay the payment at the precise day: to the precise amount, neither more nor less; which as a general rule the indispensable forms of the Treasury render impossible. It follows that actual receipt and payment are not the criterion—but the absolute definitive allowance by law. An advance before hand or a payment afterwards, are equally consistent with the true spirit and meaning of this part of the constitution.

(Remained in our next.)

S T . J O H N .

NOTICE is hereby given, that the feasts of St. JOHN THE EVANGELIST, will be celebrated by the Federal Lodge, at the house of brother Edward Wright, in Chester on Friday the twenty eighth day of Dec. instant, at 10 o'clock A. M. at which time and place, the members of said Lodge, are required, and invited, thence are invited to attend. By order of the right worshipful master.

S A M U E L S T I L E S Secretary.

Chester, Dec. 3, 1797.

Broke into the incl-

ture of the subscriber, some time in Sep-

tember last, a red & white spotted swa-

pped up in two years old this season,

with a half penny coin on the upper, and

a half cent on the under side of the neck-

ext. The owner is requested to prove his

property, pay charges and take him away.

S O L O M O N S T O D D A R D .

Northampton, Dec. 5, 1797.

RICHMOND, Virginia Nov. 15.

House of Delegates.

A motion was made that the house do

concur to the following resolution:

Resolved, That this house do approve

of the conduct of Henry Taylor and

Stephen Thomas Mason, Esquires, Sen-

sors from this state in Congress of the U.

nited States, in voting against the ratifica-

tion of the treaty lately negotiated be-

tween the United States and Great Bri-

tain.

And the said resolution being read, a

motion was made to amend the same, in

the following words, to wit:

Whereas the powers granted by the

people to the continental government, and

to the state governments, are, and should

remain separate and distinct, so that nei-

ther exerce what is the others;

and this general assembly have full confidence in the public servants in each branch of the

general government.

Resolved, That the discussion of the

late treaty between the United States and

Great Britain, as ratified by the Preliminary

and Senate, is unnecessary to the house of

delegates, and ought to be avoided, and

left without a full discussion and investigation,

so that the house may be enabled to

confer with the facts.

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