THE STAR, North Carolina State Gazette.

Published, weekly, by AWRENCE & LEMAY.

TURKISH MISSION. PEECH OF MR. LIVINGSTON.

Senate of the United States, February, Las the Turkeeh Affection, in answer to Tarenell, of Firginia. [constance]

practice of appointing secret agents with our existence as a nation, and beyond our acknowledgment as such er powers. All those great men who guied in the history of our diplomacy. their career, and performed some of get agents, with full powers, Evankli s. Lee, were only commissioners; and rotisting a treaty with the Emperor of co, the selection of the secret agent eft to the ministers appointed to make easy, and accordingly, in the year 1783, Adams and Mr. Jefferson appointed has Barclay, who went to Morocco and a treaty, which was ratified by the ters at Paris

stablishment of the Federal Govern Plenipotentiaries were known as well e practice of our own country as in the ts were not on a level with messengers, restricts, or spics, to whom it has been necessary in argument to assimilate On the 30th March, 1795, in the racess e Sesate, by letters patent under the breef their President, (that President George Washington,) countersigned Secretary of State, David Hampireys, appointed commissioner plenspotentiary for cating a treaty of peace with Algiers. uctions from the President he was ards authorized to employ Joseph Don-as agent in that business. In May of year, he did appoint Donaldson, who to Algiers, and in September of the year concluded a treaty with the Dey Divan, which was confirmed by Hum-s at Lisbon, on the 28th Navember, in e year, and afterwards ratified by the t passed both houses on the 6th May

appropriating a large sum 25,0.0 dol innually, for carrying it into effect. all the attention of the Senate to all the of this case; with the previous remark the construction which it gives to the Federal Government, by the man who ed in the Convention, which made that fitation, acting with the advice and as-ace of the leading members of that body, ish from its discussion, men who had a prominent parts in every question that the truth of the control of the catified it, the House of Representatives which d it into execution, were several memot only of the Convention when it was d, but of the State Assemblies, where cussed, analysed, every hidden deought to light; every possible incon see predicted; every construction given agenuity, sharpened by opposition and feeling, could monceive; where amends were proposed to remedy apprehended where it was examined article by article. by phrase, not a word, not a syllable ng their inquisitorial scrutiny. Yet, by men, with this perfect and recent emp obligation to preserve it inviolate tithout any possible motive to make forget their duty, was this first prece without a single doubt on the mind was correct, without protest, without remark. A precedent going the full a lawless, unconstitutional usurpations g the present act out in all its parts, and e points going much beyond it. Like sent case, it was an appointment in the of a commissioner with full power to differs in this, that the Commission to Imphrey's was an original appoint-and, therefore according to the new me, more objectionable, no Minister

treaty, those powers were authenti-these were, by the signature of the t and the Great Scal of the Nation. g before been appointed to treat with Whereas, in this case, a previous on had been given by Mr. Adams, was vacated by the recall of the first and the appointment of Rhind, Offley, siddle, it went infinitely farther than giving to the Minister the authority int a substitute, and in the fac the substitute negotiated and made oty—the Minister remaining in Lisbon, maldson going alone to Algiers where ty was concluded. Mark too, that emphreys is dated only weeks after the adjournment of the Se-n March; that Donaldson was employed y; and that neither Humphreys although they of course met in the aber following, Look, sir, into the niwe lournal before you. No nomina-Hable said of Donaldson. Yet, when aly came, it was ratified—yet both passed a faw for carrying so namine treaty into effect—no squeamish at the phrase under which the appro should be made-nothing hidden transaction-the mode of its exc be agenta by whom it was effec

of, than the one we are now warned against, power, but to a Congress of powers it because in more points it contradicts the out supposed to be structly diplomatic, construction that is affirmed as the only true agents, it was feared, were to not as deput construction that is affirmed as the only true and ortho lox faith by which we may be politically saved. Ought not this practical and colemporaneous construction, even if it stood alone, to create some doubt of the doctrines we are so vehemently arged to adopt however, the first objection cannot apply, and the example of Washington, even if, in our superior wisdom, we now, for the first time, guided by new lights, find it wrong; ought it no command some little indulgence white consumation is not sent to the Senste, ought it no command some little indulgence.

Virginia than the acts which he now denoun-

ces as unconstitutional.

Will be refer again to the war conducting power, and call the treaty with Algiers an armistice? The treaty itself replies to this answer—it is a treaty of commerce as well as

But this is not an insoluted case. In the very same year, on the same day of the year, the 30th March, 1795, David Humphreys rereived another commission, by letters patent from President Washington, authenticated in the same manner, constituting him Commis-sioner Plempotentiary for negotiating a trea-ty of peace with "the most illustrious the Bashaw, Le.; da, and Governors, of the City and Kingdom of Tripoli," with like power of substitution. On the 16th February, 1796, is transferred his powers to Joel Barlow. And on the 3d Jan. 1797, Mr. Barlow made treaty with the Bashaw and his Divan; which was in like manner with the former, approved by Col. Humphreys at Lisbon, on the 10th Yebruary, 1797, and was ratified by the Senate the following Session. Here we find three Sessions, after the commission, pass before the treaty is presented to the Senate for ta confirmation, during all which, no nomina tion of either Rumphreys or Barlow was made. Surrely if a doubt had crossed the mind of the President, that mind of which the eminent characteristics were deliberation and prudence, if the shadow of a doubt had mased over it, would not the same regard for the Constitution, for which he was equally emarkable, have induced him to consult his Cabinet, to consult, as he frequently did, on other and less important occasions, the Se-nate. Sir, he had no doubts—the greatest and best, and most prudent man in the country, had no doubts. His advisers had none-the Senate had none. The House of Representatives did not hesitate, and the nation, filled with men whose minds were enlightened by continued discussions of the Constitution, approved. Yet we donbt. N.v. more, we decide, and admitting no contrariety of opinion, stigmatize that very conduct has pursued by Washington, as lawless usur pation. That great man, very soon after his, retired from office, carrying with him he benedictions of his fellow-citizens, and little suspecting that this wise and upright act of his administration would draw down on those who copied it, the reproaches we have heard. John Adams, who, besides the great share he had in forming the Constitu ion, was pre eminently qualified to judge on very question relating to foreign intercourse: the might be styled the founder of American diplomacy-John Adams succeeded him. And he, too, strange as it may appear-he. too, fell into the same fatal error, or (if the case is as clear as is supposed) was guilty of the same impardonable fault. He, too, on the 18th of December, 1798, put his signa-

are, and the great brand seal of the nation to paper, vesting Richard O'Brien, William Eaton and James Leander Cathcart, with full powers to negotiate with the Bey and Regeny of Tunis alterations in a certain treaty made in the year 1797, by Joseph Famin, who calls himself a "French merchant residing at Tunis, and Charge d'Affaires of the United States." These gentlemen make the new treaty, on the 6th March, 1799; yet neither the nomination of the French merchant, who made the first treay, (which must have been in the time of General Washington,) nor of the three other commissioners, wa ever submitted to the Senate. And it is remarkable that this last appointment was made on the 18th December, when the Senate was During the administration of the next Pre-sident, Thomas Jefferson, only one treaty with the Barbary powers (that with Tripoli,) was made; but as the negotiation was carried on by Mr. Lear, the public minister of the

United States at that place, nothing can be inferred from this transaction that bears or the question: but Jefferson's co-operation in the two appointments, which I have quo ted, by General Washington, leaves no doub of he construction of the Constitution, Here we have the practice of Washington Adams and Jefferson, uniformly the same, sanctioning every part of the conduct pursued by the present Chief Magistrate; in some instances, as I have shown, pushing the construction further than he has found it necessary to go, But this is not all: Mr. Malison comes next. If any voice can be called the gracle of the Constitution, it is his if any practice under it can be deemed void

of error or intentional wrong, it is that of the wise, the venerated Madison. What did he do? He followed precisely the route in which his predecessors trod. In the year 1815, hostilities having been commenced by Algiers, he commissioned William Shaler and the gallant & lamented Decauer, to negotiate with them. They concluded a treaty on both the United States ship Guerriere. But never nominated them to the Schale; yet the treaty, like the others, was ratified by the Senate in the acceeding session, without a question as to their right to co-operate in the appointment. He it was, too, who, in the recess of the Senate, sent the commission

which made the treaty of peace with Great Again: difficulties having arisen as to the Again dimentices having arisen as to the obliged to interchange with the minis-execution of the treaty with Algiers, another commission was issued on the 24th of An-gust, 1816, to William Shaler and Isaac Clistinger, who renewed the former treaty, with streations, on the 23d December, of the done, mere instructions would have in ignorance of the appointment, until the treaty was sent to their for radification. This is the last treaty with any of the powers professing the Mahometan faith, prior to the one that has given rise to this discussion. And in formor this, the President, with the objection was to an appointment of a whom we had none before, without sub-peculiar nature—a mission not to a particular mitting the nomination to the Senate—

ought that to command some little indulgence for those who follow it!

Will it be said that this example does not apply? Let the difference be pointed out; and where they differ the example set by Washington will be found more at war with the principles taid down by the Senator from it, must be permitted to think it passing the principles taid down by the Senator from it, must be permitted to think it passing it, must be permitted to think it passing strange that it never before occurred to one single individual who has ever express opinionion the subject, as far as my limited information goes. There are two other Presidents, whose acts and opinious on this subject we have to ex

amine, in order to complete the series. On Mr. Monroe's accession to the Presi dency, he found our peace encured with the Barbary powers; he had, therefore, no com missioners to appoint to them; but he had participated, as the head of the Department of State, in those which had been sent by Mr. Madison: and we may, therefore, fairly sup pose, that, if the occasion had offered, be rould have followed the same course. But during his administration, and that of his suc cessor, it was found convenient in the exer cise of the same constitutional right of making treatics, to employ other agents than "Am bassadors or public Ministers," to form trea-ties with European and Christian powers, a had been formerly done with the Mahometan states of Africa. Differences had existed ever since the treaty of 1802, with Spain, no only of boundary, but on account of cisins to a vast amount. The settlement of the di ding line between the United States and Mexico, would take from or add to our terri tory an extent sufficient for the establishmen of several states. And the acquisition of Flo rida had always been considered as a matte of primary importance. If, then, the magni tude and importance of the objects; if the rank and dignity of the party, required that the negotiation should be conducted by pub ic ministers, and that their appointmen should be confirmed by the Senate, here was the case. Here was not even the plea of the

recess. For during the session of Congress in 1818-19, Mr. Monroe gave to Mr. Adams plenipotentiary powers to treat with the Minister of Spain, and make a settlement of all these important matters. He give these powers by commission under the great seal. He never communicated the appoint ment to the Senate, although they were in session. The negotiation was carried on in the very place where they sat, and was concluded before they adjourned, by a treaty, which purchased the two Floridas, settled our boun dary, by abandoning our claims to the im-mense extent of country between the Rio de Norte and the sabine; and made u charge or our treasury of five millions of dollars. Yet sir, this treaty was ratified by the Senate, and not one word of reprobation, not an accenof doubt uttered, as to the irregularity of the commission by which it was negotiated, and both houses concurred in passing laws for car-

rying it into execution.

Again; when Mr. Adams came to the pre sidency, he, in like manner, in the year 1826, commissioned Mr. Clay to treat of and conclude a treaty of commerce and navigation with the Minister of Denmark, which treaty was signed on the 26th April, in the same ear, during the utting of the Senate, and like manner ratified by them, although the appointment of Mr. Clay was never made known to the Senate, and of course was not confirmed by them. And we, sir, we our selves, every one of us, who now hear or make these deminciations—we have ratified a treaty made with one of the greatest pow ers of Christendom, by a plenipotentiary commissioned under the great seal, whose appointment was never sanctioned or sent to the Senate for its advice; and that, too, power with which before we had no diplo matic intercourse with Austria-made by the present Secretary of State, under a special appointment by the President. Should it be said that this practice of employing a special minister at home to make treaties with a fo reign power, is of modern date; that it does not, like the case of the Mediterranean com missions, run back to the early part of our diplomatic history, I would answer that this, too, is an error, and that my construction is sunctioned in this also, by the practice of Washington. As early as the year 1795, some doubts having arisen as to the operation of the third article of Mr. Jay's treaty Mr. Pickering was commissioned to negotiate an explanatory article, which was agreed to, submitted to the Senate, and tatified without any nomination of the negotiator to the Senate.

Now, sir, does not this uniform, this unquestioned practice, carried through every presidency, from that of the Father of his Country to that of the present incumbent-is it not strongly persuasive of the correctness of that construction which gives to the President the power to make treaties whenever he may deem it expedient, by a special agent, instead of a public minister—to give full powers under the great seal, to such special agent, and to omit non-inating him to the Senate when he thinks proper? Will it be said that the instances I have last mentioned do not apply, because the Secretary of State was the agent? But he was the agent only by the special commission given to him by the President-a commission, without which he could not have acted -which, as his full power, he was obliged to interchange with the minis-

if he may make such an appointment of a negotiation to be carried on in Constantingple! If the latter is fosbidden, where is the ciase that authorizes the former? If the fatter is fosbidden, where is the ciase that authorizes the former? If the latter is fosbidden, where is the ciase that authorizes the former? If the fatter is fosbidden, where is the ciase that excludes the latter? Are not both exercised aware the same constitutional authority? Why, then, sanction the one and denounce the other? It appears to me that a satisfactory asswer to these queries would be difficult, even to the ingenuity of the mover of the amendment; and that it would be so acceptable as the semendment; and that it would be so acceptable as these which be appointment of commissioners, with full powers, going to a foreign country, that does not attach to negotiations by special agents at home. But these dangers are imaginary in the cases. Nothing either of them the assent of two-originations by special agents at home, and the cases. Nothing either of them the sametion of the same do has any force entitive sanctions the same do has any force entitive sanctions the same of them the same in the fatter that the same do has any force entitive sanctions the same that the interest of the same in the fatter that the same do has any force entitive sanctions the same that the interest of the same in the fatter that the same do has any force entitive sanctions the same that the interest of the same that any increase in the most unagential line.

It is a same that any force of them the same that any present at the same that any present at the same that any force of them the same that any present at the

nounce it as a usurpation. The second ground of accusation, that the nomination, though made in recess, as to the power of a pointing in the re-was not submitted to the Senate when cess, is discarded with the single obthey met, has been anticipated. It servation, that it is bottomed on an as-may be justified on several grounds; sumed transposition of words in the which were those which actuated the clause. Not so. It stands on stronger which were those which actuated the clause. The evident intent of the President, as I am not in his counsels. I do not know. It may be justified onthe pecessity of keeping the mission a poraneous exposition; the uninterrupt-secret until the result was known; on ed and unquestioned practice. The his constitutional power of originating force of that practice, in its several dihis constitutional power of originating a secret mission without the co-operation of the Senate; and on the inutility

be made, or at any rate before it could reach them. Thus the treaty with the although the letter of Mr. Offley partic plarly states that he signed the treaty on Sunday, yet he must have been mistaken, because no Christian in a coun-

and when they see usurpation, they The law cannot control the Con-lie law on this subject has must call it by that same. And the stitution. The office of Secretary is ed my ignorance, I must be gentleman who last addressed you (Mr. created by the law of Congress—that Senate to decide, whether Tazewell,) has requested me to fur. of Minister by the law of nations. The universal and individual

but these dangers are inaginary in both cases. Nothing either of them can do has any force omiti we sanctions it. And in requiring the assent of two-thirds of the Senate to every treaty, those who made nur form of government thought they might safely trust the discretion of the President in selecting the agent for making it.

But to remove all ground for the distinction, take an instance from the same collection of treaties which I have before quoted. In the year 1818, Mr. Gallatin, then our Minister in France, was commissioned, jointly with Mr. Rush, our Minister in St. James, to negotiate a treaty with England, in the same manner that the Secretaries of State were commissioned to heightlate at Washington. This nomination was never submitted to the Senate, yet and or the most important convention, made under that appointment of a public minister on a state of the case of Plenipsterities of the mean of the mean and in the liberty to say an encomium from the Senate was incommissioned to every treaty, in the more discovered in by an encomium from the Senate was incommissioned and the succusarion itself. It is the groundless and dressed rou, on the clusters of the accusarion itself. It is the intolerant that the same of the words of the accusarion itself. It is the intolerant that the charge of a character which I never the discretion of the President in section of all who cannot see urconstitutionality or usurpation in the same of unique to the discretion of the same of t

My construction of the constitution, framers of the Constitution -the cotemvisions, has been attempted to be weakened .- I. As to the treaties made by nature, and which must expire before tal to their argument, that they were a limited term; a peace is a stipulation sident has to make treaties. Sir, that is the very power to which we refer to reach them. Thus the treaty with the is the very power to which we refer to war; a peace puts an end to it forew. Porte having been completed before the justify the appointment of the commis. Somestimes an armistice precedes adjournment of Congress at the last sioners. Aye, but say the gentlemen, session, it would have been useless to be may appoint the secretary of State, confirm the powers of the negociators. but not commissioners. Why—be should fail, more frequently the potential of the power of the negociators. they are commissioners. This may be a satisfactory argument to those who use it; but I must be permitted to think use it; but I must be permitted to think try of Infidels would be guilty of a clusive. The Secretary of State has breach of the Christian Sabbath. I the management, ex officio, of our for pass that over with asking how often eign negotiations, under the direction we, ourselves, when daty required it, of the President; but without that dihave not sat and deliberated within rection, in the form of a plenipotentiary Senate as minister to Portugal—but not form practice of every President, sanctioned by the acts or acquiescence of every Senate, and every House of Representatives since the institution of our government—if these are to weigh against the denunciation of the Senator from Virginia, then the accusation talls. He has enforced it with bla accusation talls and the best judgment that Gold has given me. I must say be has not supported it by a single proof.

On the 24th of February, and the proposition talls and the Senators from Virginia have thought it extraordinary that any observations should have been made on the terms in which it was deemed proper to stignatize the conduct of the President of the United States, and by anticipation that of those who should support him be residently constitutional right to that of those who should support him be residently constitutional right to that of those who should support make them, be affected by with a premarices only? Because the art of the President was a permanent, the last only a teat only a tent of the President's appointment of the president and in prevention and the president and the proposition that of those who should support the president's constitutional right to stignatize the conduct of the President's constitutional right to that of those who should support him the those and a make them, be affected by with a secretary and not an armistice.

Senate as minister in the finite full powers, in the tent of the first, he was a public minister. Why? Because the first, he was a public minister, in the sate of the first, he was a public minister. In the senator of the contract of the president of t done, mere instructions would have sufficed—so commission would have been necessary. But in every instance, commissions were delivered, in the same form, as to powers, that are used for ministers going abroad. The President might have selected any other individual, and the case is as strongly in point as if he had. Will the gentleman point out the difference between these cases which he, jointly with all of us, has approved, and that which he now so violently reprodutes? If the President may appoint a special agent to provide a treaty with a nation with whom we had none before, without sub-

most important convention, made under that appointment, was ratified by
the Senate; so that here we have commissioners appointed at home, abroad,
Senate: and I am warranted in repeatselves to those who are professes in to Christians as well as infidels, in every form, in every character in which the pawer can be exercised; and in every form acknowledged by the coordinate branches of Government, to be constitutional and right; and yet, sir, it is now undertaken to arraign and denote the contrary practice.

Senate: and I am warranted in repeating the science. I am not advanged to this degree of perfection; the Senator is the science. I am not advanged to this degree of perfection; the Senator is the present accusation produced to the science. I am not advanged to this degree of perfection; the Senator is the science of perfection; the Senator is the science of perfection; the Senator is the science of perfection; the science. I am not advanged to this degree of perfection; the senator is the science of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science. I am not advanged to this degree of perfection; the science of perf tion of his former assertion, that plentpotentiaries to treat of peace were but officers sent to regulate the terms of an armistice; and that when the President sends such ministers he does it as Commander in Chief of the army; that the treaty making power has nothing to do with it. Now, Sir, I must say, that if this be the best proof that can be furnished of the certainty of the code of nations, it will face ill with its reputation in this respect, for not a single trea-ty of peace, since wars first began, ever contained a stipulation for an armiaof naming persons to be confirmed in the Secretary of State, by saying, as is offices which were temporary in their most undoubtedly true, but is most faarmistice is a cessation of hostilities for tice contemplates a continuar and to say, that it appears rather incon-clusive. The Secretary of State has off. Look into all our treaties peace; examine those between other na tions, and what do you find? set have not sat and deliberated within these very walls on the same sacred day; and whether disobedience to any of our legal acts, done at such a time, would be excused on the allegation of an impossibility of our having been guilty of the breach.

rection, in the form of a plenipotentiary that the make a treaty. Such a commission is always at claims; all the endless variety of arrangement to settle the disputes been made to the make the manual of these in an armistice? Who ever the breach out in form—and from it be derives his out in form—and from it he derives his sale authority—int as in the case of Mr. Humphreys, which I quoted in the beginning of this debate. He was a minister plenipotentiary to Portugal; but a negoration with Algiers was detemporaneous exposition, by the example of the best, and wisest and most prudent men who have directed the affairs of the country, or by the uniform practice of every President, sanctioned by the acts or acquiescence