

American Intelligence.

NEW-YORK, JULY 3—NOON.

Another Naval Victory! The Tom Bow-ing, has arrived at the quarantine ground, from a cruise with the U. S. sloops of war HORNET and PEACOCK, which she left in the South Seas, on the 12th of April. She brings the important intelligence that the HORNET, capt. BID-DLE, had captured and destroyed, in those Seas, the British sloop of war PENGUIN, rating 18 guns, but mounting 24, (one more than the Hornet) and had 30 more men. Our loss was one seaman killed, and 12 wounded; among the latter, our first lieutenant wounded in the thigh and arm. British loss, the captain and first lieut. and nearly half the crew killed and wounded; the Penguin's forecastle shot away, and nearly 40 shot holes in her hull. The day after the action, the Hornet fell in with the Peacock and Tom-Bowling.

For the following particulars of this brilliant action, the Editors of the Mercantile Advertiser are indebted to the arrival at this port yesterday morning, of the United States brig Tom Bow-ing, Captain Carleton, from a cruise in the Pacific Ocean.

The Tom Bow-ing sailed from this port on the 13th of January, in company with the late U. S. frigate President, and sloops of war Hornet and Peacock, and private armed merchant brig Macedonian, and parted company with the Hornet on the third day out, and did not fall in with her again until the 24th of March, off the Island of Tristian de Cunha.—When they first made her she had in company the British sloop of war Penguin, her prize, and apprehending the Peacock and Tom Bow-ing were British cruisers, she scuttled her. The following are the particulars of the action, furnished by Lieut. Brownlow, of the Marines, belonging to the Hornet, who has in charge the colors of the Penguin and despatches for government.—

On the 23d of March, off the Island of Tristian de Cunha, the Hornet, captain Biddle, rated 18 and mounting 20 guns, (eighteen 32 pound caronades & two long 12's) fell in with his majesty's sloop of war Penguin rated 18 & mounting 14 guns, (eighteen 32 pound caronades, two long 12's, one 12lb. caronade on the forecastle, and two brass swivels in her tops,) with a crew of 158 men, and after an action of 22 minutes succeeded in capturing her with the loss on board the Hornet of only one man killed and 41 wounded. The loss on board the Penguin was 17 killed, including the captain and boatswain, and 23 wounded.

Lieut. Brownlow informs us, that about a minute after the Penguin struck to the Hornet, and the action had ceased, a shot fired from the Penguin which wounded capt. Biddle severely in the neck, but from which wound he was fast recovering. The Penguin was much shattered having 32 round shot in her hull, her fore-mast shot away 4 feet above deck, and bow-sprit close to the right heads. The Hornet came off with the loss of her spanker boom, carried away by a round shot and several grape in her hull. During the engagement Lieut. Connor of the Hornet was wounded in the hand and through the thigh, and in this situation remained on deck till the battle was over, peremptorily refusing to be carried below.—The day after the action the Tom Bow-ing fell in with the Peacock, and then put into the island of Tristian de Cunha, in the Brazils, where they remained 20 days, and then made a cartel of the Tom Bow-ing and sent her with the prisoners to St. Salvador, where they were landed. Before the Tom Bow-ing left Tristian de Cunha, capt. Biddle had nearly recovered from his wounds so as to be considered out of danger. The Hornet spoke a neutral vessel two or three days before the action, who informed of the peace, but capt. Biddle did not believe it. The Tom Bow-ing did not hear of the peace until she arrived at St. Salvador.—The brig Macedonian, which sailed from this port in company with the Tom Bow-ing, touched at Tristian de Cunha, and then proceeded on her voyage to the East Indies. Left at St. Salvador the private armed brig True Blooded Yankee, bound to the Isle of France, and the privateer Blakely, Williams, of Boston, bound to Havana. Spoke on the 26th, in lat. 36° long. 69°, brig Trumbull, Hardy, from Bath for Matanzas.

The Tom Bow-ing brought home upwards of 100 of the crew of the True Blooded Yankee and the Blakely.

Appointments by the President.—William S. Pennington, now governor of New Jersey, to be District Judge of said state. J. W. Livingston, to be Marshal of the Upper District of the state of New York.—Nat. Int.

Progress of the fine Arts.—Among the valuable discoveries almost daily made in this country, we notice an improvement in the art of engraving, for which a patent has lately been issued. This improvement consists in a new method of etching the ornaments or end pieces of bank notes, which, it is said, will greatly increase the difficulty of counterfeiting them, and at the same time enable the most inexperienced eye with facility to distinguish between real and counterfeit notes. This new mode of engraving was invented by Mr. H. S. Tanner of Philadelphia, and a company has been formed in that city, in which he is concerned, for the purpose of executing every part of bank note plates with elegance and dispatch. The specimen which we have seen certainly does the company much credit, and appears to us to possess a high degree of finish. It is contemplated, we are informed, to make the end pieces of all notes of a similar denomination exactly uniform, and those of different denominations with a slight degree of difference at one end, circumstance which the multiplication of bank notes is said to render absolutely necessary to prevent the unwary from being imposed on. A person who does not devote himself to the study of this subject cannot possibly make himself suf-

ficiently acquainted with the almost infinite variety of notes now in circulation to prevent his suffering from counterfeits.

Give honor to whom honor is due.—The conduct of the British and American naval officers and sailors towards each other both in the late war, and since the peace, is highly honorable to themselves and their respective nations. With very few exceptions they have shewn themselves equally emulous of the reputation of bravery, and of liberality of sentiment towards each other. The moment a battle has terminated, the kindest attention has been paid to prisoners, to cure their wounds, to ease their pain, to relieve their wants, and render their situations comfortable. And on the part of the prisoners, there has generally been a ready acknowledgement of such kindness. Among other facts, the expressions of commodore Barely respecting commodore Perry's conduct, and the letter from the officers of the Peacock to Capt. Lawrence, are proofs in point. In case of deaths, distinguished funeral honors have been bestowed. Witness the funeral of capt. Lawrence at Halifax, and commodore Downie on the American shore of Lake Champlain. The character of the deceased, as well as the feelings of their surviving friends, have been treated with the most delicate respect. Such instances of magnanimity exalt the naval character, and indeed the moral character of the present age, and especially of the two nations between whom they have been reciprocally manifested. The same spirit has been exhibited since the peace. Mutual civilities, and attentions have taken place among the naval gentlemen of both sides, evincing that as they are in war enemies, though generous enemies, in peace they are friends, disposed, in the words of the

To "throw a veil o'er injuries past."

In this noble emulation, naval characters have taken the lead; but the applause ought not, by any means to be confined to the navy. Gentlemen of both armies also have treated each other with similar candour, liberality and kindness.

Such examples appeal directly to the best principles of the human heart. They are worthy of imitation. Without surrendering national rights, or forgetting the duties of loyal subjects we are urged by sound policy as well as the divine religion we profess, to practice and promote a spirit of mutual forbearance, conciliation and friendly intercourse.

A correspondent remarks that he has noticed with some degree of satisfaction, a message from Mr. Madison, President of the United States, to congress, since the peace, recommending an act to confine the navigation of American vessels to the American seamen, either natives or already naturalized. This measure he recommends on the principle of "manifesting to the world a desire, on all occasions to cultivate harmony with other nations," generally, is expressed, he must principally intend the British nation, with which alone the United States have experienced difficulties on the subject of the sailors, navigating their vessels. If all but American seamen should be effectually excluded from American vessels, our government would have no occasion to search their vessels for British seamen, and to impress them there, when found on board their vessels: and thus one principal point of national controversy, would be removed. The recommendation of such a policy, upon the termination of a war respecting the right of search and impressment, seems to breathe a real spirit of peace. It is to be hoped it may prove sincere and lasting.

Canadian Courant.

FROM THE CAROLINA LAW REPOSITORY.

Case adjudged in the Supreme Court of North Carolina, at January Term, 1815.

BEARD & MERRELL vs. LONG.

THIS was a petition to establish a public ferry on the Yadkin River. The reasons why the prayer ought to be granted were stated at length in the petition, and a diagram accompanied the papers, shewing the respective distances by the way of the old ferries and the proposed one. The cause was ably argued by Norwood and Nash for the petitioners; and Henderson and Browne for the defendants; the principal topics urged on either side are noticed in the judgment of the court.

PER CURIA.—The petitioners ask of the court the establishing a ferry for the benefit of the public: the petition, therefore, is substantially to be considered as the prayer of the community—for whose sake all public offices are created. It is necessary, therefore, to examine what are the facts which appear in this case.

It seems that the place at which the petitioners desire leave to establish a ferry, is a little more than a mile below one ferry, and not as much above another; that both these ferries are kept in good repair, & it does not appear that any inconvenience exists, or has existed, for want of expedition in passing at either of them; the price of ferrage can be no imposition, as that is to be regulated by the county courts, and may, therefore, be considered as dependent upon *public will*.

The river, however, is but about half the distance in width, and is smooth and gentle, and would authorise the petitioners, it is believed, to transport, for lower prices; and in travelling nine miles, not quite one mile would be saved in distance on one road, and a few yards lost on the other; it also appears that there is no public road leading to the place for the new ferry; but that the petitioners have, "by consent of the proprietors of the lands, through which they pass," opened two roads, which are now in common use, and that they "are willing to keep the said roads in repair with their own hands and such of the neighboring inhabitants as have promised their voluntary assistance." It is also established in the case, that the existing ferries are old established ferries, and from a fair examination of all the roads, it does not appear that any decided preference can be given (every thing taken into consideration) to either of them;—Upon this state of the facts, the court is to determine how far the *public*, for whose benefit the petitioners supplicate, would be accommodated by allowing the prayer of the petition; and in this determination, it is for the court to infer, who, in this respect exercises the province of a jury.

The sole object of the law, in conferring every public appointment, is the promotion of public convenience; and, though it is true, that in pursuing this great end, private interest must yield; yet, it would uphold justice and the majesty of the law, by supposing it capable of

sacrificing individual interest for any other purpose. The person who opposes the present petition may say to the law, "you have granted to me the right of a ferry many years ago, which has always been, and is now, in good repair; at which it is perfectly convenient for everybody to pass, as much so as at the new ferry; I have been at great expense to keep it in repair; that it was understood between us both, my interest should not be impaired but for my own neglect, or for the benefit of the community; and that though you have the power, yet you cannot *rightfully* exercise it, but in a case where it is to punish me or advance the public good?" To this it has been answered, that the petitioners have an equal right to participate in all the benefits derivable from the use of their own property; and that as they have a place on the river, where they might derive profit from a ferry, they ought not to be restricted or placed in a worse situation than the defendant, merely because he obtained his ferry first; and withal, that cupidity being the grand motive for all human action, it should be fostered, where its gratification would result in public convenience; that though the establishment of the new ferry might curtail the profits of the old one, yet the rivalship which would follow, would ensure attention and good conduct at both.

In the present enquiry, the force of this argument has no bearing.

If to have a *public* ferry was a right common to every body, and was acquired at pleasure by constructing boats & opening roads, it might possibly apply; but it ought to be recollect that the law (and, as we think, a very wholesome one) under certain limitations, has taken it from every citizen, and that *none* is to exercise it but by license and entering into bond; and, that the defendant, Long, has obtained this license from the same source to which the petitioners make their application—the law: And that it behoves this authority to observe whether, consistently with the good faith of its engagement with Long, it can benefit Beard or Merrill, for to make it necessary to obtain a licence upon which no tax is paid the public, and at the same time to say the court is bound to grant it to all who apply, would be absurd. And to say also, that it would be *equitable* or *reasonable* for the court to interfere where the effect of granting the petition would be *only* to benefit the petitioners at the *loss* of defendants, would be more so. The law has wisely considered, that, by permitting every one at pleasure to keep a ferry and establish his own rates, great public inconvenience would result, from all being in bad order; that they would be so multiplied and the emoluments so trifling, as not to be sufficient to defray the expence:—The emoluments, therefore, are not an act of public favor, but intended as a remuneration for public services—the end in view is the facility of passing. In what respect, then, is the public convenience suffering for want of the new ferry? Are the citizens at large—the public, put to any difficulty in crossing this river which would be obviated? Do the citizens at large travel at unnecessary distance which would be remedied? The answer in both cases is, no; but it is said the narrowness of the stream would enable the petitioners to perform the *same benefit* to the public at a *cheaper rate*, and, therefore, it would be serviceable to the community. Now this is merely speculative, it might turn out, upon experiment, that the fact was otherwise: that the least swell in the stream would make it more rapid by being confined to a narrower channel; and the circumstance of there being two ancient ferries, the one a little above and the other just below, established at a time when ease and convenience were principally consulted, is a strong proof at least of the opinion entertained by those who were acquainted with the nature of the stream; and, if it really be the case, as the petitioners state, that the road from Smith's to Salisbury, would be better, and one mile shorter, and cross the river at a much better place for a ferry, it is a little unaccountable that, with all these inducements, the road should at first have run where it is; and, not less so, that the eyes of the community should have so long remained closed against so obvious a benefit. If, therefore, any inference can be drawn from the facts and circumstances, they are *all* against the petitioners. The present application, then, seems to be substantially the same as an offer to *underbid*. Then the low price would be attained; but surely such an offer would deserve to be scouted by every court having just regard to its own dignity, as entrusted with the administration of the laws, if we have a just idea of the terms upon which such grant is made. There is another reason not without its weight. How can the *public* have an interest in a ferry at a place to which there is no way for the public to travel? How then can it be said the public convenience would be promoted by the establishing a ferry, when it is left in the power of every individual through whose lands the way may pass, to shut it up at pleasure? Again—the road leading from the new ferry to Smith's runs so near the old road as to induce the belief that it would be unnecessarily burdensome to the community to keep both in repair. Thus, therefore, would be a *good public reason* against a new public road, and if it is to remain a private way dependant upon the petitioners and those who are to contribute "voluntary assistance" for being kept in repair, it is easy to foresee, from a comparison with public roads on which individuals are obliged by law to work, what will be its condition: And if there are other motives which sometimes stimulate to action, that of itself ought, without great *manifest* public convenience, to induce the court to withhold interference.

Wherefore we are of opinion that the petition should be dismissed.

July 7th, 1815.

5—2wp.

PROPOSALS

FOR PUBLISHING BY SUBSCRIPTION,

The History of the United States,

BY DAVID RAMSAY, M. D.

Author of the History of the American Revolution, &c.

IT is expected the work will be comprehended in two volumes, octavo—to be printed on clear paper, with good type, and to be delivered to subscribers, in boards, at 3 dollars a volume. These volumes will form a part of an *UNIVERSAL HISTORY*, completed by the Author a short time previous to his death. It is well known to the citizens generally, that Dr. Ramsay had been, for many years, preparing such a work for the press. Since the melancholy event, by which society has been deprived of one of its brightest ornaments, great anxiety has been manifested on this subject. We are happy in being able to say, it is finished.

The History of the United States which we propose first to publish, "is given at full length," and may either be considered as a part of the *Universal History*, or as an independent work. It was the Author's original intention to publish it separately, but it was afterwards incorporated in the *General Work*. We propose to publish this as a specimen of the whole, and if its reception in the world shall be such, as is confidently anticipated, the work will be regularly continued, (commencing with the first volume) until the whole is completed. Should any circumstance occur to prevent a continuance of the publication beyond the two volumes above mentioned, the Subscribers will still be in possession of a work in itself complete and entire. Those persons who may be disposed to subscribe to the History of the United States, independently of the *Universal History*, will be at liberty to withdraw their subscription after the delivery of that portion of the work. The profits will be exclusively applied to the education and support of the numerous family of the Author; and it is hoped, under these circumstances, that a liberal public will not hesitate in bestowing their patronage to accelerate the publication of the work.

Subscriptions received at the different post-offices throughout the state, and at the book-store of Elijah Weems, Raleigh, agent for the above work.

July 7, 1815.

5—3t.

NEGRO FOR SALE.—I have a stout, hearty NEGRO-MAN, in the Jail of Petersburg, whom I would sell on low terms for cash.—Apply to Mr. Solomon High, of Petersburg, or to me in Raleigh.

WM. BOYLAN

5—2t.

CLARIIONETTES.—A few very good clariettes for sale at this office.

July 7, 1815.

5—3t.

NEW BOOKS.—Boylan and Sloan has just received,

The sermons of Joseph Lathrop, pastor of West-Springfield in Massachusetts, 6 vols.—vo.

\$12

The Martyrs, or the Triumph of the Christian Religion, in 3 vols. by Chateaubriand.

3 50

Porter's Russian Campaigns, 1 vol. 8 vo. bound.

3

Do. do. 12 mo. bound.

1 75

Clarke's Travels, 3d and 4th vols. containing part the 2d, section 2d, of his Travels in Greece, Egypt and the Holy Land.

2

Atalia; or, the Love and constancy of two savages in the desert; translated from the French of F. A. Chateaubriand.

87

General Pike's Expedition to the sources of the Mississippi, and through the western parts of Louisiana, to the sources of the Arkansas, Kans., La. Platte, and Pierre Journe Rivers; and a tour through the interior parts of New Spain; illustrated by maps and charts.

3 75

The Army Register, (Peace establishment) Urania, a Poem, by B. Allen, jun.

26

Choice Emblems, natural, historical, fabulous, moral and divine, for the improvement and pastime of youth.

75

Scott's Essays.

62

Scott's Essays.

1 25

CHEAP GOODS.

S. BOND, has just received from Richmond and Petersburg a fresh assortment of goods, suitable to the season.—Among them are calicoes, canaries plain and figured, jaquard muslins, leno, hombazettes, shirtings, ginghams, vestings, jacs, royal ribb., cotton hose, shawls and handkerchiefs, locks, hinges, cotton & wool cards, knives and forks pocket & pen knives, plane irons, scissors, foot-adzes, shoes, queen's wares, currying combs, saddle irons, bridle, bits, stirrups, iron hats, medicines, chatters' trimmings, &c. &c. &c. Most of the above articles he will sell at PEACE PRICES for CASH only.

June 23, 1815.

3—3w.

STATE OF N. CAROLINA, 2 Superior Court of Law & Rutherford County, § Equity, April Term, 1815. In Equity.—Sarah Barber and James Barber, Administrator and Administrator of John Barber Deceased, vs. Joseph Alexander.

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