RALEIGH, (N. C.)
WEEKLY, BY LUCAS & HARVEY,
ubscription.] Three dollars per year, o be paid in advance. No paper to be d longer than three months after a ubscription becomes due, and notice hall have been given.
ents, not exceeding 14 lines, are inthrice for one dollar; for twenty-five ach subsequent insertion: and in like ion where there is a greater number of en fourteen. The cash must accompany n persons unknown to the editor.
cription can in any case be received yment of at least $1 50 in advance; continuance without payment of arress at the option of the editor.

FRIDAY, DECEMBER 10, 1819. No. 46.

Political.

SOURI QUESTION.

observations, in the senate of the es, on the exclusion of slavery from Missouri, delivered at the last sestress—(continued)

congress possess the power he exclusion of slavery a part of the act admitting a new the union, they may in special nd for sufficient reasons, forbear ercise this power. Thus Kentucky nd Vermont were admitted as new states nto the union, without making the abolition of slavery the condition of their dmission. In Vermont slavery never xisted; her laws excluding the same. Kentucky was formed out of, and settled by Virginia, and the inhabitants of Kentucky equally with those of Virginia, by heir interpretation of the constitution, were exempt from all such interference of congress, as might disturb or impair the security of their property in slaves. The Western Territory of North Carolina and Georgia having been partially granted and erected under the authority of these states, before the cession thereof to the United States, and these states being original parties to the constitution, which recognises the existence of slavery, no measure restraining slavery could be applied by congress to this territory.—But to remove all doubts on this head, it was made a condition of the cession of this territory to the United States, that the ordinance of 1787, except the sixth article thereof, respecting slavery, should be applied to the same; and that the sixth article should not be so applied. Accordingly, the states of Tennessee, Mississippi, and Alabama, comprehending the territory ceded to the United States by North Carolina and Georgia, have been admitted, as new states, into the Union, without a provision by which slavery shall be excluded from the same. According to this abstract of the proceedings of congress in the admission of new states into the union, of the eight new states within the original limits of the United States, four have been admitted without an article excluding slavery; three have been admitted on the condition that slavery should be excluded; and one admitted without such condition. In the four first cases, congress were restrained from increasing the power to exclude slavery; in the next three, they exercised this power, and in the last, it was unnecessary to do so, slavery being excluded by the state constitution.

The province of Louisiana, soon after its cession to the United States, was divided into two territories, comprehending such parts thereof as were contiguous to the river Mississippi, being the only parts of the province that were inhabited.—The foreign language, laws, customs, and manners of the inhabitants, required the immediate and cautious attention of congress, which, instead of extending, in the first instance, to these territories the ordinance of 1787, ordained special regulations for the government of the same. These regulations were from time to time revised and altered, as observation and experience shewed to be expedient and as was deemed most likely to encourage and promote those changes which would sooner qualify the inhabitants for self government and admission into the union.—When the United States took possession of the province of Louisiana, in 1804, it was estimated to contain fifty thousand white inhabitants, forty thousand slaves, and ten thousand free persons of colour.* More than four fifths of the whites, and all the slaves, except about thirteen hundred, inhabited New Orleans and the adjacent territory: the residue, consisting of less than ten thousand whites, and about thirteen hundred slaves, were dispersed throughout the country now included in the Arkansas and Missouri territories. The greater part of the fourteen hundred slaves were in the Missouri territory; some of them having been removed thither from the old French settlements on the east side of the Missisippi, after the passing of the ordinance of 1787, by which slavery in those settlements was abolished.—

In 1812, the territory of New-Orleans, to which the ordinance of 1787, with the exception of certain parts thereof, had been previously extended, was permitted by congress to form a constitution and state government, and committed into the union, by the name of Louisiana. The acts of congress for these purposes, in addition to sundry important provisions respecting rivers and public lands, which are declared to be irrevocable, unless by common consent, annex other terms and conditions whereby it is established, not only that the constitution of Louisiana should be republican, but that it should contain the fundamental principles of religious liberty, that it should secure to the citizens the trial by jury in all criminal cases, and the privilege of the writ of habeas corpus according to the constitution of the United States; and after its admission into the union, that the laws which Louisiana might pass, should be promulgated; its records of every description preserved; and its judicial and legislative proceedings conducted in the language in which the laws and judicial proceedings of the United States are published and conducted.

Guards so friendly to the rights of the citizens, and restraints on the state sovereignty so material to the gradual confirmation and security of their liberties, demonstrate the extensive and parental power of congress; powers, the wise exercise of which, on this occasion, is not confined to the inhabitants of the new state, but reaches and protects the rights of the citizens of all the states. The habits of the people and the number of slaves by whom the labor of the territory of New Orleans was performed, were doubtless the reason for the omission of an article in the act of admission, by which slavery should be excluded from the new state.

Having annexed these new and extraordinary conditions to the act for the admission of Louisiana into the Union, congress may, if they should deem it expedient, annex the like conditions to the act for the admission of Missouri; and, moreover, as in the case of Ohio, Indiana, and Illinois, provide by an article for that purpose, that slavery shall not exist within the same.

Admitting this construction of the constitution, it is alleged that the power by which congress excluded slavery from the states north east of the river Ohio, is suspended in respect to the states that may be formed in the province of Louisiana. The article of the treaty referred to declares, "That the inhabitants of the territory shall be incorporated in the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all rights, advantages and immunities of citizens of the United States; and in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Although there is a want of precision in the article, its scope and meaning cannot be misunderstood. It constitutes a stipulation, by which the United States engage that the inhabitants of Louisiana should be formed into a state or states, and as soon as the provisions of the constitution permit, that they shall be admitted as new states into the union, on the footing of the other states; and before such admission, and during the territorial government, that they shall be maintained and protected by congress in the enjoyment of their liberty, property and religion. The first clause of this stipulation will be executed by the admission of Missouri as a new state into the Union, as such admission will impart to the inhabitants of Missouri, "all the rights, advantages and immunities" which citizens of the United States derive from the constitution thereof: These rights may be denominated federal rights, are uniform throughout the Union, and are common to all its citizens: But the rights derived from the constitution and laws of the states, which may be denominated state rights, in many particulars differ from each other. Thus, while the federal rights of the citizens of Massachusetts and Virginia are the same, their state rights are materially dissimilar, slavery being forbidden in one, and permitted in the other state.—This difference arises out of the constitutions and laws of the two states, in the same manner as the difference in the rights of the citizens of these states to vote for representatives in congress arises out of the state laws and constitution. In Massachusetts, every person of lawful age, and possessing property of any sort, of the value of two hundred dollars, may vote for representatives to congress. In Virginia, no person can vote for representatives to congress unless he be a freeholder. As the admission of a new state into the Union confers upon its citizens only the rights denominated federal, and as these are common to the citizens of all the states, as well of those in which slavery is prohibited, as of those in which it is allowed, Missouri will not impair the federal rights of its citizens, and that such prohibition is not restrained by the clause of the treaty which has been cited.

The remaining clause of the article is expressly confined to the period of the territorial government of Missouri, to the time between the first occupation of the country by the United States, and its admission as a new state into the Union. Whatever may be its import it has no reference nor application to the terms of the admission, or the condition of Missouri after it shall have been admitted into the Union. The clause is but the common formula of treaties, by which inhabited territories are passed from one sovereign to another; its object is to secure such inhabitants the permanent or temporary, enjoyment of their former liberties, prosperity and religion; leaving to the new sovereign full power to make such regulations respecting the same, as may be thought expedient, provided these regulations be not incompatible with the stipulated security.

What were the liberties under the French government, the enjoyment of which under ours called for protection, we are unable to explain, as the United States have no power to prevent the free enjoyment of the Catholic religion, no stipulation against their interference to disturb it could be necessary; and the only part of the clause whose object can be readily understood is that relative to "property."

As all nations do not permit slavery, the term property in its common and universal meaning does not include or describe slaves. In treaties therefore between nations, and especially in those of the United States, whenever stipulations respecting slaves were to be made, the word "negroes," or "slaves," have been employed, and the omission of these words in this clause, increases the uncertainty whether by the term property, slaves were intended to be included. But admitting that such was the intention of the parties, the stipulation is not only temporary, but extends no further than to the property actually possessed by the inhabitants of Missouri, when it was first occupied by the United States. Property since acquired by them, and property acquired or possessed by the new inhabitants of Missouri, has in each case been acquired under the laws of the United States, and not during and under the laws of the province of Louisiana. Should therefore the future introduction of slaves into Missouri be forbidden, the feelings of the citizens would soon become reconciled to their exclusion, and the inconsiderable number of slaves owned by the inhabitants at the date of the cession of Louisiana, would be emancipated or sent for sale into states where slavery exists.

It is further objected, that the article of the act of admission into the union, by which slavery should be excluded from Missouri, would be nugatory, as the new state in virtue of its sovereignty, would be at liberty to revoke its consent, and annul the article by which slavery should be excluded.

Such revocation would be contrary to the obligation of good faith, which enjoins the observance of our engagements, it would be repugnant to the principles upon which government itself is founded. Sovereignty in every lawful government is a limited power, and can do only what it is lawful to do—sovereigns, like individuals, are bound by their engagements, and have no moral power to break them. Treaties between nations repose on this principle. If the new state can revoke and annul any article constructed between itself and the United States by which slavery is excluded from it, it may revoke and annul any other article of the compact; it may for example annul the article respecting public lands, and in virtue of its sovereignty, assume the right to tax and to sell the lands of the U. States.

There is yet a more satisfactory answer to this objection. The judicial power of the U. States is co-extensive with their legislative power, and every question arising under the constitution or laws of the United States, is cognizable by the judiciary thereof. Should the new state rescind any of the articles of compact contained in the act of admission into the union, that for example by which slavery is excluded, and should pass a law authorising slavery, the judiciary of the U. States, on proper application, would immediately deliver from bondage, any person detained as a slave in said state: and in like manner, in all instances affecting individuals, the judiciary might be employed to violate the constitution and laws of the U. States.

If Congress possess the power to exclude slavery from Missouri, it still remains to be shown that they ought to do so. The examination of this branch of the subject for obvious reasons, is attended with peculiar difficulty, and cannot be made without passing over arguments which to some of us might appear to be decisive, but the use of which in this place, would call up feelings, the influence of which would disturb, if not defeat, the impartial consideration of the subject.

Slavery unhappily exists within the United States. Enlightened men in the states where it is permitted, and every where out of them, regret its existence among us, and seek for the means of limiting and of mitigating it.—The first introduction of slaves is not imputable to the present generation, nor even to their ancestors. Before the year 1642, the trade and parts of the colonies were open to foreigners equally as those of the mother country, and as early as 1620, a few years only after the planting of the colony of Virginia, and the same year in which the first settlement was made in the old colony of Plymouth, a cargo of negroes was brought into, and sold as slaves in Virginia by a foreign ship.* From this beginning the importation of slaves was continued for nearly two centuries. To her honor Virginia, while a colony, opposed the importation of slaves, and was the first state to prohibit the same, by a law passed for this purpose in 1778, thirty years before the general prohibition enacted by congress in 1808—The laws and customs of the states in which slavery has existed for so long a period, must have had their influence on the opinions and habits of the citizens, which ought not to be disregarded on the present occasion.

Omitting therefore the arguments which might be urged, and which by all of us might be deemed conclusive, were this an original question, the reasons which shall be offered in favor of the interposition of the power of congress to exclude slavery from Missouri, shall be only such as respects the common defence, the general welfare, and that wise administration of the government which as far as possible may produce the impartial distribution of benefits and burdens throughout the union.

By the article of confederation the common treasury was to be supplied by the several states according to the value of the lands, with the houses and improvements thereon, within the respective states. From the difficulty in making this valuation, the old Congress were unable to apportion the requisitions for the supply of the general treasury, and obliged the states to propose an alteration of the articles of confederation, by which the whole number of free persons, with three-fifths of the slaves, contained in the respective states, should become the rule of such apportionment of taxes. A majority of the states approved of this alteration, but some of them disagreed to the same; and for want of a practicable rule of apportionment, the whole of the requisitions of taxes, made by the Congress during the revolutionary war, and afterwards, up to the establishment of the constitution of the United States, were merely provisional, and subject to revision and correction as soon as such rules should be adopted. The several states were credited for their supplies and charged for the advances made to them by congress; but no settlement of their accounts could be made, for the want of a rule of apportionment, until the establishment of the constitution.

When the general convention that formed the constitution took this subject into their consideration, the whole question was once more examined, and while it was agreed that all contributions to the common treasury should be made according to the ability of the several states, to furnish the same, the old difficulty recurred in agreeing upon a rule where-by such ability should be ascertained, there being no simple standard by which the ability of individuals to pay taxes can be ascertained. A diversity in the selection of taxes has been deemed requisite to their equalization. Between communities, this difficulty is less considerable, and although the rule of relative members would not accurately measure the relative wealth of nations; in states in the circumstances of the United States, whose institutions, laws and employments are so much alike, the rule of numbers is probably as nearly equal, as any other simple and practicable rule can be expected to be (though between the old and new states its equality is defective,) these considerations added to the approbation which had already been given to the rule, by a majority of the states, induced the convention to agree, that direct taxes should be apportioned among the states, according to the whole number of free persons, and three fifths of the slaves which they might respectively contain.

The rule for apportionment of taxes is not necessarily the most equitable rule for the apportionment of representatives among the states; property must not be disregarded in the composition of the first rule, but frequently is overlooked in the establishment of the second; a rule which might be disapproved in respect to representatives, one individual possessing twice as much property as another, might be required to pay double the taxes of such other, but no man has two votes to another's one, rich or poor, each has but a single vote in the choice of representatives.

In the dispute between England and the colonies, the latter denied the right of the former to tax them, because they were not represented in the English Parliament. They contended, that according to the law of the land, taxation and representation were inseparable. The rule of taxation being agreed upon by the convention, it is possible that the maxim with which we successfully opposed the claim of England, may have had an influence in procuring the adoption of the same rule for the apportionment of representatives: the true meaning, however, of this principle of the English constitution, is, that a colony or district is not to be taxed which is not represented; not that its number of representatives shall be ascertained by its quota of taxes. If three fifths of the slaves are virtually represented, and their owners obtain a proportionate power in legislation, and in the appointment of the president of the United States, why should not other property be virtually represented, and its owners obtain a like power in legislation, and in the choice of the president? Property is not confined to slaves, but exists in houses, stores, ships, capital in trade and manufactures. To secure to the owners of property in slaves, greater political power than is allowed to the owners of other and equivalent property, seem to be contrary to our theory of the equality of personal rights, inasmuch as the citizens of some states thereby become entitled to other and greater political power, than the citizens of other states. The present house of representatives consists of one hundred and eighty one members, which are apportioned among the states in a ratio of one representative for every thirty-five thousand federal numbers, which are ascertained by adding to the whole number of free persons, three-fifths of the slaves. According to the last census, the whole number of slaves within the United States was 1,191,364, which entitled the states possessing the same, to twenty representatives and twenty presidential electors more than they would be entitled to, were the slaves excluded. By the last census, Virginia, contained 582,104 free persons, and 392,518 slaves. In any of the states where slavery is excluded, 582,104 free persons would be entitled to elect only sixteen representatives; while in Virginia, 582,104 free persons, by the addition of three-fifths of her slaves, become entitled to elect, and do in fact elect twenty-three representatives, being seven additional ones on account of her slaves. Thus, while 35,000 free persons are requisite to elect one representative in a state where slavery is prohibited, 25,369 free persons in Virginia, may and do elect a representative; so that five free persons in Virginia, have as much power in the choice of representatives to Congress, and in the appointment of presidential electors, as seven free persons in any of the states in which slavery does not exist.

This inequality in the apportionment of representatives was not misunderstood at the adoption of the constitution—but as not one anticipated the fact that the whole of the revenue of the United States would be derived from indirect taxes, (which cannot be supposed to spread themselves over the several states according to the rule of the apportionment of direct taxes) but it was believed that a part of the contribution to the common treasury would be apportioned among the states by the rule for the apportionment of representatives. The states in which slavery is prohibited, ultimately, though with reluctance, acquiesced in the disproportionate number of representatives and electors that was secured to the slave holding states. The concession was, at the time, believed to be a great one, and has proved to have been the greatest which was made to secure the adoption of the constitution.

Great, however, as this concession was, it was definite, and its full extent was comprehended. It was a settlement between the original thirteen states. The considerations arising out of their actual condition, their past connexion, and the obligation which all felt to promote a reformation in the federal government, were peculiar to the time and to the parties; and are not applicable to the new states, which congress may now be willing to admit into the union.

The equality of rights, which includes an equality of burdens, is a vital principle in our theory of government, and its jealous preservation is the best security of public and individual freedom, the departure from this principle in the disproportionate power and influence, allowed to the slave holding states, was a necessary sacrifice to the establishment of the constitution. The effect of this concession has been obvious in the preponderance which it has given to the slave-holding states, over the other states. Nevertheless, it is an ancient settlement, and faith and honor stand pledged not to disturb it. But the extension of this disproportionate power to the new states would be unjust and odious. The states whose power would be abridged, and whose burdens would be increased by the measure, cannot be expected to consent to it; and we may hope that the other states are too magnanimous to insist on it.

The existence of slavery impairs the industry and the power of a nation; and it does so in proportion to the multiplication of its slaves: where the manual labor of a country is performed by slaves, labor dishonors the hands of freemen.

If her laborers are slaves, Missouri may be able to pay money taxes, but will be unable to raise soldiers, or to recruit seamen, and experience seems to have proved that manufactures do not prosper where the artificers are slaves. In case of foreign war, or domestic insurrection, misfortunes from which no states are exempt, and against which all should be seasonably prepared, slaves not only do not add to, but diminish the faculty of self-defence; instead of increasing the public strength, they lessen it, by the whole number of free persons, whose place they occupy, increased by the number of freemen that may be employed as guards over them.

The motives for the admission of new states into the union, are the extension of the principles of our free government, the equalizing of the public burdens, and the consolidation of the power of the confederated nation. Unless these objects be promoted by the admission of new states, no such admission can be expedient or justified.

The states in which slavery already exists are contiguous to each other: they are also the portion of the United States nearest to the European colonies in the West Indies; colonies whose future condition can hardly be regarded as problematical. If Missouri and the other states that may be formed to the west of the ri-

(See fourth page.)

* This estimate was too high, as by the census of 1810, the whole province was found to contain only 97,000 inhabitants, viz:—51,000 whites, 37,000 slaves, 8,000 free persons of colour.

* Stith's History of Virginia.

A. LUCAS, G. S.
day, Dec. 10.