## HALRIGH REGISTER.

PUBLISHED BY SEATON GALES, EDITOR AND PROPRIETOR,

T THREE DOLLARS PER ANNUM are the plans of fair delightful peace

warp'd by party rage to live like brother,

# RALEIGH, N. C.

Saturday, Dec. 20, 1851.

justment measures as forming, in their mutual depenand connexion, a system of compromise the most on havery and the best for the entire country, that could be tained from conflicting sectional interests and opinions nd that, therefore, they ought to be adhered to and carried faithful execution, as a final settlement, in principle od substance, of the dangerous and exciting subjects which ev embrace."-[Resolution of Whig Congressional Caucus,

#### CITY POST OFFICE-THE MAILS.

The Post Office has been temporarily removed the building on Salisbury street, west of the apitol, and on the corner of Cook's lot. We arn that all the letters and papers, which were naroidably mixed in the confusion produced by he late fire, have been properly arranged and sistributed, after two day's diligent labor. We Office was saved, although it was at one time ap- his personal friends. mhended that a number were missing.

his due to Mr. White, the Postmaster, and assistants, to state, that they have displayed efficiency and energy, in the trying situation in heh they have been placed, that have given rat satisfaction to the community.

The mail via the Raleigh and Gaston Road ring been changed into a Tri-weekly mail, (un the relaying of the Road, when the Daily over line will be resumed.) the Northern mail is been one day behind hand in the regular reon of the mail. We have no doubt but that Department has done all that it could in the mises to promote the public convenience.

#### PROTECTION AGAINST FIRE.

the defenceless condition of our citizens aanst the dangers of Fire, so mournfully demonsted on the occasion of the recent calamity .-Mayor submitted the following suggestions to Board :

To the Board of Commissioners. GENTLEMEN: I have called you together this sung, for the purpose of taking into considerathe importance of adopting some plan by ich the City may be provided with water to be te you the following suggestions:

In the first place, I will propose to you that hter be brought into the City from some Creek Branch, provided it can be done. To ascertain practicability and cost, a competent Engineer gat to be employed, to make a survey from of the streams west of Raleigh, and report reon at as early a day as possible. If found to practicable, the plan might be adopted and with executed, at whatever reasonable exe, provided the City can bear it. The cost ald not probably exceed the enhanced value of property of the City, as property is always eased in value in proportion to the protection security thrown around it. The money would e to be raised by a loan, to be paid so gradualas not to become burdensome to Tax payers, so as to throw upon the succeeding generaa part of the burden of paying for an im ent which they will share alike with our-

however, this should be found impracticable, bring to your notice the Artesian Weil. In dress? case we out it to have large cisterns or rers of Water at some convenient point, imons:ant repair-to be available on any and ernment." emergency. The Metallic Pump should he place of the wooden one now in use, and ble number of Fire Hooks and Ladders of forthwith be provided for the City, and the as possible. Engines put in complete order. All of selves by artificial ties in the vicissitudes of her (Eu-

WM. DALLAS HAYWOOD, Intend't.

Committee of four-consisting of M n, of the Western Ward, Mr. Hutchins, of lastern Ward, and Messrs. Fentress and tough, of the Middle Ward-was appointed se the matter into consideration and report adjourned meeting of the Board, to be held Fiday) evening.

1 Ordinance was also passed, prohibiting the refection of any wooden buildings on the reburnt square, under heavy penalty, &c. is is a good beginning, and we trust that it chy or a military despotism! be well followed up. Either of the plans ove effectual.

the interesting favors of our correspondents. nvite attention to the able and conclusive comtion, over the signature of "Vox Legis," in affair at Morganton. Had it been our best menced his first year in the U. S. Senate. al friend who was implicated, we could hardly, eatly with our duties as a public journalist, journal of the most orthodox stamp.

mblish the article of "Fitz Van Winkle." in rsonalities. We are confident that we shall

he" Wilmington Journal" expresses the conhat Mr. Buchanan is the first choice of the party of the State for the Presidency, sthe "Standard ?" - and where's Mr. Doug-

stess are moving in that way.

# The Weekly Raleigh Register, AND NORTH CAROLINA GAZETTE.

Volume LIII.

RALEIGH, N. C., DECEMBER 24, 1851.

Number 12.

JOHN A. GILMER, ESQ. Our readers will find in another column an article from the " Greensboro' Patrict," by which it appears that the distinguished gentleman, whose name heads this paragraph, though profoundly grateful for the popular demonstrations made in his favor, protests, for reasons therein stated, against his name being further considered in connection with the Gubernatorial commation. It will be recollected that Mr GILMER has already been formally nominated by the Whigs of Orange, and that his claims have been repeatedly urged in severa! of our Whig journals. This declaation of his wishes and determination, through the 'Patriot," is therefore, under the circumstances, emi-

What the "Patriot" says of Mr. GILMER is strictly the truth. Estimable in all the private relations of life, as he is prompt and efficient in the discharge of public duties, and invincible in debate, he is an honare gratified to learn, also, that every letter in the or to his party and the State, as he is justly dear to

inently proper.

#### MR. RHETT.

This "distinguished personage" made a speech in the Senate a few days ago, in which he declared himself a se essionust-not theoretically only, but practically! The overwhelmning defeat which the advocates of secession have recently met with, seems not to have dampened the ardor of some of their leaders, in the least. It is thus proposed to keep up a separate organization, so that when opportunity is presented, they may revive agitation. A man must transmitted on each alternate day, viz: on have very little regard for the solemn oath he takes, aday, Wednesday, and Friday, from Rocky to support the Constitution of the United States, fount. This, it seems to us, is the most desira- who can get up in the Senate, and proclaim his purcarrangement that could have been effected, pose to do all in his power to break up the Union, der the circumstances. Had the mail been sent and destroy that Constitution. Seward, Rhett & Co. Goldsboro', as has been suggested, we should have been at this long enough to receive, as they well deserve, the condemnation of the patriotic of all my way, and, while expressing sympathy for the

THE COMPROMISE.

The Democratic Abolition presses at the North A meeting of the Commissioners of the City Compromise. The New York Evening Post, decias promptly held on Tuesday evening last, at dedly the ab'est and most influential journal amongst to be my leading principles, viz: not to mix and not to be mixed up with whitever domestic concerns or them, says, "As the Compromise measures are the measures of the Administration, and its friends, and form a part of the Administration policy, they were, of course, adopted at the Whig Caucus." "The responsibility of the Compromise is virtually disowned by the Democrats, and distinctly avowed by the Whigs, whose proper offspring it is !" What has the "Standard" to say to this?

SUDDEN AND SEVERE COLD.

At half an hour before sunrise yesterday morning a in cases of Fire, and have the honor to lay the Thermometer, in open air, stood at 16 degrees. being sixteen degrees below the freezing point. On the preceding morning (13th) it was up to 40 degrees. Nutional Intelligencer, of Monday last .

The weather, here, for the past week has been of almost unparalleled severity. The Thermometer, n open air, on Thursday morning, before sun-rise, stood at 12 degrees, being twenty degrees below the freezing point. It rose but little during the dayhaving risen, at 12 o'clock, M., only to 20 degrees.

The Ice-Houses, we understand, have all been filled. The Ice is said ito be of superior thickness to any put up in the city for a number of years pas:

In his great speech at the New York Municipal dinner, Kossuth said "Washington never even recommended non-interference. He has only recommended neutrality." What did the great patriot mean when he penned the following in his Farewell Ad-

"Against the insidious evils of foreign influence, I conjure you to believe me, fellow-citizens, the jealoudely provided. Our public wells should be sy of a free people ought to be constantly awake, med, enlarged, and increased in number, and since history and experience prove that foreign influups provided of sufficient capacity, and kept ence is one of the baneful foes of Republican Gov-

Again: "The great rules of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection Again: "It must be unwise in us to implicate our-

rope) politics. Again: "Harmony and a liberal intercourse with all nations are recommended by policy, humanity

" Friends with all, entangling alliances with none," was the great principle upon which Washington conducted the foeign policy of the country. If we are to declare to the world, that as a nation, 'we will enforce the doctrine of non-interference between all nations" the inevitable consequence will be WAR, IN-TERMINABLE WAR-heavy taxes-a national debt-a splendid Government at the centre-the concentraion of all power in the Federal Government-discord amongst ourselves, and in the end a limited monar-

Kossuth's doctrine may do for the restless, licentious ested by the Mayor is feasible and will doubt- spirit which prevails in the large cities of the North but with the sober, discreet, industrious people of the interior, who earn their livelihood by the sweat of We surrender a large portion of our paper, to- their brow, it will not go down. They will cherish the dying admonitions of WASHINGTON !

Mr. CLAY is again out, and was enabled to be pre-"Vox Populi," of the "Standard." And sent in the Supreme Court, on Friday last, as counby the way, it is not our wont to notice ano. sel in the Kentucky mortgage case. We sincerely is communications, we feel it to be due to hope, in common with the thousands of Mr. Clay's ves to give an indignant denial to the grat- friends, that his voice may again be heard and his inand illiberal insinuation in the conclusion fluence feit in the circle of the Senate chamber. Mr article of "Vox Populi," that we, among C's recuperative powers are very great, notwithstanhave been influenced by party prejudice in the ding all the service he has seen-and hard labor it we have pursued with reference to the unfor. his been, for a term of forty five years, since he com-

In the course of his speech in the Senate, on ught or acted differently. The view that Friday last, upon offering his resolution calling for intaken of the case, is pretty much the same formation in relation to the recent reported outrage A complete assortment of Tables, Writing Desks, taken by the "Wilming,on Journal," a De- upon the steamer Prometheus, by a British vessel of war, Mr. Cass said :-

"I must express my gratification, in looking over ace with a rule we have always observed of the papers, at the ground taken by Mr. Crittenden no Communication of merit, when free in his communications with the French and British ministers. He laid down the true doctrine, for which occused of any intention to disparage either of stration will firmly adhere to it. They will meet, I we have always contended; and I trust the admincations to which it refers. With respect to am sure, with the general concurrence of the country. them, we have heretofore shown differently.

This is precisely one of those questions before which party disputes should be hushed, and which appeal to the hearts of the whole American people."

AMERICAN ALMANAC FOR 1852. We are indebted to Mr. Pomenov for this righly valuable publication. It contains an incalculable amount of useful statistics and general information . and though there are a few inaccuracies, particularly There is a strong move making by the friends with reference to this State, they are by no means Van Buren to effect a restoration under important enough to impair the value of the work.— Butler, of Kentucky. All the Free Soilers They will doubtless be corrected in a future edition. As it is, the work should be in every man's hands, ward accounts to P. R. H.

KOSSUTH. The "Alexandria Gazette" well remarks that if the distinguished Magyar is to make answer, in this country, to all the speeches that are in preparation to be delivered at him, he will have a hard task before him And, if the newspapers are expected to print all that he has to say, they may as well adjourn all other matters until he leaves the country.

Though Kossuth has been in the United States but twelve days, it is stated that he received, up to Saturday last, 40 official addresses from public bydies, all congratulating him on his arrival, and sympathizing in his cause; twelve especial invitations to visit different cities and towns as a guest, and more than 225 private letters from single individuals, containing sentiments of the warmest character, both for him and for Hungary, and in some instances also sending donations to the Hungarian fund, which it is proposed to raise in aid of her liberty. Letters are daily pouring in upon him, and his correspondence is immense, not only in America, but in almost all the countries in Europe.

To put a stop to attempts to entangle him with the views of any party or faction, he has published the

TO THE PEOPLE OF THE UNITED STATES.

New York, Dec. 12, 1851. Having come to the United States to avail myself for the cause of my country, of the sympathy which I had reason to believe existed in the heart of this nation, I found it my duty to declare, in the first mo ments of my arrival, that it is my mission to plead the ndependence of Hungary and the liberty of the Euopean continent, before the great republic of the U nited States. My principle in this respect is, that every nation has the sovereign right to dispose of its own domestic affairs, without any foreign interference, that, I therefore, shall not meddle with any domestic concerns of the United States, and that I expect it from all the friends of my cause not to do anything in respect to myself, that could throw difficulties in cause, would injure it.

It is with regret that I must feel the necessity of again making that appeal to the public opinion of this country, and particularly to those who profess themselves to be the friends of my cause, to give one are rejoicing over the refusal, on the part of the Conparty question. L. Kossuth.

The dinner given to him by the members of the Press came off on Monday, and was a most brilliant and enthusiastic affair. The hall was crowded to

William Cullen Bryant, editor of the Evening Post was chosen President.

It is stated that his Speech on the occasion makes six columns of the Herald, and will attract more at tention than any that has preceded it.

By reference to the proceedings in Congress, it will be seen that the House on Monday passed the resolutions, which originated in the Senate, welcoming Kossuth as the guest of the nation. The vote was a decisive one-181 yeas, 16 nays.

The speech delivered at the New York Corporation Dinner, copious extracts from which we publish to day, has only tended to confirm the previous views we have entertained and expressed relative to the mission of Kossuth and its consequences.

## THE PANILY SEROPL

Warren County, near Littleton N. C. The next Session of this School will commence on Friday, the 16th of January.

For Boys entering under 14 years and preparing for College, Board and Tuition per Session, in ad-For others, private application may be made. J. DeB. HOOPER. Dec. 18 1851. Standard 4 weekly insertions.

## CHESS-MEN.

Fine English polished bone Chess-men, of large medium and small sizes, in mahogany boxes, Fine French polished bone Chess Men, Nos. and 12, medium and small. Hard wood Chess-Men, of cocoa and box wood, Nos. 1, 2, 3, 4, 5 and 6

For sale by H. D. TURNER, N. C. Book Store.

Raleigh, Dec. 1851.

#### Just Arrived. At Procter's

(Successor to Oliver and Procter) Frock and over Coats. Also a variety of trust to his swallowing such doses as these. ancy Cassimeres, all of which are selling very

ISAAC PROCTER Raleigh, Dec. 18th, 1851.

## Water Colours.

Nawman's superfine Colors, in polished resewood and mahogany boxes, with lock and draw, furnished complete for Artists and Amateurs. Newman's superfine Colors, in boxes of 6, 12, and 24 cakes. " half cakes, Ackerman's Very sucrior French Colors.

Large Toy Colors, in boxes of various sizes. For sale by H. D. TURNER. N. C. Book Store. Raleigh, Dec. 1851.

## PAPIER MACHE WORK

A very extensive assortment of Papier Mache Portfolios with paintings or landscapes, groups of flowers, inlaid with pearl and silver, varying in quality and price. A beautiful assortment of Papier Mache Card-trays, with and without Handles.

Work Boxes and Inkstands, beautifully gilt and tastefully inlaid.

For sale by H. D. TURNER N.C. Book Store. Raleigh Dec. 1851

## Notice!

THE undersigned is desirous of contracting with some competent person who thoroughly understands the business, to over-see hands in getting Turpeatine. He also wishes to contrac with two GOOD COOPERS and a DISTILLER of Tur-

pers who is well skilled in the managem nt of a given our land natural facilities, and to consent fore they ought to give a verdict accordingly, yet postage paid, immediately, at Raleigh.

Raleigh, Dec. 19th, 1851. 5t 102

### COMMUNICATIONS.

FOR THE REGISTER.

A NEW TARIFF IN DISGUISE. The North Carolina Reader, by C. H. Wiley; Commencement Address of W. W. Avery, Esq.; The Weekly Post. C. H. Wiley & W. D. Cooke, Esqrs.; Wheeler's History of North Carolina, pp. 618.

Poor North Carolina, doomed so long to silent ontempt or broad ridicule, seems now fairly in the way of being crushed, like the Roman maiden, Tarpeia, under the weight of the burdensome donations thrown upon her; or, to assume the masculine gender and to adopt a favorite imper sonation of the State now a days, old Rip Van Winkle is, in spite of himself, so unceremonious and unaccustomed finery, that it would be no wonder if he should turn fool, and expose himself to the derision of all his contemporaries by vain conceits of his own supergritty and by giv ing himself airs of importance not natural to him but put into his head by the silly flattery of some of his friends. That a certain degree of State pride is right and becoming no one will deny; but, it must be recollected that the way to command respect, both in individuals and in States, is to merit it by conduct and not be forever complaining that people are too blind to perceive our inerits or too ill natured to acknowledge them .-It is much more dignified certainly to let others praise us and not be our own trumpeters. The publications at the head of this article have, in

their zeal for the honor of our good old Common wealth, overstepped all the modesty of nature, and, by their extravagant and injudicious adulation, threaten to fasten and rivet upon us the very reproach of simplicity and greeness, which has been so galling to them and which they are so anxious to throw off. Take as a specimen passages from some of them : "The North Carolina character, much as it has been misrepresented, is unequalled by any in the

world. Take it in the valley of the Mississippi and in the far west, and it is proverbial for honesty, probity and honor; and to it does the great South West owe thuch, if not most, of its real greatness. There is no other people so honest and gressional Caucus of their friends, to approve the might extangle me into difficulties in respect to that ing, the least ambitious and the least ostentarious rule which I have adopted, and which I again declare of all the races of the world, they are undoubtedly the bravest. Much, however, as this character has been withdrawn from the gaze of man kind, it has had its effect in fixing the destinies of the world. It is the very salt of the South West, and the fairest and sweetest plossoms of humanity in the great Mississippi valley have sprung from it,' &c , &c.

North Carolina Reader, p. 222. " In no other State is virtue more highly appre ciated-integrity so scrupulously practised-vice nore generally reprobated, and crime so certainly punished."-Mr. Avery's Address, p. 14.

"Her citizens abandon their homes and firesides without regret-carrying with them wealth, intelligence and virtue. The wealth thus abstructed is enriching every soil-the intelligence thus lost is enlightening every cabinet-and the virtue thus removed is adorning every social circle in this wide spread Union."—Ibid. p 17.

Now, I hesitate not to say, that if this language were put into a book got up by a Virginian, South Carolinian, New Yorker or a Massachusetts man, it would excite disgust as a mark of overweening arrogance, or in laughed at as a proof of swollen vanity; and would directly provoke taunting and satirical remarks. Let any one make the experiment by substituting South for North Carolina in the above paragraphs .-"The South Carolina character is unequalled by thereon." (1 Rev. Stat. ch. 31, sec. 136.) any in the world. There is no other people so honest and reliable. They are the very salt of of the South West. In no other State is integrity upon the facts"—whether they are fully and suffiso scrupulously practised," &c. Had our Southern neighbor, with all her credit for Gasconade, Judge, to declare and explain the law." This en uttered such language respecting herself, methinks we should have set it down, not as a commendable specimen of State pride, but as a still more offensive claim of superiority than she has yet manifested, and we should have met the invitious

retension with a flat denial. For myself, as a true son of North Carolina, and as alive to her glory and her shame as I ought to be, I confess these unmeasured encomiums and these invidious comparisons with others, bring the blash upon my eneck I not only blush for the offerers of such adulation, but for the taste of the public that can welcome or even tolerate it. I don't want our satirical neighbors, who are always watching for some little infirmity to jeer us about-some "hole in our coats" to put their fin gers through-I don't want them to think that the and who are not in fact, qualified for such a task people of North Carolina are to be eaught, like flies, with such molasses and water as this. Our respect for persons whom we wish to praise is termine the law, and they do determine it against evidenced by the quality of that praise. If we the opinion of the Judge correctly given, and con respect their good sense, we praise them with vict the defendant, whence is the right of the delicacy and refinement-knowing that gross flat- Judge, to set aside their verdict and gram a new tery will disgust and offend. What liberal calcu. trial? If, under such conviction, a new trial is re lations then do these Quizzers of old Rip make

These over-anxious champions for the credit of North Carol na seem not to consider that they are assigning the cause for the effect, and the effect for the cause. It is not the apathy and want of enterprise of our people that has been at the foundation of our State depression, but the State depression, occasioned by insuperable obstacles of nature, has dampened the spirit and paralyzed the energies of our people. A people will be almost defendant again, on the same state of facts !sure to become what their natural advantages en Now, I humbly submit that a system, operating able them to become. Place an active enterpriz- thus, is a mockery? It in effect, breaks down ing race in a region whose sea coast is barred the judicial and moral power of the Judiciary, and with dangerous shoals, whose rivers are full of unites in the hands of the Jury, the Legislative impediments to navigation, and whose produc's and Judicial functions. Such a system may work are too cheap and bulky to bear transportation to very well for a popular and influential defendant, a distant market, and that people will soon be- who has been able to get a Jury to suit him, but come poor and dispirited, or the most vigorous it is certain death to the weak, or even the strong, and energetic will cease to contend with the in- who have become obnoxious under the whispervincible frowns of Providence, and will seek a ings of slander, or the outbursts of popular clamor! land more propitious to their exertions.

Absolute despotism or stern necessity may defy and vanquish the resistance of Nature. Thus have the law stand, as a wall, between himself Peter, the Czar of Russia, could found his Capital and the fires of persecution or popular prejudice, on the swamps of the Neva, utterly reckless how and that the community also has a right, to have many myriads of the lives of his subjects were the same law held up between it and the lawlesssacrificed in the obstinate enterprize; and the ness of the powerful and influential violator of its brave Holianders, denied a foot hold on the Con- peace and order. The Judge is the representative tinent, could build on the breast of the Ocean, of that law! He, under the Constitution and laws, "the Ha'cyon nest of liberty." But men left to is its rightful expounder! It he errs, either through their native freedom, and having a boundless ignorance, or under the influence of corrupt mo country to choose from, all enjoying the benefit of tives, there is still a higher tribunal, to which the take leave of the subject. the same auspicious government, will never carry | defendant, wrongfully convicted, may appeal. on a gigantomachia-a war of the giants against But let it be conceded for the sake of argument heaven, out of a sentimental attachment to their that there is nothing in our Constitution and State natal soil; or if they did, it would only argue a laws which adds strength to the position taken, want of that sagacity and good sense which our still it is submitted, that the most approved de-Eulogists claim for the population of the old cisions of other Courts and the highest judicial North State, These Reformers seem to lorget, too, authorities are against the right of the Jury to dethat every production will spring up where nature | termine the law in criminal cases. has made the soil, the chimate and the circumstances "If it shall plainly appear in any case, that Jucongenial to it, and that the established maxims rors are perfectly satisfied of the truth of a fact, of political economy forbid a hot-bed culture of whereupon they declare to the Court, that they

we must, forsooth. exclude every thing of external growth and encourage home manufactures .- arose in England on the decision of LORD MANS-We must eat, drink, and wear what is made at FIELD under the indictment for libel, against the home, however inferior, rather than patronize right of a Jury to determine the law. It is fathose at a distance. Our furniture, our entlery, miliar to all I would only call attention, in this our tools and utensils, mechanical and agricultu-ral, must all be made at home—though clumster Juage Curris in the case of The United States our tools and utensils, mechanical and agricultuand dearer than what we can get from our neigh- vs. Morris. He there says, "the general rule debors, who have a lyantages for such fabrics which clared in Rex vs. the Dean of St. Aszph, (3 T. R. we cannot command. Let us, then, no more 328.) that Juries cannot rightfully decide the law send for our tea or coffee across the water, when in criminal cases, is still the law in England and our native Yopon, our ground peas and rye, will firnish us with beverages more wholesome, and B. in Parmiter vs. Copeland, (6 M. & W. 105,) ly dragged from his couch, made to wash his face (after a little grinning, under the first experiments) and open his eyes, and is so tricked off with new equally palatable. FITZ VAN WINKLE.

B. in Formular vs. Copetand, (6 M. & W. 105,) and of Best, C. J. in Levi vs. Milne, (4 Bing. R. 195.)"

FOR THE REGISTER!

MR. EDITOR :- The question, whether jurors have the right to determine the law, in criminal eases, against the instructions given them by the Court, is important not only to those who may be charged with offences against the State, but to the public at large. I propose to examine it briefly and to review some of the positions assumed by a writer in the last Standard, over the signature of

"Vox Popull." It is conceded on all hands that in civil cases the jury has no such right. I maintain, that under our Constitution and laws, and in accordance with the most approved decisions of the Courts, the Jury has no such right, even in criminal cases, but on the contrary, it is the right of each citizen, charged with and on trial for a criminal offence, to have the law expounded and declared by the Court, and to have the Jury apply the law, as thus expounded and declared, to the facts of the case, in determining guilt or innocence.

Let us first consider the question as it is pre sented under our own State Constitution and laws, without reference to the decisions of other States or of England

The 12th Section of our Bill of Rights declares that no freeman ought to be deprived of his life, liberty, or property, but by the law of the land." The 4th Section declares, "that the legislative, executive, and judicial powers of the government,

Under our Constitution, the Judicial powers are vested in the County, Superior and Supreme Courts-the latter, possessing the right to review all questions of law, which are carried up from the inferior Courts. Our Judges are appointed by the Legislature-the immediate Representatives of the People; are independent, as to the tenure of their office, except so far as evil conduct may render them amenable by impeachment, under the Constitution and laws. With us then, there is no danger of the Judge becoming the instrument of oppression, in the hands of a superior power- as was the case in England prior to the Statute of 13 W. 3, c. 2, which established the salaries of the Judges, and secured them in their offices "during good behaviour," instead of being as they were before at the mercy of the King s "good pleasure."

As early as 1796 our Legislature passed a law, declaring that, "it shall not be lawful for any Judge, in delivering a charge to the Jury; to give an opinion whether a fact is fully or sufficiently proved, such matter being the true office and prorince of the jury, but it is hereby declared to be the duty of the Juage, in such cases, to state in full and correct manner the facts given in evidence, and to declare and explain the law arising This law is now in force. It establishes that the true office and province of the Jury is to pass ciently proved, and that it " is the duty of the

actment is not confined to civil cases. It is general in its terms, and applies also to criminal trials. Nor is it at all ambiguous. It expressly makes it the duty of the Judge not only to "explain" the law, but to "declare" it. Now, can it be pretend. ed, that after enacting in expr ss terms that the true office and province of the Jury is to pass on the facts, and the duty of the Judge, not simply to explain but to declare the law, the Legislature intended to leave the right with the Jury to decide the law, contrary to the instructions of the Judge ?

Again: Is not the right secured to every citizen by the 12th section of the Bill of Rights, which in criminal cases, and especially in capital cases, the I have quoted, rendered nugatory, or at least, weakened, by giving the right to decide the law, to a set of men, who have not made it their study, trine will lead! If the Jury have the right to de-FRESH supply of those beautiful winter at his enormous powers of deglutition, when they decision? There is no point of law arising in the case, because, the Judge below, it is assumed, laid down the law correctly. If the whole facts are carried up, on the record, and the Supreme Court It is the duty of the Court to instruct the Jury as to say, that according to the law applicable to those facts, the defendant was improperly convicted, and should have a venire de novo what then? On the next trial, the Jury, being still the Judges of Jury were at liberty to settle the law for themse ves, the law, would have the right to disregard the decision of the Supreme Court, and convict the

I maintain therefore, that under our Constitution and laws, it is the right of every citizen to

exotic plants, and command us to conform our- find it in such a particular manner, and the Court selves wisely to the determinations of nature, directly tell them, that upon the fact so found the He also wishes to procure the services of some pursue with ardour that for which Heaven has judgment of the law is such or such, and thereto be indebted to other parts of the world for that they obstinately insist upon a verdict contrary to Early application is desirable. Address me, which we can import easier and cheaper than we such direction, it seems agreeable to the general can produce—that this mutual dependence is the reason of the law, that the Jarors are finable by golden bond designed by Providence to connect the Court, in such a case, unless an attaint lies in fraternal union the wide spread family of man. against them, for otherwise they would not be Raieigu, Dec. 1944, 1001.

B'andard, Tarboro' Press, North State One nation needs something which another has; punishable for so palpable a partiality in taking the Principal, or Whig, and Newbernian insert two weeks and for this stimulates to an exchange, and thus is the upon them to judge of matters of law, which they whole world kept in wholesome and friendly ac- have nothing to do with, and are presumed to be December 19, 1851.

tivity, and its manifold riches circulate through ignorant of contrary to the express direction of the body politic like the life-blood circulating one, who by the law is appointed to direct them through the system of the individual man. And in such matters and is presumed to be of ability to yet there are some among us continually declaim- do it." (2 Hawk. P. C. c. 22; 3 Ba, Ab. title Juries ing against being dependent upon foreigners, and | 785)

I do not intend to go into the controversy which may be seen by reference to the opinions of Parket

ing to my reading. Judges Iredell and Peters tried him, and though it is true the latter did lay down the principle that the Jury were judges of the law, yet from the opinion of the former, to which I have been able to refer, it is not clear, that he coincided with his associate. However this may be, the question was not distinctly made and it is but a dictum of Judge Peters. In the trial of Callender for seditions libet, Judge Chase did say, to the Jury, that they had a right to de term ne the law, as well as the fact, so far as deciding what was made caiminal under the " sedition law" went, because, the law itself had declared in-express terms, that the "Jury who try the cause shall have a right to determine the law and the fact, under the direction of the Court, as in other cases." But he did not stop there. The counsel for Callender denied the constitutionality of the Sedition law, and insisted the Jury had a right to pass upon that question. This was controverted by Judge Chase, and in support of his position he reasoned as follows: "All the rights, powers and duties of the petit jury are derived from the Constitution or Statutes of the United States, or from some Statute of the State, or from the common For Prolapsus Uteri, (Falling of the Womb,) law which was adopted by the Federal Constitutution in the case of trial by jury in criminal before this time, that a petit jury in England (from whence our common law is derived,) or in any part of the United States ever exercised such them extremely unpleasant to be worn. power. It a petit jury can rightfully exercise

"If this power be once admitted, petit juries will be superior to the na jonal legislature, and its laws will be subject to their control. The power to abrogate or make laws nugatory, is equal to the power the most decided beneficial results, and highly reof making them. The evident consequence of this right in Juries, will be, that a law of Congress will

be in operation in one State, and not in another," do This process of reasoning was also adopted by Judge Curris, when it was contended, in the case of

constitutionality of the Fugitive Slave Law. It appears to me, that if the broad principle is ad nitted, that the Jury, in criminal cases, have the right to determine the law, you cannot shut the door to their inquiring into, and deciding upon the constitutionality of the law, if it be a statute of the State, or the United States. The inquiry, "Is this the law?" or "what is the law?" must necessarily open this, and every other question, having a direct bearing upon, and incident to it What, then, will be the consequences? Judge CHASE did not describe them too strongly, when he declared that they would break up our system of Government.

In the case of the State v Townsend, 2 Blacks. 151, the Court said "They (the Jury) are bound to Bandages, for restoration find the law as it is propounded to them by the Court. They may, indeed, find a general verdict, including both law and fact, but if, in such verdict, they find the law contrary to the instructions of the Court, they thereby violate their oath.' See also, People v Price, Barb. C. R. 566. This position is most ably sustained by Judge Addison, of Pa. in his charge No 6, contained in the Supplements to his Reports. "His arguments," says a legal writer, "are such as it is difficult for the legal mind to rosist." I would also call attention to the reasoning of that

great and good man and able jurist, Judge Story, in the case of U States v Battiste, 2 Levin. R. 240 .--"I wish," said he, "to say a few words upon a point suggested by the argument of the lea.ned counsel for the prisoner, upon which I have had a a decided opinion during my whole professional life. Itis, that Jury are the judges of law, as well as of the fact. My opinion is, that the Jury are no more judges of the law in capital and other criminal cases, upon the plea of not guitty, than they are in every civil pase, Besides, see to what consequences this doc- tried upon the general issue In each of these cases their verdict, when general, is necessarily compounded of law and fact, and includes both. In each they must necessarily determine the law as well as the facts In each they have the physical power to disre gard the law, as laid down to them by the Court. But I stry that in any case, civil or criminal, they have the moral right to decide the law according to their por motives of pleasure. On the contrary, I hold if the most sacred constitutional right, of every person accused of a crime, that the Jury should respond as to the facts, and the Court as to the law. the law and it is the duty of the Jury to follow the law, as laid down by the Court. This is the right of every citizen, and it is his only protection. If the the effect would be not only, that the law itself would be most uncertain from the different views purchase of which different Juries might take of it; but in case of error, there would be no remedy or redress by the injured party; for the Court would not have any right to reverse the law as it had been settled by the Jury. Every person accused as a criminal, has a right to be tried according to the law of the landthe fixed law of the land-and not by the law as the Jury may understand it or choose, from wantonness or ignorance, or accident, or mistake, to interpret it.

If I thought that the Jury were the proper judges of the law, in criminal cases, I should hold it my duty to abstain from the responsibility of stating the law to them upon any such trial."

I regard this reasoning as unanswerable. No man's opinion, on legal questions, is entitled to more the Stae" respect, than that of Judge Story. His fame as a Persons Jurist is not confined by the boundary of his own of bonds for which they hid, and endorse on their country. He has taken his seat amongst the great, letters "Proposals for State Stocks" in that branch of science, of all countries. I think it POPULI," or any other even more distinguished in legal lore, to answer successfully the argument of Judge S. If it suits his convenience or pleasure, he may go to work! As for myself, I beg permission to

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hagres and New Orleans.

Oct. 23, 1851. , 2t & 2am. 3m 86 Williams' New Traveller's Guide. THE TRAVELLER'S AND TOURIST'S GUIDE Through the United States of America, Canas

I ask attention to a few other decisions in our own Courts. It is a mistake on the part of Voz Populi, in stating that on the trial of Fries for treason, Judge Chase declared that the Jury were to decide in all criminal cases on the law as well as the force. He did not create at that trial accord. including California, Oregon, &c., and a Map of the Island of Cubs.

By W. Williams. For Sale by H. D. TURNER. N. C. Book Store. Raleigh Nov. 1851.

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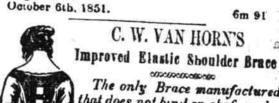
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