

cised, it can only be such; in, as they may transact immediately under the constitution, that is principally to advise and consent to such executive acts of the governor as require their concurrence, for by sect. 26, their journal ought to state if he or any member requires it, what they advise the governor to do, not their own acts as an executive of Maryland. If it shall appear by those proceedings, that the advice the council gave was wise and proper, the governor is responsible for all consequences if he does not pursue it—but if it was unwise or if the governor proposes wise measures or appointments and the council will not give their consent, they, or the particular members refusing, are rendered by that article responsible to the legislature; or 2dly, they may transact such business under the constitution as by some particular laws may require their concurrence expressly, and not their joint act with the governor. See sect. 33. The same sect. 35, requires him to give a casting vote when the council are divided, and wisely, otherwise he could not obtain their advice and consent, and his own judgment would avail nothing, although half the council should agree with him in opinion—his merely being president does not alter his powers derived from other parts of the constitution, nor authorise him to act as another member of the board, as the Friend to Candour terms him: The governor of Maryland acted as president of the council before the revolution, so did and so do all the governors of the different states where there are councils, before and since our independence; but that does not constitute them members of the council. Indeed imagination can hardly conceive a proposition more absurd, than that a man should be a member of a council, to himself, which the council of Maryland by the constitution, are to the governor. As the governor may by absence out of the state or at the head of the militia, or may by sickness or other casualty, be unable to execute the duties of the office; the last clause of the same section provides, that in case of such absence the first named of the council shall preside, &c. This clause and the 34th section will be found on examination only to establish by constitutional provision, what was already the law of the land. By the law of 1716, chap. 21, made during the sickness of governor Hart, it was enacted that in all such cases of absence of the governor thereafter, the first named of the council, and so successively the next eldest should preside, and by and with the advice and consent of council, execute the duties of governor, &c. In reality these sections and the whole constitution left the executive and judiciary departments, in a great measure as had been used, approved and understood before the revolution; but a reference is principally made to the laws existing when the constitution was formed, as the necessary, and perhaps the only legal mode of ascertaining the true meaning of the terms and provisions which the convention have used: In this view the following observation may perhaps prove decisive of the present constitutional question; the terms by and with the advice and consent have been used perhaps in every law passed in Maryland from the settlement of the colony to the sitting of the convention; their meaning had been uniform and was descriptive of a concurrent exercise of independent authorities, or powers, but never indicated a joint act; it is impossible to believe that the convention when they inserted those technical terms in the constitution, intended or expected they would convey any other meaning than what had been so long legally established and understood. In each of the three years of governor Johnson, his appointment, his qualification before the legislature and his appearance in council, are entered at large in the proceedings, but his name is entered in no other manner except to note when he was absent; the whole then must be considered as his acts unless when he is stated to be absent, and it will appear that great part of the business was actually transacted by him, when not a single counsellor was present: what was transacted in his absence, was chiefly formal and of a trifling nature, although in the midst of the pressure of the war, and when the assembly were constantly delegating special powers to the executive, in such manner as circumstances might require. For several years under succeeding governors, a strict investigation of the writer, has not discovered the appointment of any civil officer, during the absence of the governor; it is true that where five men, acting with one, differ with him about their respective powers, if they put it to the vote, they will always out vote him; and it will not be denied that the council have been gradually gaining, and the governor losing, until the degraded and humiliating situation to which the nominal chief magistrate was reduced, compelled Mr. Henry to retire from office, at the close of his first year, as he informed two of his confidential and very respectable friends in Annapolis; but the office never reached the ultimatum of insignificance, until the construction of the present council was carried into full operation: under that, unless the governor shall keep watch at the state-houses and may chance to find precisely the number of four counsellors assembled, he can have nothing to do with the general executive business of the state, unless he volunteers to act as clerk: the extent of this abuse was foreseen and considered; and influenced by the most chastised judgment he could form of the solemn obligations imposed upon him by the constitution and laws, the present governor had informed several of his connexions and friends of his determination to retire from office at the close of his first year, when a report was spread of fresh and decisive proof being obtained of his want of legal residence; it then became a duty to himself and perhaps to those who elected him, not shrink from the inquiry. After a re-election, which

alone could test the truth of the report, to have quitted the office immediately (if to be avoided) would have incurred the imputation of a censurable versatility; and during the recess of the legislature, it would be inconvenient and expensive to the state; as among other extraordinary provisions of our constitution, on the resignation of the governor, although the president of the council shall qualify and act as governor, yet he must call the legislature within fourteen days thereafter, to elect with the most solemn formality of a particular oath the person best qualified in the state to supply the place for the rest of the year of this officer, whose duty the constitution intends should be to do—what? Nothing! as is now contented.

It is well known to every man used to our public councils, that a few active partisans may by traversing a town during the night seeking and misleading the easy, the credulous and unthinking, give the tone of party, perhaps by morning to a particular measure, and that then the informed and reflecting, finding themselves in a minority, frequently acquiesce, to avoid the bickerings and denunciations of the violent. The rising light of political information will soon dispel these mists, that hover over the dawn of our empire, fast burbling into meridian glory; to a prospect like this, the eye of the true republican turns with hope and delight, from the antic gestures and rude violence of self-created and self-important organs of the public will; and a benevolent mind will rejoice to spread the friendly mantle of oblivion over their folly and extravagance.

A Civil Officer of Maryland.

February 28, 1803.

NEW-YORK, March 8.

Extract of a letter from a gentleman of respectability, to one of our subscribers, dated

MALAGA, December, 1802.

"In consequence of dispatches from government to commodore Morris, and which captain M— opened, he sails to-morrow for the United States: The Chesapeake is to follow, and commodore Morris is to stift his flag on board of the New-York or John Adams, and continues on the station. The Swedes have made a peace with Tripoli, by paying 150,000 dollars. It is also said, there are several cruizers fitting out at Tripoli, which will be at sea this winter. Tunis has demanded from the United States a frigate of 36 guns; and it is expected that Morocco will declare war against the United States before next spring; and if so, we shall have our hands full, and to use the expression of consul O'Brien, "IT LOOKS RATHER SQUALLY HERE."

Accounts from the Havanna state, that vessels were about to sail from thence to take the Spanish garrison from New-Orleans and convey it to St. Augustine; and that the former place was to be delivered up to the French, as a frigate, having on board a colonial prefect, and a number of officers, had arrived at New-Orleans to take possession of it for France. [Charleston paper February 25]

March 10.

Lat from Gibraltar.

Last evening arrived at this port the ship American Hero, captain Masters, in 38 days from Gibraltar. Captain M. informs us, that on the 28th January, three days previous to his sailing, information was received there from Cadiz, that all American vessels had been ordered by the Spanish government to depart immediately from Cadiz, and that no more would be permitted to enter. The cause of this interdiction was not publicly known. Twelve sail, which had quitted port in consequence of this order, were driven ashore; one of them the ship William and Henry, belonging to Mr. William Gray of Salem.

Whilst captain M. lay at Gibraltar several very severe gales of wind were experienced, in which many outward and inward-bound vessels were totally lost, amongst which we are sorry to number the fine new ship Cora, captain Bourne, (belonging to Messrs. Snell, Stagg, and Co. of this city) on her passage from Gibraltar to Cadiz; the principal part of her cargo, consisting of slaves will be preserved. In the same storm the United States frigate Constellation, broke one of her anchors, and drifted to sea. She narrowly escaped being driven on shore, as she lay in only five fathoms water at the time of the accident.

The frigate Adams was at Gibraltar, watching the motions of the Tripolitan brig, which still continued there.

It was currently reported that five Tripoline corsairs were out on a cruise against American vessels, but no account of their success had reached Gibraltar.

Prices of provisions at Gibraltar and up the Straits: Beef 18 dollars, pork 25, flour 9 1-2.

Captain Copeland, of the snow Scipio, arrived here yesterday from Bristol, spoke on the 30th January, in lat. 48, 28, long. 34, 10, three English East-Indiamen out 48 days from the Cape of Good Hope, with troops on board, bound home; the Dutch having taken possession of the Cape.

PHILADELPHIA, March 9.

Mr. Monroe, our envoy extraordinary to the French and Spanish governments, sailed from New-York on Sunday last, in the ship Richmond.

March 11.

Yesterday arrived the French brig La Cerf, with dispatches from Havanna, for the French and Spanish ministers.

Captain Oakford, who arrived yesterday from Rouen in France, brings dispatches to our executive from our minister in France, who, we are told, is heartily sick of his situation and wishes to return.

WASHINGTON, March 9.  
On Monday, the president of the United States left the city for Monticello.

BALTIMORE, March 11.

The honourable Timothy Pickens, Esq; is elected a senator in the congress of the United States, by a concurrent vote of the two houses of the legislature of Massachusetts.

Extract of a letter to a gentleman in this city, dated South-West Point, Feb. 22.

"We were informed last evening by a gentleman of undoubted authority, that the port of New-Orleans is again OPEN to the Americans."

Annapolis, March 17.

LIST of ACTS passed at second session of the seventh congress.

- No. 1. An act for the relief of Charles Hyde.
2. An act authorising the sale of a piece of land, parcel of the navy-yard belonging to the United States, in Charlestown, in the state of Massachusetts, to the proprietors of the Salem turnpike road and Chelsea bridge corporation.
3. An act for the relief of Henry Messonnier.
4. An act for the relief of the sufferers by fire, in the town of Portsmouth.
5. An act to provide for the granting of clearances to ships or vessels owned by citizens of the United States, lying in the river Mississippi south of the southern boundary of the United States; and therein to amend an act, entitled, An act to regulate the collection of duties on imports and tunnage; and for other purposes.
6. An act in addition to an act, entitled, An act fixing the military peace establishment of the United States.
7. An act supplementary to the act concerning consuls and vice-consuls, and for the further protection of American seamen.
8. An act to provide an additional armament for the protection of the seamen and commerce of the United States.
9. An act to prevent the importation of certain persons into certain states, where by the laws thereof their admission is prohibited.
10. An act in addition to an act, entitled, An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States.
11. An act for continuing in force a law, entitled, An act for establishing trading houses with the Indian tribes.
12. An act for the relief of Moses White.
13. An act in addition to an act, entitled, An act concerning the registering and recording of ships and vessels of the United States, and to the act, entitled, An act to regulate the collection of duties on imports and tunnage.
14. An act supplementary to the act, entitled, An act providing passports for ships and vessels of the United States.
15. An act making an appropriation for the support of the navy of the United States, for the year one thousand eight hundred and three.
16. An act making appropriations for the support of government for the year one thousand eight hundred and three.
17. An act in addition to the act, entitled, An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova-Scotia.
18. An act concerning the salt springs on the waters of the Wabash river.
19. An act concerning the insurance of buildings, goods and furniture in the county of Alexandria, in the territory of Columbia.
20. An act in addition to, and in modification of the propositions contained in the act, entitled, An act to enable the people of the eastern division of the territory north-west of the river Ohio, to form a constitution and state government, and for the admission of such state into the union, on an equal footing with the original States, and for other purposes.
21. An act to make Beaufort and Passamaquoddy ports of entry and delivery; to make Easton and Tiverton, ports of delivery; and to authorise the establishment of a new collection district on Lake Ontario.
22. An act more effectually to provide for the organization of the militia of the district of Columbia.
23. An act for the relief of insolvent debtors within the district of Columbia.
24. An act to prolong the continuance of the mint at Philadelphia.
25. An act in addition to an act, entitled, An act to amend the judicial system of the United States.
26. An act making appropriations for the military establishment of the United States for the year one thousand eight hundred and three.
27. An act to revive and continue in force an act in addition to an act, entitled, An act in addition to an act regulating the grants of land appropriated for military services, and for the society of the United Brethren for propagating the Gospel among the heathen; and for other purposes.
28. An act authorising the transfer of the duties of supervisors to any other office.
29. An act concerning the city of Washington.
30. An act for the relief of Joshua Haver, and others.
31. An act regulating the grants of land; and providing for the disposal of the lands of the United States, south of the state of Tennessee.
32. An act to provide for the due execution of the laws of the United States, within the state of Ohio.