

Sir John Sinclair strongly recommends the following plan for the destruction of the fly or beetle which attacks turnips in its infant state: 'As soon as the ground is completely prepared for sowing the seed, let a quantity of stab ble; straw, or any thing that will burn be spread upon the 'surface,' and burnt to the ground. This is easily done in dry seasons, when alone the fly is to be dreaded. As soon as that operation is completed, the seed should be sown without a ther kill the insects, or compel them to take shelter in the soil, where they remain until the erop is out of danger. The her also thus applied, and the ashes thus pro duced, are of use to the crop; nor does it require such a quantity of combustibles, as at first sight might be apprehended, but merely that an adequate quantity of smoke and flame to destroy the insects, may passore the surface of the field. It is said that this practice has long prevailed in some of the counties of England. Sir John Sir clair recommends from two and a to half three pounds of turnip seed to be sown on

PROPERTIES OF THE APPLE.

The venerable T Pickering, in his ad dress to the Agricultural Bociety of Salem expresses himself in the following language, relative to the properties of the Apple:

"After providing a proportion of apple for the table and the ordinary purposes o cookery, I do not hes tate to express my ples are entitled to the preference. The best cider I ever tasted in this country, was made wholly o' sweet apples. They also a nournishing food to man and all do mestic animals. What furnishes a more delicious repast than a rich sweet apple baked and eaten in milk? I recollect the observation made to me by an observing farmer before the American Revolution, that nothing would fatten cattle faster than

sweet apples. "Mentioning this, a few years since, to a gentleman of my acquaintance, in an ad joining state, he informed me, that he was once advised to give a sweet apple to a sick horse Happening then to have them in plenty, the horse was served with them be soon got well; and continuing to be fed with them, he fattened faster than any other horse that he had ever owned, that was led with any other food. Mentioni to the same gentleman what I had long tore heard, that and mora easy materials. Mentioning what I had long be made of sweet apples, he confirmed the fact by an instance within his own know ledge. The process is very simple. The apple being ground, and the juice expressed at the coder mill, it is immediately boil ed, and the seum being taken off, the boil ing is continued until the liquor acquires the consistency of molasses."

From the Genius of Liberty.

Mr. Patton -- Please to give the following a place in your next paper, as it is now time to use it. I have for more than twenty years past, kept meat hanging up in my smoke house, through the summer season

smoke house, through the summer season and no fly, worm or bug has injured it.

To prevent such injury, about this time of year, I take clear strong ley made of wood ashes. I commonly boil it to make it stronger than it generally runs off, then I take my bacon and smoked beef, having two or three gallons of the ley in a large iron kettle, I take each piece of meat and dip it into the lev, so that it its completely dip it into the ley, so that it is completely wetted with it, then I let it dry—then I hang the meat in its former place. By this process I have invariably found that it kept the meat tree from bugs and worms, and no taste of ley is ever perceived, not even on

Yours, &c. JOHN PORTER.

From Thatcher's Revolutionary Journal. CURE FOR THE BITE OF A RAT TLESNAKE. Soon after my arrival here, a soldier had

the imprudence to seize a rattlesnake by its tail; the reptile threw its head back, and struck its fangs into the man's hand. In a few moments a swelling commenced, at-tended with severe pain. It was not more his shoulder was swelled to twice its natur al size, and the skin became of a deep orange colour His body, on one side, soon became affected in a similar manner, and a nausea at his stomach ensued The poor man was greatly and justly alarmed, his aituation was very critical men, besides myself, were in close atten-dance for several hours. Having procured a quantity of olive oil,* we directed the patient to swallow it in large and repeated doses, till he had taken one quart; and at the same time we rubbed into the affected limb a very large quantity of mercurial continent. In about two hours we had the satisfaction to perceive the favourable effects of the remedies. The alarming symptoms abated, the swelling and pain gradually sub-sided, and in about 48 hours he was happi

ly restored to health.

Common Sweet Oil It is equally good for the bitter any other snake.

RECIPE FOR THE DROPSY.

Medicated Cider .-- Put into a stone of earthen jug, a gallon of state, sound cider together with a double handful of parsel together with a double handful of parsely roots, and tops cut fine, a liandful of horse madish acraped, two table spoonsful of pounded mustard seed, half an ounce of juniper berries. The liquor to be kept warm by the fire twenty four hours, to be often shaken and strained for use Dose for an adult—a wine glass half full three times a day. The dage may day, on an empty stomach. The dose may be increased if necessary. After the water has passed off, the patient should use moderate exercise, subsist on dry nourishing food, and abstain from \$11 liquor as much

TO PREVENT MOULDING LY ROUNS, INK, PASTE & LEATHER.
Collectors of books will not be sorry to
fearn that a few arrow of Oil of Lavender
will insore their libraries from this pest. A
single drop of the same oil, will prevent a
plat of the from mouldiness for any length of time. Paste may be kept from mould entirely my the same addition; and feather is also affectually secured from injury by the seme agency.

AMPRISONMENT FOR DEBT.

The progress of the sation may be traced in the advancement that society has made in improving the happiness of our species; opinions are tolerated without danger, that formerly exposed their advocates to persecution and death, improvements are daily made in the science of government that would a few years ago have exposed nations to the most violent commotions, but still there remains among us, much to be still there remains among us, much to be corrected, much to be amended.

Foremost in the class of national evils, is the law that authorises Imprisonment for

It is pleasing to state that this subject is undergoing a discussion guided by good temper, and distinguished ability, worthy of a question that involves in its nature. the excitements of passion and feeling and the impulses of benevolence and reason. The contest cannot be lasting, for the pow erful predominance of the latter, cannot be resisted. We shall hail with pleasure, the victory, and gladly see the vilast though not the least" stain that human ignorance removed by justice and wisdom.

The foundation of all wise and good laws,

The foundation of all-wise and good laws, is equity and reason. Their object, if properly directed, is to restrain vice, protect honesty and punish crime. If these premises are co-rect, this odious law is wrong, for it too frequently generates profligacy, by encouraging fraud and perjury; it too often punishes honesty by consigning to a dangeon, the miserable victim of unmerited misfortune and thus superadds to the hormisfortune and thus superadds to the hor for so of want, the degradation of a felon, for in such a point of view, we consider the deprivation of liberty. It too often en courages crime, for from the frequency o imprisonment, the gaol is berelt of its ter-rors, it is there, that self respect loses itself and that s use of personal honour which constitutes the man meets its grave. What good does it produce to society, or the par-ties concerned; society is injured, for there is a false security given to credit by the existence of this law, founded on the vindic tive feelings of the creditor and the of the debtor The security is rendered : nullity by the avidity of tradesmen to obtain customers. This avidity is predicated on the right, they have to coerce payment, or imprison the body of the defaulter. The cautious prudence of the tradesman is by these means relaxed and opportunities at forded for the indiscreet to contract debt

that reduces them to beggary and ruin The parties themselves are not benefitted by the execution of the law Is incarcera tion likely to afford a debtor an opportunity of liquidating debts which in a state o freedom he is unable to discharge? and doe it enable the creditor to become one cent richer by subjecting a tellow being to the controll of boils and bars in the decision which we are certain it cannot in a majori-ty of cases, it in is of doing good, which is the primary object of all laws adapted to the happiness of mankind, it then becomes of no service to us, and if it furnishes man with the power of harrassing an unfortunate being without henefit to the nate being without benefit to the creditor or good to society, its principles ought to he crased from our statutes, as contrary to the constitution and in violation of the com

on dictates of humanity.
We should not wish to be considered a the advocates for fraud or collusion in the preceding remarks; let the lash of the law fall on the guilty; our object is to defend the victim of disappointment, misfortune and unavoidable losses. [Voice of Passaic.

SURGICAL.

From a late Oxford (Eng.) paper. A very remarkable circumstance has lately occurred in the family of a poor woman residing at Headington Quarry. Three years ago she was confined with a child born blind, with congenital catracts, which was operated on by Mr. Cleobury, at five months old, and restored to sight. The child can now see the smallest objects. A bout four or five months since the poor woman was again confined, and the second child was also born blind, and is to undergo a similar operation. For the consolation of parents whose children may be afficted with this great calamity, we have Mr C's authority to state, that he never yet experienced an instance of the operation failing. The above gentleman also ob-serves, that the earlier the operation is per formed, the more perfect will the organ be as an optical instrument, as the eyes par-take of the proportionate growth of the o-ther parts of the body. Hence nature will have an opportunity of supplying in some measure the deficiency of the lens; the in fant will possess greater power over the vo-luntary muscles of the eye, and thus be a ble to fix the organ more steadily on the object. It will be a better judge of distance and above all its education will not be im-

CONVERSION OF SABBATH

SCHOOL TEACHERS & SCHOLARS In the Female Union Sabbath School in New-York city, 66 Teachers during the last year; and 18 Scholars have made profession of religion, and during 7 years 418!

NEW MACHINE.

NEW MACHINE.

A prospectus has been circulated in Paris, of a new machine, which, if we may believe its inventors, will entirely overturn the present system of, hydraulies. They engage to supply a small steam engine, which will raise water to the height of 60 which will raise water to the height of 60 feet, at the rate of 15 quarts per minute.—
The machine will, it is said, consume but a pennyworth of coals in an hour, in which time it will raise 900 quarts to the specified height. It is to cost 600 francs, and to last more than a hundred years. No payment is required until the engine has been tried and gives satisfaction; until it is fixed and raises the water from the well to the roof of the house, which will thus be secured a the house, which will thus be secured a gainst the destructive ravages of fire. The proprietors likewise offer, at a progressive advance, machines which will raise double advance, machines which will raise advoice, treble, and decaple heights, (i. e. 120, 180, or 600 feet,) and thus in infinite progression. They at first concealed their names, and this mysterious conduct excited suspicion: they have since, however, made themselves known, and prove to be Messre. Croissins, brothers, both of them pupils in the Polytechnic school, and one of them a commandant of artillery, whose talents are sald, in the Parisian circles, to inspire the greatest confidence. They keep their dis covery a secret, and will not divulge it til they have raised subser ptions for twenty thousand inches of water, according to

Philadelphia U. S. Gaz. .

SIR ROBERT WILSON

The Charleston Courier, on the authority of the Callet Journals received at Hayana; communicate the subjoined latelligence; which, is the present critical state of Dpain, may be thought important to her cause—

"An agreement has been formed between fir Robert Wilson and the Spanish government, authorised by the Cortes, the object of which is to raise a body of foreign troops for the service of Spain. This agreement or convention is divided into twenty articles, and dated at Seville the 31st of articles, and dated at Beville the 31st be considered as holding the rank of a Spanish Lieut, General. The service of this corps continues through the duration of nation is to remunerate their valour, by Valencia, Catalonia, Estremadura and Castile."

GENERAL CHARLES LALLEMAND This distinguished French officer, who has joined the Spanish Patriots, accomanied the Cortes from Seville to Cadizrals, attached to the army under General Lonez Banos, the present commander of the force in the Isle of Leon. Fed. Gaz.

CANAL NAVIGATION. The tread wheel has been applied by M. Van Heythausen to the propelling of barges on canals. The object is to obtainte the of horses. The apparatus is made light & separable from the barge, and it is found that two men can propel a barge by it, at the rate of five miles an hour. of expense of horses and track roads pro mises to make this application of human power very valuable. U. S. Gazette.

FOUR HORNED RAMS

The brig American from Rio Grande, has brought out three four horned rams we horns on the head elevated, and the o thers bending downwards, with the usual N. Y. pap. crooks in them.

INDIAN WAR

The Mississippi Monticello Gazette of June 21 states, that information has been received that War has been declared between the Choctaws and Creek Indians; but it was not ascertained which nation war, or when hostilities would take place

A HEALTHY MEAL.

It is stated by a correspondent of the Poultney (Vt.) Gazette, that in the town Wells, a young cock lately at one meal ate five young Pattlemakes, in the presence of credible witnesses.

EMIGRATION.

The Montreal papers say, that emigrants from Europe continued to arrive there daily, most of them Irishmen, and whose appearance bespoke ovariety of wretchedness." Within a few days three Steam Boats had conveyed from Quebec to Montreal no less than 780 of these unfortunate beings. We observe by the last English papers, that the British government had an agent in Ireland for the express purpose of persuading the inhabitants to emigrate to Canada. The payment of their freight, and other necessaries, was held out as an inducement, which thousands, it is said, were accepting.

PORTUGAL.
The schooner Combine has arrived at Salem in 43 days from Lisbon. The cap-tain reports that the place was quiet, the people having surrendered their liberties to the Legitimates, and given up their consti-tution without a struggle! There are no particulars of the proceedings at Lisbon lat-er than those furnished by the arrival at Philadelphia.

A Brussels paper of June 3, states, that Charles Bonaparte (Count de Masignas) with his wife and family, had passed through Leige from Rome, on their way to Ameri

A FINE COUPLE

From Ohio, we have the account of the unequal yoking together? of Geo. Hay, 4 feet one inch high, and weighing 95 pounds, to Miss Elizabeth Hartman, 5 let 3 inches high, and weighing 150 pounds!

FROM CADIZ.

An arrival at Salem has brought Cadiz papers of the 17th June, not so late by four days as those received by the Tom at l'hiladelphia. Under date the 15th, it is said that the French corp., which was on its march for Seville, had retrogaded, part of it having been driven back by the constitutionalists on the bridge of Alcoba It was estimated that 3500 patriots, with 14 pieces of artillery, had karvived at Xeres. The general in chief, Villa Campa, had reached Arahal on his way for Coronii. On the 17th of June, it was understood at Cadix that the French occupied Condova and Alothat the French occupied Cordova and Alota on the 13th with 300 men. On the entrance of the royal family, the governor of Cadiz delivered the keys to the king, and the constitutional Alcalde addressed him as

"Sire, the constitutional body of Cadiz has the honour to offer to your majesty in person its respects. This city, whose im-pregnable walls preserved the throne for your majesty from the enormous power of Napoleun, has this day the glory of protect-ing your royal person and preserving it from the outrageous aggression of the French government; and the inhabitants of the heroic city of Cadiz firmly believe that they shall a second time triumph over their enemies; having their bravery excited to a greater enthusiasm by possessing the precious deposit of your majesty, and fight ing not only for that national independence which animated them at that period, but also for the preservation of the constituti onal code inviolate which they have sancti oned by their oaths. Resolved to perish ir its defence, they will not consent that fo reign force should overthrow it with dis-grace. Cadiz, Sire, this day offers up to the Most High fervent prayers that your majesty, being delivered from your enemies, may give happiness to your subjects, by governing constitutionally and in peace both worlds."

The national militia cavalry of Madrid being united with that of Cadix, and in the most fraternal harmony, contributed to the impressive nature of the ceremony, and there was not one analogoustitutional Viva (or cheering) hearth amidst the acclamations.

sels of one, and perhaps of both belliger-ente may, by stress of weather, pursuit of enemies, or some other urgent necessity be forced to enter the ports and harbours, of the United States, it becomes the duty of the government to prescribe the mann which they shall be treated whilst they re-

As there exists, upon this subject, no legislative enactments, the question must be decided by the conventional engagements which the United States have contracted

with the benigerent parties.

By the 8th article of the treaty between the United States and Spain, it is provided that the public and private vessels of Spain, when forced by stress of weather, pursuit of enemies, or any other argent necessity, to seek shelter or harbour, may enter any of the rivers, bays, roads or ports, be-longing to the United States, and shall be received with all humanity, and enjoy all favour, protection and help, and be permit ted to refresh and provide themselves, at reasonable rates, with provisions and all things needful for the subsistence of their persons or reparation of their ships and prosecution of their voyage; and they shall be no ways hindered from departing from the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

With France, the United States have no treaty stipulations upon the subject. The obligations of neutrality, however, impose n them the observance of the same course of conduct towards both belligerents unless Spain has a right, by treaty, to es clusive privileges A reference to the provisions of the 8th article of the treatyabove recited, proves that no exclusive privileges have been granted to her. It becomes then, the duty of the United States to treat the public and private armed vessels of both

parties in the same manner.

Assuming the provisions of the article referred to, as the rule by which the conduct of the United States is to be regulated, I

am instructed by the president to direct:

1st. That the public and private armed vessels of France and Spain, with their prizes, may, under the circumstances describ-ed in the said article, enter the ports, har-bours, and waters, of the United States, and repair any damages which they may have sustained: but no increase of arms or mu-nitions of war, or of the number of men on board, can be lawfully made.

2d That such prizes cannot be condeum ed or sold within the jurisdiction of the United States, and, consequently, canno be admitted to entry at the custom houses, nor permitted to enter into the general con-

3d. That they may, at any time, depart from the United States, without let or him-

4th. That, when prize vessels have been wrecked, or so disabled as not to be render ed seaworthy, their cargoes may be reship-ped in any other vessel which shall not enjoy an exemption from capture, not enjoy ed by such prize vessels. For example, if France in the progress of the war, shall conform to the rule that free vessels make free goods, the cargoes of vessels captured by either bells, ent, when reshipped in neutral vessels, will enjoy an exemption from captured which the prize vessels did not enjoy

not enjoy.

5th During the time that prize vessels may remain in the ports of the United States they shall be subject to such inspection and such superintendance, by the custom house officers, as may be necessary to prevent

smuggling of any kind.

The same rules are to be observed in re lation to the public and private armed vessels of Spain and of the Independent governments established in Spanish America, and their prizes, when brought within the jurisdiction of the United States.

I remain, with respect, Your obedient servant WM. H CRAWFORD.

THE MISSOURI RIVER.

Franklin, (Missouri,) June 10.
From information, we believe the late rise of the Missouri exceeds that of any country. Nearly all the Islands were in-undated and we apprehend much-incon-venience, and some injury to the planters, there settled and in low bottoms. The tracts of country adjacent to Chariton, Grand River, Louter Island, and many other places below, must have suffered injury by loss of domestic animals, and wash ing of gulleys, and perhaps, may yet suf-fer more by subsequent liability to fevers Completely filling its channel and burying beneath its capacious surface, bars, saw yers and islands, it seemed, with impatience and impetuosity, to hurry to a resting place with its kindred element.

During its rise, an immense quantity of driftwood floated on its turbid bosom, and

ometimes interlocked and bound together to such an extent, and so filled up with other matter, as to exhibit the appearance of floating islands. But, afterwards, large timbers, elevated their roots and branching tops, clothed with verdure, indicated great tops, clothed with verdure, indicated great rawages on its shores. Apparently rendered indignant by confinement, it-enlarged its pathway, by sweeping off the land, with its humble growth and lofty trees, which for ages have towered over it in all the pride of conscious security. We witnessed several near this place, on the verge of the river, which were prostrated within a few hours after the water had risen around their roots. The cause of banks washing away; roots. The cause of banks washing away that have been stable for such a length time, is, that large sand hars, adjacent to islands and bluff banks, are formed by the alternate rise and fall of the river, which decupy the before occupied by water, and thus for the current on the opposite shore...
These changes are continual, and a per

INTERESTING OFFICIAL PAPER.
Aboth's mement the following official set, defining the distribution of the control of the blatt, sometimer building an term along the lone, and these testing the one, and these testing the one, and the testing the major of the light that the Aborigines, one thousand that the Aborigines, one thousand ago, might have seen it flowing on said, while we see it on the other, at a side, while we see it on the other, at a light that the aborigines of the lone. As it is probable that, in the progress of the war which now exists between France and Spain, the public or private armed vessels of one, and perhaps of both belifigerants may be stress of weather, pursuit of and those curves and undulatory shapes, which can only be occasioned by washing. Considered from its rise to its confluence

with the ocean, and with regard to the quantity of water which it discharges, the Missouri is the noblest and most considerahle stream on earth. Some of its tributaries equal the largest rivers of the old world; and its course is so rapid, that there would and its course to be a very great deception in judging its quantity of water by its width and appearance. It encounters obstacles with roaring and agitation; and sometimes piles up log heaps of prodigious size. It ought to have given name to the Mississippi below their junction, because, in muddy water, rapidity of current, fluctuations of channel, and formation of alluvial earth, it gives that river its character. The Mississippi, above the mouth of Missourf, is sluggish, its waters transparent, and all its properties common with other rivers. The Missouri reaches the ocean by five sepa-rate channels, either of which is sufficient to admit ships of the largest size. Although we are 1400 miles from its mouth, the wa ter formed at its source, by the solution of snow, does not reach first of July. It witnesses almost every variety of climate; and while one extremi-ty is bound in fetters of ice, and sees, in every surrounding object, the desolation of Winter, the other looks forth upon smiling verdure, and wantons amid all the beauties of Spring.

UNITED STATES REVENUE.

It appears from the hooks at the customhouse New York, that during the half year from the 1st of January, 1823, to the 30th of June 1823, the amount of revenue has been as follows: Bonds taken, \$4,600,000

Amount to be bonded.

85,230,000 The secretary of the Treasury, in his last annual report, estimates the amount of the customs for the year 1823, at \$19,000,000. By the foregoing statement itappears, that at the port of New York alone, within the last hall year, more than appears. the last half year, more than one fourth of the whole estimate of revenue arising from this source has already uccured. Ind that if the receipts for the remaining half year shall be equally favourable, the commerce of this great and Hourishing city will supply eleven nineteenths, or considerably re than one half of the treasury estimate. Should the amount of duties at other ports bear any proportion to that of New York, there is reason to hope the estimates forthe year will be more than realised, and the next annual report present a favourable state of the national finances.

[Statesman.

FREDERICK, Aug 8.

Extract of a letter, dated at the Camp of James Shriver, Esq. in the Green Glades, 5 miles from the Little Back Bone mountain, July 23d, 1523.

The exploring party, consisting of 4 hands and a hunter, besides those attracted to the spot by curiosity, have been encamped for about a week on the bank of Deep Creek daring which time they have been Creek, during which time they have been closely occupied in making surveys and taking levels of the creek and the gaps in the mountain —They will be engaged in this part of the country yet for some time, this part of the country yet for some time, and will be able to give a very accurate and interesting description of it, particularly as relates to the practicability of connecting the western was the ith the Potomac. They have besides and the route in view, which they intend to was able by appropriate mathematical expositions.

I do not know that I was ever more delicited than in visiting these clades, they

lighted than in visiting these glades, they are truly objects of admiration. Imagine for a moment an extent of meadow land miles in length and a mile wide, with a surface apparently as smooth as a sheet of water, and bordered on the sides by gentle sloping hills covered with majestic (the invariable appearance of the glade hills) and you have an idea of a minute part of the glades. Passing through them, areas from the main glade of considerable extent open in erefy direction, giving it generally the appearance of a handsomely improved seemed to want nothing but a house to convince the beholder, that the sloping hills, the arrangement of the groves, trees, &c. were the heady work ofman; others again want but fences to make them seem rich corn fields or plantations of cultivated ve-getables. The smallness of my paper con-fines my remarks to narrow limits and compels me to conclude. Your's &c.

THE PRESIDENCY.

We have it from good authority, that in the lower electoral district on the Eastern Shore of this state, there will not only be no contest about the election for President, but there is almost a unanimous sentiment in favour of Mr. Secretary Crawford. E-phraim K. Wilson, decidedly in Tayour start. C. will be the candidate for elector. Thus early do we find two presidential electors announced in Maryland, both of whom the for Crawford. This sengura well-forther are for Crawford. This augurs wellforthe good old cause, and shews a sample of Maryland How hugely mistaken some of the knowing ones will be if this state gives a majority for Mr. Crawford; and yet the signs of the times indicate such a result. ' Frederick-Town Citizen.

NONTH-CAROLINA GOLD.

and thus for othe current on the opposite shore.

There changes are continual, and a per son passing on the river will observe every grade of growth from the slender willowto the sturdy cottookwood, all occasioned by, and sufficet to be destroyed by, the fluttuations of the current. Here it is destroying a fertile Bottom, with its growth of an hundred years, and there forming and fostering a bar, which, in its turn, will produce the largest kind of timber, and turnish all the fruits heightout bottoms. In fact, we have no do be not the short larger which is worth 1700 dollars. N. L. as which is worth 1700 dollars. We have seen specimens of the ore takMarpland Gazette.

Annapolis, Thursday, Jug. 14, 1825

COURT OF APPEALS, JUNE TERM, Watkins vs. Hodges & Lansdale,
[Argued by Magrader for the appellant,
and Heath for the appellers.]
Appeal from Baltimore County Court.
The appellant of the Court was delivered by

Appeal from Baitimore County Court.
The spinlon of the Court was delivered by
Marin, J. This is an action on the
case, instituted by the plaintiff to recover
the price or value of twenty one hogsheads
of tobacco, sold and delivered to the defendants. The declaration contains are counts
—list. A general indebision symmetry. 2d.
A quantum mirait. 3d. An insumercomputausent—and 4th on a spicial agreement.—
The plaintiff offered evidence to prove the
delivery of twenty one hogsneads of tobacco to the defendants, some time in March
1813. The defendants then read to the ju
ry a special agreement, admitted to be in
the hand writing of the plaintiff, in the following words: "I have this day sold to
Mesars. Hodges and Landale 60 hds. of to
bacco, of my make, and now on hand, 45 Messrs. Hodges and Landale 60 hds. of to bacco, of my make, and now on hand, 43 thousand weight-of it.crop, and 15 thousand weight second, at \$3 pr. hundred for the crop, and \$2 1-2 pr. hundred for the crop, and \$2 1-2 pr. hundred for the second, and \$1 tor each cask, to be paid for on the 25th day of December next; the to bacco to be delivered and inspected at Reard's Point warehouse, between this and Beard's Point warehouse, between this and the i0th of May next. 3d Feb'y, 1813. Nicholas Watkins of Thos.',

It is an established rule of law, that where there is a subsisting special agreement, a party to it shall not recover on general counts—He must declare on the special agreement, and that being the gist of the action, it must be stated in the declaration.

Doug. 23, 2 East. 145. 1 Etp. 263. If then this contract was in torce between the parties, the plaintiff could not recover in this action—He could not recover on the three first counts, which are general—nor on the fourth, for altho' it is founded on the special agreement, it has omitted some of its essential parts. The agreement is, that the tobacco sold and to be delivered, "should be the make of the plaintiff, and on hand at the time the contract was made." This is an important stipulation on the part of the plaintiff, and not mentioned in the declaration. But if the declaration had strictly pursued the agreement, the piaintiff was not entitled to recover from the evidence. The agreement formed an entire contract, and to enable the plaintiff to recover on it he must prove a performance, or tender to perform every thing required by it, on his part to be performed. 6 Term. Rep. 320.
The agreement is, that he shall deliver six
the state of the definition of the definition
by the 10th of May 1813; the evidence is,

by the 10th of May 1813; the evidence is, that he delivered twenty one hogshead in March, and no attempt is made to shew a delivery or tender of the balance.

If the original contract was rescinded by the parties, after a part performance of it by the plaintiff, either by waiving the performance of the residue of the contract, or entering into hear one, as inconsistent entering into a new one, so inconsistent with the first, that they could not stand to gether, the plaintiff might recover for the part performance on a general count. To bring himself within this principle of law, he offered three letters from the defendants in evidence to the jury, the last o which only, dated the 9th of April 1813, is connected with this part of the case. In that letter he states, whe alarming news received to day makes it necessary for meto countermand the orders I gave capt. Allen Testermind the orders I gave capt. Allen Tespecting your tobacco. You will, on the receipt of this, stop carrying down another hogshead of your tobacco, and if the capt, has any on board you will particularly oblige me by telling him to have it put sately back in the shed of the whechouse, and waitto receive from us further uders." Here then is a proposition on the part of the defendants, that the plaintiff should not deliver the tobacco by the time stipulated in their contract, but that he would keep it until they and and adelivery ont. Whether the plaintiff assented to this proposition was a fact, under a different course of rockedings, that of the have been submitted to the jury, an evidence was offered to proye that he did assent to it.—But it is perfectly immaterial in this case, for it has perfectly immaterial in this case, for it has been frequently determined, that a subsequent parole agreement to postpone the de livery of articles under a written contract without seal, is not a waiver of the con-tract, but only an enlargement of the time for the performance of it. In Warren and Stagg, referred to in 3 Term Rep 591, Buller, J. held, that an agreement to ex end the time for the performance of a contract was not a waiver, but a continuance of the original contract. In Keating vs. Price, t Johns. Ca. 22, the same doctrine was main tained by the court. That was an action tounded on a special agreement in writing, by which the defendant promised to deliver to the plaintiff a quantity of staves, on or before the 1st of May 1796. Parole evidence was offered to prove the acknowledgement of the plaintiff, that he had made the contract as before stated, but that he had a greed to extend the time for delivering them, until the next spring. A verdict was taken for the plaintiff, subject to the opinion of the court on several points, and

opinion of the court on several points, and among others, whether the time of performing the contract could be extended by a subsequent agreement of ween the parties. The court said this be forginally a simple contract, it was content for the parties to enlarge the time of performing it; an extension of the time may, often be essential to the performance of executory contracts, and there can be no reason why a subsequent agreement for that purpose should not be valid—and directed a non suit to be entered. So also in the case of should not be valid—and directed a non suit to be entered. So also in the case of Cuff & others vs. Penn, I Maule and Selw. 21; an action was founded on a special agreement on writing, by which the plaintiffs stipulated to deliver to the defendant, a quantity of bacon at certain times particularly mentioned in the agreement. After a larly mentioned in the agreement. After a part of the bacon bad been delivered under part of the bacon bad been delivered under this contract, a parole agreement was made between the parties, that it time for the delivery of the residue should be extended. The plaintiffs, after the time fad elapsed at which they were to deliver the bacon under the contract in writing, tendered the residue to the defendant, who refused to receive it, alleging the first contract was at amend. It was a fixed that the bequent parole agreement did the bequent parole agreement did the bacon as new contract, in the place of the first, but was a dispersation on only with the performance of the original contract, in respect of the delivery of the bacon at the stipulated times, and this was confirmed by the court, on a motion to