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SATURDAY, NOVEMBER 21, 1807.

INSURANCE CASE. In the circuit court, Pennsy.vania district, before Judges Washington and Peters, Ostober leffon, 1807. George, Scriba,

Action on the case for a return of premium. Infirance Company of North America.

Meredith and Tilghman for the flaintiff. Hepkins and Ingerioll for the defendants. . The circumstances were substantially as Sollow: - The schooner Alert, on a voyage from New York to La Vera Cruz, caused insurance to be made thereon to its full value by several policies, some on the outward voyage only, others out and home. The outward policies contained the usual clause, " beginning the risk at and from," &c. " and lo to continue and endure until the vessel arrived at La Vera Cruz, and the faid goods to be there fafely landed," &c. The Aleit failed from New. York on her feld voyage, in August, 1801, and on the 7th of October following the plaintiff made a written application to the defendants for infurance on the homeward cargo, flating that The had left New-York on the 14th of August preceding, fince which no accounts have been received of her, and deferibing her as having been then in complete order, and in all respects fitted for the intended voyage. The defendants. accordingly, by pulicy, dated the 9th of Officber, 1801, made infurance on the cargo of the Alert, for the fum of fifteen thousand dollars, at and from La Vera Cruz to New-York, with liberty to trude and touch at the Havanna End New-Orleine," at a premium of 12 f-2 per cent.-to return five, if the thould return direct from La Vera Cruz without touching at the Havanna or New-Orleans, and should arrive

The Alert was twice captured on her on'ward passage; her hatches were broken open, and almost every box and package in the hold forced by the crew of the former of the capturing vellels, under the pretence of fearthing for contraband. By the other the was carried into Jamaica, and being liberated after trial and a detention of nearly two months, the proceeted with the fame cargo, on her voyage towards Vera Cruz, during which the experienced heavy gales, and was injured in her mails and rigging. On the 5th of December the arriver and let go her anchor outside the fort and harbor of La Vera Cruz, but after a stay there of a few shours was ordered by the governor to get noder weigh immediately and proceeded to fea, and was compelled to to do, not being permitred to land any part of her cargo, or to take mothing from the shore. She then proceeded for New-Orleans, that being the nearest port the could reach, where the arrived the 24th of The same month.

The plaintiff h ving received information of . Ther arrival at New-Orle na from the Supercargo, who expressed an intention of proceeding thence to the Havanna, in fearch of a market, as foon as the necessary repairs should be done to the vessel, applied to the desendants on the 31th of February, 1352, for permission to touch and trade at the Havanna . This permission was granted, and the following cliuse added to the policy, viz. "It being represented by the afs fured, that the above named schooner Alert "has arrived at New-Orleans from La Vera " Cruz, it is agreed at their request and in confideration of a half per cent. additional or premium, that the may proceed from New-- Orleans to Havanna, and from thence to New York, without prejudice to this infu-" rance." It having been, however, ascertained that/the port of the Havanna was four against American vessels before the Alert had left New-Orleans, she did not proceed thither as was intented, but having unladen the cargo she had Brought from La Vera Cruz. (being the same The had brought from New-York) the took on hazid a cargo of cotton of the value of about nine thousand dollars, with which the proceeded directly to New. York, where the airived in Jafety It as peared that the value of the cargo of cotton was fully covered by prior po'icies on the honeward rick, if they attached at all.

Upon these sails it was contended by the plaintiff's counsel, that by the express terms of ... the contract, the risk on the outward policies was to continue until the arrival of the Alert at: I.z Vera Citiz, and the goods should be Tafely landed; that if they ceas d on the arrival at La Vera Cruz (the entry of the vestel and the landing of the cargo being prevented by an Interdiction of commerce) the risk was theown on the plaintiff; that is to say the homeward Filk attached to the cargo carried from New-York to La Vers Cruz would be alike contrary to the express terms of the contract, and to the meaning and intention of the parties, neither u whom could have contemplated the report of the cargo hipped at New York; that it was Fimpliest in every contract of insurance, and findine lable to its being obligatory on the Insurer, that the thin the comm norment of the iist insured shall besitted in all respects for the intended voyage, and that the goods shall be en good order and properly laden; that in this enfe, by occurrences, hot known to the infured and therefore not comminicated to the insurer, of af the date of the policy, neither velled nor targo were in fuch lituation as by the implied Contead would be necessary to bind the underwriter, of whom no indemnsty could have been zerovered, had a lole happened. With respect to the cargo shipped at New-Orleans it was contained that if the homeward policies could be confidered as attacking to it, the prior policies of that déscription were sufficient to cover it; and that the permission to go to the Havanna, could have no effect, because evi. "Testily applied for and granted under a mistaken opinion on both sides, that the homeward policies had attached, and the premium being parned; that this mistake would have protested the underwriter from liability for a lofs, and ought not to defeat the plaintiff's claim to a reform of premium.

On the other hand it was contended by the descridant's counsel, that the outward risk reeased and the homeward risk began at the moment the Alort cast anchor, at La Vera Cing, the homeward policies being, at le from' Werz Cruz; that no chasm was contemplated by the parties, who evidently intended that the homeward policies should attach the moment the outward policies coased; that all the exents the application for permission to go As the Harman, made by the plaintiff after eks of the revese, and granted by the delen-dant, was an augussion on both sides that

the risk should be considered as having attached, and conclusive upon the parties; that it should have subjected the underwriter to a loss, had one taken place, and therefore he had earned the premium.—Some reliance too seemed to be placed on the plaintiff's not having communicated to the insured any information of what had previously occured at the time of applying for this permission, which was said to be such a fraud in law, as would prevent a recovery of the premium even in case the risk had not

Judge Washington charged the jury in favor of the plaintiff, and we shall give a summary of his charge, in the same brief and necessarily imported manner in which we have stated the arguments of the conn-

He observed, that he was much mistaken. if he ought not to give pleasure to underwriters for the court to say that the principles of law on which the defendant's counsel in this instance relied, were unfounded. There are two things necessary to form a contract; the consent of the parties, and a subject on which the contract is to take effect. If the risk contemplated in a policy; rever commences there is no e intract and the premium which is the price of the risk, must be returned. By this policy the adventure was to begin on goods laden at La Vera Cruz whereas no goods were laden at La Vera Cruz, but the Alert returned with the same cargo which she had carried from New-York. It never could have been in the contemplation of these parties, that the risk should attach on this cargo, no more than if they had insured a cargo of rum and a cargo of cocoa had been laden, the policy could be considered as covered the latter. That as to the memorandum giving permission to touch at the Havanna, it was merely additional to the former contract but not a new insurance, i making which both parties evidently acted under a mistake in point of law, supposing that the risk had commenced at La Vera Cruz; whereas in truth it had not. That without doubt, the parties might have agreed that the risk should be considered as having commenced, and bound themselves by such agreement, as in case of deviation known to both parties, file underwriter may wave the effect of the deviation, and bind himself for a subsequent loss, but that to make such an agreement in this case, a full knowledge of all the previous circumstances and their effection the rights of the parties was uccessary. The judge observed, that it was necessary to express an opinion on the point of seaworthiness, the case being with the plaintiff on the other ground, and the jury found a verdict accordingly

CONGRESS.

HOUSE OF REPRESENTATIVES.

Washington, November 19. Proceedings this day.

Mr. Richards from the committee to whom was referred the petition of Andrew Joseph Villiard, made a report, which concludes with the following resolution; Resolved, That there be raid to Andrew J. Villard one thousand dollars, from any money in the treasury not otherwiso appropriated, in full compansation for his intention and improvement made in the mounting of heavy battery cannon. The report was ordered to be printed, and made the order of the day. for Monday week.

Mr. J. Clay from the committee to whom was referred the petition ofand Hugh Maxwell, presented "a bill authorising the purchase of certain copies of the journals of congress." previous to the adoption of the constitution; which was read twice, ordered to be printed, and referred to a committee of the whole on Tuesday next.

The house then took up the order of the day on the report of the committee of elections on the memorial of Joshua Barney.

Mr. Milner moved, that the committee of the whole be discharged from the further I consideration of the report of the committee of elections, for the purpose of recomitting it to the last mentioned committee.

After a short debate, the question was taken on Mr Midner's motion, and it was carried in the affirmative, year 77.

Mr. Milner then moved that the report be recommitted to the committee of elections,

which was agreed to, ayes 70. Mr. Dawson, from the committee appointed a few days ago on the subject, presented

a report, concluding as follows : Resolved. That the secretary of war be authorised, under the direction of the presidout to sell to those states that may wish to purchase, any arms belonging to the United States, which may be sold without detriment

to the public. Resolved, That the sum of appropriated to establish a national foundery at the city of Washington, for the purpose of casting ordnance.

The report was referred to a committee of the whole on Wednesday, and with the documents accompanying it, ordered to be printed.

The housethen went into committee of the whole on the bill authorising the erection of a bridge over the river Potomac, Mr. Nelson's motion to strike out the first section (the essence of the bill) under conside-

Mr Nelson was making some observations against the bill: when a message was received from the President of the U.S. transmitting a copy of the Proclamation, as request-

ed by the house yesterday. Mr. Nelson was followed by Mr. Sloan and Mr. Key, on the same side; and by Mr. Lewisin tavor of the bill; when the question was taken on striking out the first section, and lost, ayos 41, new 78.

The bill was theu read by sections, and several amendments made; when the committee of the whole rose, réported the bill as amended, and obtained leave to sit again :-And then the house adjourned (balf past 3 o'cluck.)

The bill has been before congress for two or three successive sessions. It was defeated last year in the senate, after having passed the house of representatives.

Da. JANNEY, No. 1, High-street, corner of Creat York. street, Uld-town, offer his professional ser-

American,

Commercial Daily Advertiser.

SATURDAY, NOVEMBER 21, 1807.

FOR THE AMERICAN.

The contested election between IV. M'Creery and Joshua Barney now before the House of Representatives, is not debated on the question of which of those two gentlemen has a right to the seat, but on the ground of the constitutionality of the law of Maryland, which directs, that the person elected must be a resident of the district in which he may be elected .-For a proper understanding of the subject, the constitution of the U.S. alone can be resorted to as our guide. What does it say, Art. 1. Sec. 2d.

" No person shall be a representative who shall not have attained to the age of 25 years.

"No person shall be a representative who shall not have been seven years a citizen of the U.S.

" No person shall be a representative who shall not, when elected, be an inhabitant of that state in which he shall be chosen."

Here then are three requisites only demanded by the constitution of the U.S. Has William M Creery all those?

He cortainly because we has the age of 25 years - He has certainly been a citizen of the U. S. acover 7 years, and he universione he is an inbabirant of the state of Maryland, in which he bus

The State of Maryland has, however, directed by their law and her requisite, to wit:-That this firm on chosen must be a resident of the district for which he shall be elected. Has the state itself anthority to deprive their citizens of a right seemed to them by the constitution of the U. S without the consent of the other states who were parties to the same instrument? If that right is in the states individually, I then may the state of Maryland as well passalaw, that shall say-No person shall be elected a representative for Maryland who has not attained the age of 30 years.

No person shall be elected a representative who is not a native citizen of the U. States.

Would not adopted citizens, in case such a law should pass, protest against the right of the state to dep ive them of a privilege conferred on them by the constitution of the U. States? And would not those of our naive citizens who are most hostile to the adopting of aliens, admit that such a lav would be an assumption of power? Ifit would be, then certainly the assumption of power must be as great when the statesays that the person elected must have any etter qualifications than those designated by the constitution of A CITIZEN. the United States.

FROM THE VIRGINIA ARGUS.

To the Edit .r,

I OESERVE that a nothern prer distains the ight of trying the aggressors of the Chesas ak in this country on the ground that the offence was committed out of our purisdiction. This opinion ought to hat been better weigh d before it was given a the public. The present Chief Justicest the U.S when a member of Congress, advocated the autrender of Jonathan Robins to be tried by a B wish tribunal, on the following ground-" The Hermione, i'is true, was out of the British territorid line when the mutiny took place; but the Hermiene was a national ship; and threfore wherever she was, formed a paiof the British territory : a mutiny omoard of the Hermione was then a crimeommitted within the British territory, andof course exclusively cognized by the British courts."-This is the substance of that powerful argument by which its author was rendered so illustrious. Aply it to this case :- The Chesapeak is without our territorial line; but the Chesapeak was herself a national ship and a part of our territory : the murder we committed within the Chesapeak; trefore within our territory; and exesively cognizable by our

New-Orleans-We have no pretension to exclusive knowledge of our affairs at New-Oilon, but if, as there is reason to believe, hire exists in that place a peculiar thisafector Congress should adopt measures of prence, indeed, but of the utmost prompude and energy. To play with rising bellion is to encourage it : it should destroyed in its duddings.

Amer. Cit.

FROM THE TRENTON JUE AMERICAN.

On Friday, on motil of col. OGDEN of counsel with col. Bu, and with the assent of the attorney jeral, we understand the supreme co granted an order to quash the indictnet in the case of the state against Aaron rr for the murder of general Hamiltout appears that the indictment was vennagerially defective, and particularly that it alledged the murder to be commed in this state, whereas the fact was Ill established, that the death took plain the state of N. York—and that it withe opinion of the bar generally, that a indicament in its general form could nie sustained.

Burr is said to have him the neighborhood of this city- Morrisvillehow true the report is know not.

As every information respecting the progress of domestic manufactures must be agreeable to the friends of their country: we are happy to inform our readers that au association is forming to establish a COTTON MANUFACTORY in Bordenton, in New Jersey -- We could wish to see them rising and flourishing in most of our towns.

· Trenton True Amer.

THE DROUGHT.

THF oldest inhabitant of Ceorgia, it is said, does not recollect that there has been such a long spell of dry weather as at the present season. There has been scarcely a drop of rain for three months back.—The branches and creeks are all nearly run dry -the Savannah is no longer navigable for Flats, which is the cause of great disappointment to our planters and merchants .- Winter gardens are of no account, and the small grain is in great danger of failing, if rain should not com: soon, but of which there is little prospect at present.

J.Augusta Chronicle.

THE COMET.

From observations of the Comet made in Salem during the last month, it appears that the elements of its orbit is nearly as follows:

Time of passing the prilidion, September 19th, at 7 h. mean time at

Perihelion distance, 0.6645, the mean distance of the earth from the sun being

Place of the priihelion on the orbit 9 3 3 Longitude of the ascending node 8 25 44 Inclination of the orbit to the eliptic 62 57 Motion direct. These numbers will probably require

some correction to make them correspond with observations that may hereafter be made or with those made with more correct instruments. The elements of this Comet differ so

greatly with those of all the Comets inserted by De La Lande in his Astronomy, that it must be one whose elements were not known to that excellent Astro-

The Comet was above 60 millions of miles from the sun on the 19th September (the time of passing the perihelion) and at that time was at much greater distance from the earth.

Salem fidfi.

The London Sunday Review, of the 20th of Sept. says. " For some days past unpleasant rumours have been in circulation respecting the Negociation between this country and America. These seem principally to have originated from the circumstance, that Afr. Afunroe had declared his intention of immediately quitting the country. We trust however, that the alarm is unfounded; that Alr. Munroe means very soon to take his departure, is true; it has been his intention some time, and of late he has been little more than an assistant of Mr. Finckney. lies sudden departure at this period, therefore, may as probably have a farourable as an unfavourable auspice. A. nother reason given for Mr. Manver's departure, is, that in the event of M. Jefferson declining the Presidency of the U. States, he means to s'and a candidate."

Age of Reason!! -The superstition of the age was never more strongly marked that by the success of the fill aving hour - I few days ago an American ship arrived at this port, the crew of which, ith much solemnity, assured every one they met, that about three weeks ago two marmaids hailed their ship in the Atlantic Ocean, and declared, in an audible voice, that an earthquake would commence on Monday se'nnight, which, before the following Thursday, would swallow up the town and the villages in its vicinity. To confirm the truth of this prediction, they declared that the said mermaide gave them instructions how they were to steer, to avoid the fatal effects of the storm of the 6th instant, and by following which advice, contrary to their original intention, they escaped that destruction which besel others. This was to many a con. vincing proof of the divine mission of the mermaids, and the prophecy became t common topic of discourse. Sunday arrived- the day was awfully gloomy, and many persons left the town to avoid the dreadful catastrophe. Monday had lowering and threatening aspect, and the fears of others were extreme—on Tuesday the alarm began to subside-on Wednesday the most timid became composed—on Thursday all fear of the earthquake had vanished-and Liverpool, happily, still exists, the second commercial towns in the British Empire, which rank, we hope, it will long main-

(Liverpool paper of Sep. 24.)

NEW-YORK, Nov. 18. The following letter from the Secretary at War, to the Mayor, was received in answer to his letter, inclosing docu ments forwarded by order of the Common Council, relating to the means of fortifying and protecting this harbour and ordered to be published.

JOHN PINTARD, Clerk. Har department, Nov. 12th, 1807.

Your letter of the 3d instant, accompanied by a report coa committee of the Corporation of the City of New-York, two reports of Culonel Williams, a chart

of the harbour and an estimate of the expence of a line of blocks his been duly received and submitted to the consideration of the President of the U. States, who has authorised me to say, that there will be no indisposition on his part to the extension of the means of desence for the harbour of the city of New. York, as contemplated by the Corporation, whenever a suitable cession of the bed of the harbour shall be made to the Legislature of the State and the necessary funds are provided by Congress.

I have written to Governor Tompkins on the subject, and have indicated the expediency of such an Act of the Legislature as the case may require.

I have the honour to be

Very respectibily, Sir, Your obedient serv't.

H. DEARBORN. Hon. MARINUS WILLETT, Esq. ? Mayor of the City of New York, 5

PHILADELPHIA, Nov. 19. By the ship Western Trader, arrived at this port yesterday from Liverpiol, we have received London papers to the 29th September. The Western Trater lest Liverpool, on the 29th Sept. in company with a number of American vesseis, and made her passage to the capes

When the W. T. lest Liverpool, the difficunces between the U. S. and the English government had not been adjusted. Mr. Menroe had not at that time received a final answer from the British ministers.

of Delaware in 46 days.

On the 10th of October, about 14 leagues west of Scilly, was boarded by the British frigate Amethyst and treated politely. The lieutenant informs us that they were out 6 days from Torba on ay cruize .- That the U.S. schooner Revenge sail d'sor America with the ultimatum of the British government.-That the Russians and French are likely to go to war again, and that the English gevernment meant to retain possession of Copenhagen and the island of Zealand notwithstanding they had agreed to evacuate it in six weeks after the signing of the capitulation.

The report of the probability of hostilities between this country and America, says the Liverpool Chronicle, of Sept. 24,] has been received in consequence of Mr. Munroe's intended departure, the causes of which we do not profess to be acquainted with, but our ardene wishes are, that we may have at least one friend in the world. Mr. Pinckney succeeds Mr. Monroe.

London, October 1. Some time ago it was said that an attempt would be made to take the Danish ships in the port of Christiansand. A gentleman who was at Christiansand on the 10th has brought the information that Fleeker er Flekkeroe, a small island at the mouth of Christianstand harbor was in our possession, & that two British ships of the line and a Cuttter were menacing Christians and, where there were two Danish ships of the line, one of them an 88 gun-ship.

The sequestration on English property was taken offat Elsineur on the 15th nl:-

Mannten on Thurlday laft, at Friends Meeting-House, John Cornthwait, merchant, to Elizabeth Wilson, daughter of David Wilfon; a lof this city.

----, on the 9th instant, by the Reverend Mr Dufnield, Mr Joux Suade, to the amiable Mil's MAGDALINA WALTERS, both of this city.

Port of Baltimore.

From the Merchants' Goffee-House Books. The thips Bacchus, from the Isle of France, and Harriet, from Amsterdam, are reported beow; alto the thip Richmond. The Orozimbo was not, as reported, in the

T Letter bag of the 'brig Adherbal, expt. M'Neal, will be taken from the Coffee-House on Sunday morning at nine o'clock.

FIFTH REGIMENT.

The Review of the 3d Brigade having been postponed, in consequence of the unfavorable state of the weather, the order is ined to the Regiment to assemble on Monday the 23d inst. is hereby countermanded.

By order of the Lieut. Col. of 5th Regt. JAMES CHESTON, Adjt. Nov. 20.

ON MONDAY. The 13d instant, at ten e'clock; at the audlen room at the head of Gay-Arcet dock, will

commence the fale of A VARIETY OF DRY GOODS. . After which at 12 o'clock, 39 hhds. Muscovado Sugar 60 bags of Collee 12 tierces of Clayed Sugar 40 boxes do. do. 32 pipes 4th proof Brandy 10 puncheons Antigua Rum

5 pipes Holland } Gin 24 chefts Hylon Tes. A small parcel of Pepper, kei

R. LEMMON & CO. Aud're povember 21

NOTICE

The Cooperage carried on by WILLIAM DILLWOUTH & CO. is this day diffolved. All persons having claims against the said firm ere defired to bring them in for settlements . All persons indebted are requested to make payment the the swifts bert at alone authorised to

november 2