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*For the National Intelligencer.*

No. X.

*Treaty-making Power.*

[Subject Continued.]

The enlightened friend of liberty, who discerns no other chain of security, is than a guarded, and even jealous, circumcription of delegated powers, will feel a pleasure in perusing the sentiments of our patriotic President on this point, in his Manuel of Parliamentary Practice," He says, "Treaties are legislative acts. A treaty is a law of the land. It differs from other laws only as it must have the consent of a foreign nation, being but a contract with respect to that nation. In all countries, I believe, except England, treaties are made by the legislative power and these also, if they touch the laws of the land, they must be approved by Parliament. Ware v. Hylton. 3. *Dallas' rep.* 173. It is acknowledged, for instance, that the King of Great Britain cannot by a treaty make a citizen of an alien. *Vattel. B. 1. c. 19. sec.* 214. An act of parliament was necessary to validate the American treaty of 1783. And almost countless other fitness can be cited. In the cafe of the treaty of Utrecht in 1712, the commercial articles required the concurrence of parliament. But a bill brought in for that purpose was rejected. France, the other contracting party, suffered these articles, in practice, to be not infilted on, and adhered to the rest of the treaty. *Rousset. hist. Mod. Europe* 437. 2. *Smollet.* 242. 246.

"By the conflitution of the U. States this department of legislation is confided to two branches only of the ordinary legislature; the Prefident originating, and the Senate having a negative. To what fubjects this power extends, has not been defined in detail by the conflitution; nor are we entirely agreed among ourfelves. 1. It is admitted that it muft concern the foreign nation party to the contract, or it would be a mere nullity, *res inter alios acta.* 2. By the general power to make treaties, the conflitution muft have intended to comprehend only thofe fubjects which are ufually regulated. 3. It muft have meant to exceept out of thefe the rights referved to the ftates; for furely the Prefident and Senate cannot do by treaty what the whole government is interdicted from doing in any way. 4. And alfo to except thofe fubjects of legislation in which it gave a participation to the houfe of Representatives. This laft exception is denied by fome on the ground that it would leave very little matter for the treaty power to work on. The lefs the better, fay others. The conflitution thought it wife to refrain the Executive and Senate from entangling and embroiling our affairs with thofe of Europe. Befides, as the negociations are carried on by the Executive alone the fubjecting to the ratification of the Repreftentatives fuch articles as are within their participation is no more inconvenient than to the Senate. But the ground of the exception is denied as unfoundable. For examine, *e. g.* the treaty of commerce with France, and it will be found that out of 31 articles, there are not more than fmall portions of two or three of them, which would not fill remain as fubjects of treaties, untouched by thefe exceptions."

In addition to the conflderations already urged, there are others, of little weight, that fhew the neceffity of correctly defining the Treaty-making Power. Some of thefe, we fhall concifely notice;

1. Suppofe the Prefident and Senate form a treaty whofe provifions are not refpected by the whole legislature, and yet infift upon its being the Supreme Law of the land, who is to decide which fide is right or how is the citizens, whofe conduct may be affected by the division, to act?

2. If the Prefident does not poffefs the power of forming a Treaty *until advised* thereto by the Senate, does not the contrary practice feem like a fnare with great and dangerous powers, the exercife of which may hazard the peace of the nation? We all know, that even in ordinary cafes it is much eafier to prevent than to remove an evil. This obfervation will be found to apply with ten-fold force to a treaty once formed. So peculiarly delicate are the relations fubfifting between countries between whom treaties have been once formed, even previously to their ratification, that thofe the provifions of the treaty be uncommonly injurious, there is every probability of its being ratified; though, were the negociation to originate *de novo*, not a man might be found to recommend the making a fimilar treaty.

3. Befides, independent of other effects, a division between the Prefident and Senate ought to be avoided, which would be avoided, if before the former entered upon the negociation of a treaty he received the advice of the Senate to do fo.

We fhall conclude our remarks on this points, by obferving that the preceding ideas eftablifh the exiftence of a ferious diverfity of opinion on the nature and exercife of the treaty making power, eftablifh the probability, if not probability of alarming effects being produced on the national tranquillity in the difcuffion of future meafures of the government, and eftablifh, in confequence, the neceffity of fo modifying the conflitution as to render it in this refpect more precife and unambiguous.

SOLON.

The following article is not admitted into the National Intelligencer, from a belief in many of the principles eftablifhed, but from a defire to elucidate the prevailing fpirit in England.]

*[From a late London Paper]*

## MILITARY COLLEGE.

Wherever it is at prefent acquainted with the relative fituation of Great Britain and the other European Powers, and is interefted in the future deftiny of the former State, cannot have avoided feeling very great fatisfaction on feeing parliament giving its function and its fupport to the military college eftablifhed at Beaconsfield. The funds which have been affigned by parliament to the fupport of it, will admit of its being put on a more extenive fcale, and a more folid foundation than it has hitherto had.

Although our troops have at all times perfo med an honorable part, and although they have furnifhed us with generals worthy to command them; it cannot be difcembled that in a rather owing to their courage and to their patriotism, than to the poffeffion of any military means equal to thofe of the enemy with whom they had to contend. We have certainly been for more than half a century greatly behind hand with the other powers of Europe in every thing relative to the arts of encampment, and of fortification, the application of engineering to field pieces, the fhifting great movements of any army—in fhort, in all that belongs to the duties of the general ftaff. For fixty years Europe confined of, in a military point of view, a fuit, more or lefs clofely, of the fyftem introduced by Guftavus Adolphus, and carried to the higheft degree of perfection by Turenne, Marlborough, Marlborough, Conde, Cittinat, and Villars. Frederick appeared, and his genius immediately invented other means, and chalked out new roads in which all balkered to tread, and the young foldiers in other countries were modelled upon the plan laid down by him. Where fo much was to be reaped, it is reasonable to fuppofe that much was fown—A great number of officers were formed, particularly in France and Auftria, who fupplied the generals with good aid-de-camps, and, what was of much greater importance, with ambitious and intelligent, the moft valuable, and the moft indifpenfable part of an army. It is well known how much Suwarrow regretted his inability to find this great *dexterature* in the Ruffian army, and that he confidered his troops as incapable from the want of it, of ftriking without the affiftance of an ally who he provided with it.—Amid this almoft general emulation which was excited in the continental powers, our own country enjoying its peculiar felicity, confiding in its ftrength, and fenfible of its maritime fuperiority, relied almoft wholly on the unimpeached valour of its troops, and if it did not remain wholly ftationary in the career of improvement, it at leaft made much lefs ftrides than other countries. For the plan of bringing us to a level with, and even of making us outftrip others, we are indebted to our prefent commander in chief. It was he who planned it, and it is he who has unreftantly labored to carry it into effect. All the improvements which could be made immediately, fuch as thofe which related to the inftruction, the difcipline, and the equipment of the foldier, he had made; but he was fenfible that there were ftill others which time alone could afford and which require maturity. In this view of the fubject, he laid the plan of the Military College, the exiftence of which has been confirmed by parliament, which in time become really a national object.—Henceforth we fhall no longer have to envy the fchools of Potsdam, Vienna, and Paris, that of Beaconsfield will be a nurfery fortified by the patronage of the country, by the authority of the commander in chief, and by the care of the Secretary at War.

The cafe is the fame with refpect to another objection which barely refles out of bounce. It has been alledged, that the prefent French generals received no elementary inftruction, and that they were yet able to defeat the moft experienced generals of other nations. This propofition, which proves the contrary of what thofe who advance it are defirous of infering from it, wears, nevertheleft, at firft fight, fome degree of plaufibility; but it fence it is, that it has been fo often refed by the ignorant and unreflecting. Nothing can be more falfe than it, and the contrary has been declared from its Intelligence have long completely underftood this apparent problem. All are agreed, both in France and in other countries, that it was to the great number of trained officers who remained in the French army, and to the perfection of which the fciences of engineering and artillery, and the duties of the ftaff had been brought, the French generals owed their fuccefs in their fhock, 1792, and 1793, and it is to be obferved, that thofe who commanded during thefe two years, were old generals, under the former government. Thofe who fucceeded them in command had the advantage of the experience of two campaigns; and two years active fervice, it is well known, will convey more inftruction than twenty performance of garrifon duty. The latter were, befides, for the moft part, affifted and directed by the officers of the ftaff, and by corps of engineers, who were, without exception, the ableft in Europe, and almoft all of whom, it is admitted, remained in France at the general emigration of other officers. In fhort, there is one general reply, equally applicable to this fhift, but which we believe has not yet been made, that fo far from its being aftonifhing that the revolutionary war has produced a fifteen or twenty diftinguished commanders in chief is rather matter for aftonifhment that it has produced a greater number.

The French had at one moment fourteen armies, compofing a force of 800,000 men on foot: all the energies of the government and the country were turned to war, and for fo many years they have carried it on. There is, certainly, no matter for aftonifhment, that in fuch a ftate of things, a fmall number of individuals having at their difpofal greater phyfical power than their adverfaries, fhould have been favored by victory. It would, befides, require a greater fpace than we can allot to the inquiry, to examine the other caufes of the triumphs of the French Republic. One thing, however, is clear, that they have not been owing to that fpecies of indifference to which fome men endeavor to reduce us upon the fubject.

There is a third objection which the enemies to this inftitution, hope to render popular, as it flatters that attachment which our countrymen feel to liberty, and which we truft they will never lofe. We cannot, however, difcover in what manner this inftitution can wound or endanger that valuable bleffing refulting from our conftitution. It was with arms in their hands that our anceftors acquired it, and it is by the fame means that we muft ultimately preferve it.

The fcience of war has always decided fate of nations. It was by the fuperiority of tactics that the Greeks defeated and deftroyed the immenfe armies of the kings of Perfia. It was by placing the military profeffions above all others, that the little republic of Sparta preferved its liberty, its territory, and its virtue. Thebes was at its period more powerful nor free than it was during the temporary fplendor which it received from Epaminondas. It was by the fuperiority of weapons and difcipline that the Romans conquered the world, and it was only by the invention of the Legion, and the fuperiority which it beafted over the Phalanx, that they were able to triumph over Greece and Afia. "It was fome God," fays Vegetius, "that infpired them with the idea of the Legion."—Reverting to modern hiftory, we fhall see find a fmall nation which owes the acquifition of the recovery of its liberty to any other cauie than that of having underftood or practiced the art of war better than its adverfaries.

*From the MIRROR, &c.*

Having lately received from Columbia, on the Sufquehannah, an account of the articles landed there from the firft of March to the firft of July, I take the liberty to requeft it may be publifhed as it muft be a fatisfaction to thofe who are defirous of marking the progreft our country is making on every hand. I have annexed fuppofed prices and their account they are fhipped for foreign ports or confumed.

| | Dollars. | Cents. |
|---|---|---|
| 75,000 Dollars, whereof one-third is to be paid the next year, at the prices fuppofed, 1 60 per bushel, | 120,000 | 00,000 |
| 700 Bufhelcyes, at 68 cents, fuppofed to be delivered in the neighborhood of Columbia, | 476 | 00 |
| 13,700 Barrels flour, 6 dollars, | 82,200 | 00 |
| 500 do. whiskey, | 4,250 | 00 |
| 1,000,000 Feet lumber, 2 dollars per hundred, | 20,000 | 00 |
| landing at 17 dollars per hundred, | 170,000 | 00 |
| within 30 miles of Columbia, | 10,000 | 00 |
| | 326,086 | 00 |
| | 51,410 | 00 |

A very minute detail has been tranfmitted to us, (says a late English print,) by a correfpondent on the fpot, of the Ceylon Pearl fifhery in all its ftages, fome of which are truly fingular and remarkable. It appears that the fear of fharks is the caufe of a great deal of aftonifhment to the fifhery, the divers being extremely timid and fuperftitious; every one of them, even the moft expert, entertain a dread of the fharks, and will not on any account defcend until the conjuror has performed his ceremonies. This prejudice is fo deeply rooted in their minds, that government is obliged to keep two fuch conjurors always in pay, to remove the fears of the divers. The manner of enchanting confifts in a number of prayers learned by heart, that nobody, proba-