

sworn to perform. In lieu of these, she has substituted those state tribunals already adverted to, the judges whereof are not merely forbidden to allow an appeal, or permit a copy of their records, but are previously sworn to disregard the laws of the Union, and enforce those only of South Carolina; and, thus deprived of the function essential to the judicial character, of inquiring into the validity of the law, and the right of the matter, become merely ministerial instruments in aid of the concerted obstruction of the laws of the Union.

Neither the process nor authority of these tribunals, thus constituted, can be respected, consistently with the supremacy of the laws, or the rights and security of the citizen. If they be submitted to, the protection due from the government to its officers and citizens is withheld, and there is at once, an end, not only to the laws, but to the Union itself.

Against such a force as the sheriff may, and which, by the replevin law of South Carolina it is his duty to exercise, it cannot be expected that a collector can retain his custody with the aid of the inspectors. In such case, it is true, it would be competent to issue suits in the United States courts against those engaged in the unlawful proceeding; or, the property might be seized for a violation of the revenue laws, and being libeled in the proper courts, an order might be made for its redelivery, which would be committed to the marshal for execution. But, in that case, the 4th section of the act, in broad and unqualified terms, makes it the duty of the sheriff "to prevent such recapture or seizure, or to deliver the goods, as the case may be," "even under any process, order, or decrees, or other pretext, contrary to the true intent and meaning of the ordinance aforesaid." It is thus made the duty of the sheriff to oppose the process of the courts of the United States, and for that purpose, if need be, to employ the whole power of the country. And the act expressly reserves to him all power, which, independently of its provisions, he could have used. In this reservation it obviously contemplates a resort to other means than those particularly mentioned.

It is not to be disguised, that the power which it is thus enjoined upon the sheriff to employ, is nothing less than the *posse comitatus*, in all the rigor of the ancient common law. This power, tho' it may be used against unlawful resistance to judicial process, is in its character forcible, and analogous to that conferred upon the marshals by the act of 1795. It is, in fact the embodying of the whole mass of the population, under the command of a single individual, to accomplish by their forcible aid what could not be effected peaceably and by the ordinary means. It may properly be said to be a relic of those ages in which the laws could be defended rather by physical than moral force, and, in its origin, was conferred upon the sheriffs of England, to enable them to defend their county against any of the king's enemies when they came into the land, as well as for the purpose of executing process. In early and less civilized times, it was intended to include "the aid and attendance of all knights and others who were bound to have harness." It includes the right of going with arms and military equipment, and embraces larger classes and greater masses of population than can be compelled by the laws of most of the states to perform military duty. If the principles of the common law are recognized in South Carolina, (and from this act it would seem they are,) the power of summoning the *posse comitatus* will compel, under the penalty of fine and imprisonment, every man over the age of fifteen, and able to travel, to turn out, at the call of the sheriff, and with such weapons as may be necessary; and it may justify beating, and even killing, such as may resist. The use of the *posse comitatus* is, therefore, a direct application of force, and cannot be otherwise regarded than as the employment of the whole militia force of the county, and in an equally efficient form, under a different name. No proceeding which resorts to this power, to the extent contemplated by the act, can be properly denominated peaceable.

The act of South Carolina, however, does not rely altogether on this forcible remedy. For even attempting to resist or disobey—though by the aid only of the ordinary officers of the customs—the process of replevin, the collector and all concerned are subject to a further proceeding in the nature of a distress of their personal effects, and are moreover made guilty of a misdemeanor and liable to be punished by fine of not less than one thousand nor more than five thousand dollars, and to imprisonment not exceeding two years nor less than six months; and even attempting to execute the orders of the court for retaking the property, the marshal and all assisting would be guilty of misdemeanor, and be liable to a fine not less than three thousand dollars, nor more than ten thousand, and to imprisonment not exceeding two years, nor less than one; and in case the goods should be retaken under such process it is made the absolute duty of the sheriff to retake them.

It is not to be supposed, that in the face of these penalties aided by the powerful force of the country which would doubtless be brought to sustain the State officers, either that the collector could retain the custody in the first instance, or that the marshal could summon sufficient

aid to retake the property pursuant to the order or other process of the court.

It is moreover obvious that in this conflict between the powers of the officers of the United States, and of the State (unless the latter be passively submitted to) the destruction to which the property of the officers of the customs would be exposed, the commission of actual violence, and the loss of lives would be scarcely avoidable.

Under these circumstances, and the provisions of the acts of South Carolina, the execution of the laws is rendered impracticable even through the ordinary judicial tribunals of the United States.

There would certainly be fewer difficulties and less opportunity of actual collision between the officers of the United States and of the state, and the collection of the revenue would be more effectually secured—if indeed it can be done in any other way—by placing the custom house beyond the immediate power of the county.

For this purpose it might be proper to provide that whenever, by any unlawful combination or obstruction in any state, or any port, it should become impracticable faithfully to collect the duties, the President of the United States should be authorized to alter and abolish such of the districts and ports of entry as should be necessary, and to establish the custom house at some secure place within some port or harbor of such State; and in such cases it should be the duty of the collector to reside at such place, and to detain all vessels and cargoes until the duties imposed by law should be properly secured or paid in cash, deducting interest; that in such cases it should be unlawful to take the vessel and cargo from the custody of the proper officer of the customs, unless by process from the ordinary judicial tribunals of the United States; and that in case of an attempt otherwise to take the property by force too great to be overcome by the officers of the customs, it should be lawful to protect the possession of the officers by the employment of the land and naval forces and the militia, under provisions similar to those authorized by the 11th section of the act of the 9th of January, 1809.

The provision, however, would not shield the officers and citizens of the United States, acting under the laws, from suits and prosecutions in the tribunals of the state which might thereafter be brought against them; nor would it protect their property from the proceeding by distress, and it may be well apprehended that it would be inefficient to insure a proper respect to the process of the constitutional tribunals in prosecutions for offences against the United States, and to protect the authorities of the United States; whether judicial or ministerial, in the performance of their duty. It would, moreover, be inadequate to extend the protection due from the government to that portion of the people of South Carolina against outrage and oppression of any kind, who may manifest their attachment, and yield obedience to the laws of the Union.

It may, therefore, be desirable to revive, with some modifications better adapted to the occasion, the 9th section of the Act of the 3d of March, 1815 which expired on the 4th of March, 1817, by the limitation of that of 27th of April, 1816, and to provide that in case where suit shall be brought against any individual in the courts of the state for any act done under the laws of the United States he should be authorized to move the said cause by petition into the court of the United States, without any copy of the record, and that that court shall proceed to hear and determine the same as if it had been originally instituted therein; and that in all cases of injuries to the persons or property of individuals acting under the laws of the United States, for disobedience to the ordinance and laws of South Carolina in performance thereof, redress may be sought in the courts of the United States.

It may be expedient, also, by modifying the resolution of the 3d of March, 1791, to authorize the marshals to make the necessary provision for the safe keeping of prisoners committed under the authority of the U. States.

Provisions less than these, consisting as they do for the most part, rather of a revival of the policy of former acts called for by the existing emergency, than of the introduction of any unusual or rigorous enactments, would not cause the laws of the Union to be properly respected and enforced. It is believed these would prove adequate, unless the military force of South Carolina authorized by the act of the legislature, should be actually embodied and called out in aid of their proceedings & of the provisions of the Ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms to adapt the act of 1795 to the present emergency, as by that act the provisions of the law of 1792 were accommodated to the crisis then existing; and by conferring authority upon the president to give it operation during the session of congress, and without the ceremony of a proclamation, whenever it shall be officially made known to him by the authority of any state, that within the limits of such state, the laws of the United States will be opposed and their execution obstructed by the actual employment of military force, or by any unlawful means whatsoever, too great to be otherwise overcome.

In closing this communication I think I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the government to perform its duty, and to co-operate in all measures necessary in the present emergency.

The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesman, not more in removing such portion of the public burthen as may be unnecessary, than in preserving the good order of society, and in the maintenance of well regulated liberty.

New Orleans, Jan. 1833. 2-12

## Forwarding and Commission Business.

### JAMES SMITH,

FORMERLY OF VINCENNES, IND.

HAS located himself in New Orleans, corner of Notre Dame and Commerce Streets, for the purpose of transacting the above business, and respectfully tenders his services to his Wabash friends and others, who may rest assured that any thing entrusted to him shall be attended to with diligence and fidelity.

New Orleans, Jan. 1833. 2-12

### REFERENCE.

Chambers, Garvin, & Co.—Louisville.

Tomlinson & Ross, Vincennes, Ind.

Burch & Heber, D. S. Bonner,

Wm. Linton, C. Rose, Terre-Haute.

S. & J. Crawford, S. J. Reed, Merom.

M. Price, J. Houston, & Co., Palestine, Ill.

W. Lagow, D. E. Baker, Centreville.

H. & J. Dulany, J. Richardson, York.

H. Feeny, Montezuma, Ind.

A. Patterson, Rockville.

J. L. Sloan, Corington.

2 The Terre-Haute, Rockville, and Lafayette papers, will publish the above 12 times, and forward their accounts to Smith & Carson, Vincennes, for payment.

### TAKE NOTICE,

THAT I have taken out letters of administration on the estate of Joshua Caven, (late of Posey county,) dec'd, and that the estate will probably prove insolvent.

2 RUTH CAVENS, Adm'r.

Mt. Vernon, Jan. 22, 1833. 2-3t

### Administrator's Sale.

WILL be offered at public sale on Monday the 4th day of March next, at the office of George W. Ewing, Esq. all the personal estate of Dr. Henry Davison, consisting of

A HORSE & SADDLE, MEDICINES, BOOKS, WEARING APPAREL, &c.

Sale to commence at 10 o'clock, a.m.—Terms of sale—nine months credit on all sums over three dollars.

GEORGE DAVIS, Adm'r.

Feb. 7, 1833.—2-4t

### FOR SALE

AN IRON STORE ROOM

AND DWELLING HOUSE,

on North half of Lot Number Sixteen, being corner of Maine and Second Streets, in Mount Vernon, Indiana. To the premises are attached a Warehouse, a small frame Dwelling and Brick Smokehouse—there is a good cellar under the Store Room. I have various other lots and houses, with

84 Acres of Wood Land, about one mile from town, which may be purchased low, as my health has rendered it necessary to decline business.

Those wishing to purchase will make application to the subscriber by the first of February or March next.

ADAM MOFFATT.

Jan. 5, 1833. 49-1f

### NOTICE

I S hereby given, that application will be made on the third day of the next March Term of the Circuit Court of Knox County, for the appointment of commissioners to divide the real property owned by the heirs of Robert S. Reynolds and myself.

DAVID S. BONNER.

January 30, 1833. 1-4t

### Administrator's Notice.

I HAVE taken out letters of administration on the estate of Dr. Henry Davison, (late of Knox county, Ind.) dec'd., all persons having claims against the same are desired to present them legally authenticated for settlement within one year from this date, and persons indebted to the same are requested to make immediate payment. The estate is believed to be solvent.

3 GEORGE DAVIS, Adm'r.

Jan. 31, 1833.—4-1t

### NOTICE.

THE Subscriber having commenced the HATTERING BUSINESS on Water street, Vincennes, in the house formerly owned by Wilson Lagow, takes this method of informing the citizens, and the country at large, that he expects to keep on hand, and for sale, a general assortment of FUR HATS, which work he intends to have made in a neat, substantial and fashionable manner.

2 The highest price given for all kinds of FURS.

H. M. GILHAM.

Vincennes, Ia. March 17, 1832. 6-1f

### TIN AND SHEET-IRON MANUFACTORY.

I HAVE a large assortment of TIN WARE on hand, which I will sell at wholesale or retail low for CASH or PRODUCE, such as may suit. Job work done at short notice.

N. SMITH.

Vincennes, Jan. 23, 1832. 50-1f

## NEW ESTABLISHMENT.



I HAVE established a BLACK SMITH SHOP on Second Street, near Gen. Lasselle's Tavern, where I shall be glad to receive the patronage of the public in the above business. I have, and at all times will keep, the best of workmen, and none but the best of iron shall be kept on hand. It will be to the interest of all persons getting work done to give a call, as I have a large stock of IRON AND STEEL of all sorts, suitable for all kinds of work, on hand, and having made an arrangement at Louisville to keep up a regular supply. There is on hand

A great variety of Ploughs;

And I shall keep at all times all articles usually made use of by our farming population. Will be kept on hand at all times, by the dozen or single one, the best of

### CAST STEEL AXES,

and many other articles. Farmers will find it to their interest to get their work done at my shop, as I am satisfied they can pay for their work easier and have it done cheaper than at any other shop in the place. I will give work for coal at all times, and receive in payment where there is no money, all kinds of grain, &c.

I want two boys as apprentices to the above business: boys of from 12 to 16 will be taken.

JOHN C. CLARK.

February 2, 1833. 1-1f

### Sheriff's Sale.

BY virtue of two executions to me directed from the Clerk's office of the Knox Circuit Court, I will offer at public sale before the court house door at Vincennes, on Saturday the second day of March ensuing, between the hours of 10 o'clock a.m. and 4 p.m. agreeable to the third section of the law "subjecting real and personal estate to execution," all the right, title and interest, of John Wyant, of, in and to the following described property, to wit—Three hundred and forty acres of land, being a part of Lot No. one hundred and sixteen, (116) in the Old Donation—given up as the property of John Wyant in favour of Reynolds & Bonner and Martin Riley.

JOHN PURCELL, S. K. C.

Feb. 8, 1833. 2-3t

### DR. JOSEPH BROWNE

OFFERS to the people of Vincennes and vicinity, his services in the practice of MEDICINE, SURGERY, and OBSTETRIC'S. He resides in the house formerly occupied by the late C. Graeter, where he may be found at all times, save when out on professional business.

Vincennes, Jan. 1833. 1-1f

### SALT.

Fifty Barrels of Kenacha

Just received & for sale on commission by SMITH & CARSON.

Jan. 5, 1833. 49-1f

### PUBLIC NOTICE.

IN the spring of 1829, or 1830, the following articles were left in Vincennes and have not since been called for, viz.—one small sack of COFFEE, a TRUNK, lashed round with an old sternfast, and a bag, containing sundry articles. The owner can get them by applying at the Western Sun office, paying for this advertisement, and proving his property.

Nov. 30, 1832. 43-4f

### \$400 REWARD!

RANAWAY from the subscribers, from board on the steamboat ARAB, thirty miles below Shawneetown, on the evening of the 13th instant,

### Four Negro Men.

BOB, a yellow man, aged about 35, about five feet eight inches high, tolerably stout built; had on a blue coat and fur hat; no other marks perceptible.

SAM, a mulatto man, aged about twenty-one or two years, five feet seven inches high, Roman nose, is a remarkable likely man, with a fine suit of hair; had on Jackson coat, with large outside pockets, and a fur hat.

CHILCE is a large black man, about twenty-seven years of age, five feet seven inches high; he is a blacksmith by trade—a very likely man—he has rather a down look when looked in the face—he had on a full lined roundabout & pantaloons, I think gray, though not certain.

HENRY is a brown black, about twenty-one or two years of age, about five feet eight inches high; had on a drab lined linsey vest, and fur hat; he is a very intelligent fellow, and has been raised a house servant; his eyes are a little sunk in his head.