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TO COUNTRY SUBSCRIBERS.

Subscribers, who have not complied with the fundamental term of this paper the payment of their annual subscription in advance, are respectfully informed that unless this shall be soon done, the Editor will be under the disagreeable necessity of ceasing to transmit their papers.

Charlotte-Hall School.

NOTICE IS HEREBY GIVEN,

That the Trustees will set up on the 2d Monday in May, to the lowest bidder, the building of a house at Charlotte-Hall for the residence of the Principal; agreeably to a plan which will then be submitted.

An advance of one half the cash will be made to the undertaker upon giving bond and security to be approved of by the Board of Trustees.

Signed by order,
NEALE H. SHAW, Regr

March 19, 1803. ep 2m in m.

TO LET,

And be entered upon immediately, three well finished Brick Houses.

NEARLY opposite Morin's Tavern, on Twelfth street very near Pennsylvania Avenue, built for the Washington Building Company.

The Houses will be rented on very reasonable terms.

Apply to Thomas Carpenter near the President's Square. eptf

Dec. 1st.

Plank & scantling for cash.

Wanted for the Eastern Branch bridge, a quantity of the best HEART YELLOW PINE *plank and scantling, viz.*

2000 feet running, of 5 by 6 inches in lengths of 5 f. 3 inch.—10 f. 6 inch—15.9 inch. or 21 feet.

3400 feet running of 5 by 6 inch. in lengths, from 17 f. 6 inch. to 26 f. 6 inch.

3250 feet running of 2 inch plank 8 inch. wide and 3240 feet running of 4 by 4 inch in lengths of 8 f. 6.—17 f. 0 inch or 25 6 inch. as most convenient.

Also 50 000 feet 4 inch plank in 17 feet lengths.

The whole must be found and entire heart—Apply speedily to

WILLIAM BRENT,
Treasurer to the Eastern Branch bridge company.

Capitol Hill May 4 1803. ep2w.

To be sold positively at public sale, on Tuesday the 26 of May, on the premises.

THE subscriber's life-estate in the Walnut Tree Farm, situate on the river Potomac, about 4 miles below Alexandria. The farm consists of about 360 acres. The buildings and improvements very good, and the fishery attached to it very valuable.

Also will be sold at the same time and place, a number of horses, cattle, and sheep, and a variety of farming utensils as well as a quantity of household furniture, consisting of mahogany tables, bureaus, bedstead, chairs &c.

The terms cash, for all sums under one hundred dollars; and for all sums above, approved notes negotiable in the banks of Alexandria or Columbia, at 60 and 90 days.

TOBIAS LEAR.

May 4, 1803. ep24M.

CHARLES VARDEN,

TAYLOR,

From Philadelphia.

HAS received from Philadelphia an elegant assortment of the best quality Superfine Cloths, Cassimeres, Silk florintine, Black and fancy silk moleskin velvet, white & figured Marseilles, Swandowns, Tollinettes, Velveteens, Fancy cords, Coating, &c.

With a variety of other articles suitable for the winter season.

N. B. Ladies Habits, Regimentals and Navy uniforms made in the first style of fashion.

New Jersey Avenue, the second House from the Capitol Square.

December 8, 1802. tf.

THE subscriber informs his friends and the public at large, that he intends commencing the practice of Medicine, and has situated himself on Pennsylvania Avenue opposite Mr. Duane's book store, where a constant attendance will be given and every attention paid to those whose cases may be committed to his care.

JOHN WILLIS.

Washington May 4. ep6t.

THOMAS CARPENTER, Taylor.

HAS Just received by recent arrivals at Philadelphia, from England, and the East Indies, a handsome assortment of Spring and Summer Goods, of the best quality, also Patent water proof Cloth's and Cassimere's, superior Navy Blue and other colours; handsome Navy & fashionable Buttons, &c.

Gentlemen of Army, Navy and Fashion served with expedition and taste.

New Jersey Avenue, seventh house from Capitol Square and Pennsylvania Avenue near the President's square.

April 13 1803. tf.

From the VIRGINIA ARGUS.

The mandamus in the supreme court.

To the Chief Justice of the United States.

No. I.

Near a month has elapsed since the progress and fall of the rule against the Secretary of State was narrated in the public papers. Of its Origin a lively remembrance is retained. The case, as it has been ushered before the world, perplexes, as much as it astonishes the thinking mind. The mass of the American people receive it as the genuine production of the court; but there is a portion of the nation, (in which the most enlightened of the profession stand conspicuous) whose credulity cannot be so easily imposed on. To the supreme court, as to a luminary, the community look for light and lustre. The splendid talents of the members, their pride, their importance, their rank in office, all conspired in the impression of their greatness. But in what is portrayed to be their issue, your brethren of the bar see a hideous monster; its conception in giants size, its succeeding years dwindling it into nothing: Its head in the rear, its tail in front, its legs mounted on high to support the burthen, while its back was destined to tread the earth its bowels in the exterior, and its hide in the interior. As it was born in death so it died in life.

Your admirers, sir, are disgusted with an appearance that the deformities of nature cannot vie with; while a sense of justice to your merits is ready to hiss the impostor from the stage.

I am a lawyer, sir, and, in common with men moving in the same circle, I am penetrated with an anxious concern for the character of the judiciary of my country. My object is first to convince you that, for one short moment, you should descend from the altitude of reserve, to rescue your fame from the hungry jaws of obloquy, by disowning the child of which you are the chief putative parent; and if I fail in that, to convince the people that it is unworthy of you and therefore not yours.

I venture not to affirm that the report of the opinion is altogether spurious; neither is it for me to say how far you have been misrepresented. The monster has many of the materials of a perfect creature, but some of the parts are misshapen and the ordination of nature in the connection is reversed. The distortions and inventions we presume to be of the handy work of some political scavenger better fitted for the streets than for the office assumed: But after hazarding this conjecture the wearied imagination would fain shun the burthen of further prying into a mystery wearing an aspect so unpleasant and profound.

LITTLETON.

No. II.

Doctor Blackstone, speaking of the rule to shew cause why a mandamus should not issue, says (vol. 3. p. 111.) "And if he (meaning the party against whom the rule is granted) shews no sufficient cause, the writ itself is issued." No cause of any kind was shewn by the Secretary, and yet, it is said, the rule was discharged!

When a Mandamus is sought for the court must be satisfied *prima facie,* and on evidences from the applicant that the writ should be granted before it will lend its sanction in any shape. If the applicant be not prepared to support his motion, it may be either rejected or continued until he prepares himself. After the court is satisfied *prima facice,* justice requires that the person complained of should have an opportunity of being heard in his defence before the writ issues—thence the rule upon him to shew cause is granted—thence, too, the rule that the evidence exhibited by the applicant must be in writing, and filed to form a specific and verified accusation. It is plain that the rule is for the benefit of the accused.

The course in practice has ever been for him to commence with shewing cause; failing to do which the rule is made absolute of course. The applicant has done his part and judgment only awaits the defence, but for the right to make which the writ itself would have been awarded in the first instance. The burthen of proof is thrown on him against whom the rule is, and his contempt of the court cannot turn that burthen on the unoffending applicant. The courts say in the rule, "it is necessary for the defendant to shew cause"—they cannot consistently, after the defendant has failed, say "it is unnecessary for him to shew cause." If cause was unnecessary to be shewn, it was unnecessary to be commanded.

Then to rule one without evidence is to convict conditionally on bare accusation. To discharge one ruled without a compliance with that condition, is to acquit him against his own tacit acknowledgment of guilt as well as against former conviction.

It is agreed that the court, while a case is pending, may correct its own errors. If the rule had been granted erroneously the correction consisted in *rescinding* and not in discharging the rule.

If I have been tedious and monotonous past forbearance, in this number, it was, that I might be the more intelligible. LITTLETON.

III.

Three questions are reported to have been considered. The last decision was that the court had no jurisdiction to decide the other two, which they nevertheless had decided!

If the Mandamus was like an ordinary suit, to admit of pleading, the preliminary question of jurisdiction would have arrested the court in its progress. Then the utmost eagerness to canvass the merits would be unavailing. The process of enquiry in summary, is guided by the same principles of reason that regulate dilatory proceedings.

If the court had no jurisdiction, the subject was *coram non judice.* The Secretary was in no fault when he applied himself to the duties of his office in neglect of a tribunal whose incompetency to hear and decide on the charge, was too obvious to be questioned by the court itself. * Was it right to condemn him unheard and when he could not be legally heard? The court of Appeals of Virginia (Wash. rep. p. 83) have said that it was "a principle of universal law, that both parties shall be heard." Is it right, sir, that an extra judicial and an officious opinion should be given by judges of the first exaltation in any case? Is your tribunal organised to exhaust its time in dissertations on ordinary subjects of political speculation? To decide upon the merits of a cause without jurisdiction to entertain it, I affirm to be contrary to all law precedent and principle. On a motion for a Mandamus in the Supreme court against Judge Lawrence, the justices, after a laborious argument for and *against* the writ, unanimously declined judgment on the question of right, because the remedy had been mistaken. (vide 3d Dallas 42 to 53) A court consulting its own dignity would never give a judgment that it could not execute. If the court had been satisfied that the applicant had no right, as they had heard *him* fully, they might have been excusable in *intimating* an impression against him on the merits, to prevent litigation. But could it accord with impartiality, policy, justice or dignity to reverse the principle and encourage a litigation by prejudging a member of the government, on a question that the very act of judication advised the applicant to bring before you in your appellate character? Should William Marbury appeal to your court, it might be said that your faith would be pledged to redress him. Judicial opinions are given under duress of oath and office. The judge may change them without violating public faith; but a wantonness of adjudication leaves the judge without any excuse for a perfidy in seducing the citizen to expectation and trial and then dealing the reverse of what was promised.

"Common barretry is the offence of frequently exciting and stirring up suits and quarrels," 4 Black. Com. 134. The offence is punishable by fine and imprisonment. The news papers do not bring you within the definition of the offence, because the exciting and stirring must be common. Sitting on the bench of justice, too, might hallow the act though extra official.

LITTLETON.

No. IV.

BUT the papers have not been content with exhibiting this anomaly in judicial act—they have pencilled you, sir, in darker colours. They make you say that a legal investigation of the acts of one of the heads of departments, was rendered peculiarly irksome as well as delicate. In other words that in solemnly committing yourselves to the applicants—in delivering an extra judicial opinion, upon an exparte hearing; stirring up litigation and prejudging a great officer's conduct, whose future examination before you was *thereby* rendered morally certain, you were performing a duty which you submitted to with pain.

Upon roaving through the recesses of the inquisition, the sable interior, the gasping, impatient apparatus of torture—the sight of victims lacerated and writhing in death, horror freezes the blood in its nutritive course from the heart.

When the spectator recovers to contemplate the judges of the inquisition, if naught should be distinguished in the gloom of their countenances, but zeal for their church—but a spurning enthusiasm for a bloody religion, he mourns the hard fate of intellect and humanity; but indignation gives place to pity. When on further search he discovers insincerity to be an accompanying lineament, the judge becomes a demon more execrable than his hell.

The heart must be corrupt before it can take refuge in hypocrisy. When the heart of a judge becomes corrupt he assumes an attitude of pre-eminence in the range of hateful beings. Judge and purity should be convertible terms. Your name is justice. Vice may be gilded, and glitter and glare with all effulgence of tinselled grandeur in the statesman or in the general. Policy with either may prescribe a virtuous course of action, and unequalled intelligence may define it. On these may a people place a precarious dependence, while they can do no better, But so different is the nature of a judge's office, that, mere policy as well as sympathy, whether moral or of another sort, is vicious in the extreme. When he loses the smallest particle of his inherent character;—nay from the first moment that he is suspected, he sinks forever. A whole life of steadfast devotion to justice and repentance will not wipe away the stain of a single act of duplicity in a judge.

In the account of the court's course published to the world, the most misguided of the friends of the Secretary of State would enjoy an inglorious triumph. They would exulting cry out "mark the weakness and wickedness "of the party spirited incumbents of "this high office. See how vain has been "the attempt of a rival power against "the fame of a patirot statesman." I hope and believe that the Secretary is incapable of partaking of a joy so unnatural. A noble generous mind, like his, would be depressed under any weight that tended to bear the honor of his country down. His manly soul would want no ray of magnanimity, to chide away all the visions of selfishness from the sadness and sorry tributary to his nation's loss. Comparing the head of that judicial fabric, reared by the constitution in fond presages of future greatness, with that stream of justice which in the rotten government of England preserves it course uncorrupted, even through the minute ramifications of the state, he would sicken with regret for the lowered pride of America. Possessed of a complaisant temper, reposing on the luxury of its own benignity—with an intellect habituated to survey, illumine, to anylise and to shape the varying labyrinth of human concerns—knowing no wish unconnected with the happiness of his kind—without pride, and spurning the guilty height of false ambition, his great genius, like that of the illustrious patron and companion of his virtues, soars above the views of pelf and party nearest the region where perfection reigns.

The one memorable act of yours in supporting the government in the question of the repeal of the judiciary law stands a living reproach to such as can believe from an anonymous publication, that you would surrender the chastity of a court to the lust of envy.

The time is remembered when you could despise the petty larceny consideration of party spirit, and against the clamors and flatteries of an infuriated opposition, support the constitutional rights of the legislature. The weigh of your authority then calmed the tumult of faction, and you stood, as you must continue to stand, a star of the first magnitude. †

LITTLETON.

* *If he had shewn cause, according to the judgement reported it must have been in the language of an ingenious gentleman, cause why he should not shew cause.*

† The act of the judges to which this has allusion, is not sufficiently understood. The following is an extract from a manuscript, prepared by the author for another occasion.

The restoration of the old system was predicated on, and indeed the passive legal result of the destruction of the new. If that destruction was unconstitutional, it was void, and the subject on which it was to act is preserved in life by a paramount law. The restoration in this view was an ill timed abortion, and the judges of the supreme court (who had already decided their conscientious obligation to resist congressional invasions of the constitution) could not instil life into a thing of such fated deformity; or in plain words, they could not constitutionally occupy seats that had never been constitutionally vacated. Though the judges are in general bound to conform to a modification of their duties, yet when that modification is incompatible and in direct conflict with another and a prior constitutional establishment, they are interdicted from the submission by the sacred mandate of the constitution. How can they enforce the end without giving sanction to the means necessary to attain it.

Applying this view the act of the whole bench of justices of the supreme court in taking their circuit seats, has tacitly, though solemnly, with the Congress decided THE REPEALING ACT TO BE CONSTITUTIONAL.

PARIS, Feb. 21.

ACT OF MEDIATION

Made by the First Consul of the French republic, between the parties which divide Switzerland.

Bonaparte, First Consul of the French republic, President of the Italian republic, to the Swiss.

Helvetia, a prey to dissentions, was menaced with dissolution; it could not find in itself the means of renovation.

The ancient affection of the French nation for this virtuous people, whom it has recently defended by its arms, and caused to be recognized as a power by its treaties: the interest of France, and of the Italian republic, the frontiers of which are covered by Switzerland, the demands of the Senate, those of the democratic cantons, and the wish of the mass of the Helvetic people, have thrown upon us the duty of interposing our mediation between the parties which divide Switzerland. The Senators Barthelmy, Roederer, Fouche, and Demeunier, have been by us charged to confer with fifty six deputies of the Helvetic Senate and of the cities and Cantons assembled at Paris, to determine whether Switzerland, federally constituted by nature, might be kept together under a central government, rather than by force, to discover the species of constitution which was most conformable to the wish of each canton, to distinguish what best answered the ideas which the new Cantons had formed of liberty and happiness, to conciliate in the old Cantons the institutions consecrated by time, with the rights restored to the mass of the citizens; such were the objects which were to be submitted to examination and discussion. Their importance and their difficulty determined us to hear, ourselves, ten deputies appointed by the two parties, namely, the citizens D'Effry, Glutz, Jauch, Monnot, Reinhart, Sprecher, Stapfer, Usterry, Watterville, and Vonsinu, and we have compared the result of their discussions with the different projects presented by the Cantonal Deputations, and with the results of the discussions which have taken place between those deputations and the Senators commissioners. Having also employed every means of becoming acquainted with the interests and the evils of the Swiss, we, in quality of mediator, without any other view than that of the happiness of the people, on the interests of whom we have to pronounce, and without wishing to injure the independence of Switzerland, appoint as follows.

[Then follow nineteen chapters, containing the organization of the different Cantons of Switzerland, a separate and distinct constitution being assigned to each.]

CHAP. XX.

FEDERAL ACT.

General Dispositions.

Art. 1. The 19 Cantons of Switzerland, viz. Appenzell, Argovia, Bale, Berne, Fribourg, Glaris, Grisons, Lucerne, St. Gall, Schaffhausen, Schwitz, Soleure, Tessen, Thurgovia, Underweld, Uri, Vaud, Zug and Zurich, are to be federally united, according to the principles of their respective constitutions. They reciprocally guarantee those constitutions, as well as their territories, liberty and independence, either with a referense to foreign powers, or the usurpation of any particular Canton, or the conduct of factions.

2. The contingents, either in troops or money, which will be necessary for the due execution of those guarantees, are to be furnished by the respective Cantons in the following proportions.

[Here follows the quota, &c. which