

# Wilmington Centinel,

## AND GENERAL ADVERTISER.

W E D N E S D A Y, AUGUST 6, 1788.

### Wanted to Hire,

By the Month, or longer Term,

**A**N ACTIVE Negro Boy, between twelve and fourteen years of age. Application to be made to the **PRINTERS.**

### WANTED,

**A**N APPRENTICE to the Cabinet Making and Riding Chair business.—Apply to **JOHN NUTT.**

Wilmington, July 23. 21—23

### TO BE SOLD CHEAP, For Cash or Produce,

**T**WO valuable PLANTATIONS at the White Marsh, Bladen County, containing 900 acres, the property of the late Robert Rowan, Esq. deceased. For further particulars apply to **H. J. Richards,** or

**ARCHIBALD MACLAINE.**

Wilmington, July 16, 1788. 20—

### Notice

**W**HEREAS, by order of the Honourable the Court of Equity, in the suit there pending, wherein Severin Erichson is complainant and Samuel Vance, defendant—It is ordered by and with the consent of the parties, that the Master in said Court do forthwith collect and recover the debts due to Samuel Vance or Samuel Vance and Co.—Notice is hereby given to all persons indebted to said concerns, that they call on the Master, and pay the respective balance by them due, on or before the first of September next, when all persons failing therein, will be sued without further notice.

**THOMAS DAVIS, C. & M. E.**

Wilmington, July 2, 1788. 18—

### Writing Paper,

FOR SALE

By the Printers hereof.

### MISCELLANY.

**A COMMENTARY** on the first Chapter of the Law made in the year one thousand seven hundred and eighty-six, with **OBSERVATIONS** political and useful.

BY A **MODERN COMMENTATOR.**

(Concluded.)

#### GENERAL OBSERVATIONS.

**S**UPPOSE in the act which takes away an abatement in appeals, by the death of either party, when the advantage of the plea had accrued prior to the existence of the above act, and the judge give the clause an exact literal construction, by virtue of that short sentence contained therein, "in all courts what"; here it is clear as the sun, that this construction, like a two edged sword, would do more execution behind than before, and divest the party of a right which had accrued by virtue of a precedent law. This is a species of *ex post facto* laws, which the constitution declares against—a fundamental which this is so fond to make all laws correspond with. Here it is likewise clear, that in whatever stage the proceedings are struck by that clause, it must move forward and not back; and if it should have no subject-matter to operate upon in that direction, in the name of God, do not turn it back, which would be as great an *ex post facto* law, as in the natural world, for the smaller stream, when it becomes united with the greater, to take a contrary course. Again, if two are indicted severally for a joint trespass, and the first tried, found guilty, and the judge not suffer judgment to go against him, because the other might then avail himself of his evidence; because there is a presumption against his veracity (which by the by falls entirely within the province of the jury) and because the authorities say, if the person had been cleared, he might have been evidence. One would imagine upon the principles of reason (upon which all laws are said to be built) that if one has underwent the judgment of clergyable felony, and is good evidence a *fortiori* in a simple trespass; in this case the party lies under all the disadvantages of the law, and cruelly withheld from its benefits.—There is little odds betwixt this and an *ex post facto* law; if the subject had known that he could not have had all the privileges of the law, he would not have been liable, and that is the presumption in the other case.

In every crime, when judgement is gone forth, the privileges of the subject (unless expressly taken away) are exactly in the eye of the same, as before he become liable.

Again in a trial for the recovery of a debt, as is mentioned in a certain act, for taking away interest under particular circumstances, if the judge should order the term of interest to be struck off, without any kind of attention to the circumstances; might he not as well take away twelve years as well as six. The six years are of no kind of effect by the act, unless the circumstances apply, and if a judge can dispose with the circumstances, he also may with the term; but, perhaps a judge may find it in his account, to make a number of similar decisions in this case, that may be adduced as precedents when he comes to pay off his bond-debts. This last case appears rather a wild supposition, and consequently of little force; well, let it be so.—As far as it is out of the line of probability, in the same proportion will its weight be in the illustration before us.

These supposed cases are designed to illustrate the absurdity of *What-d'ye-call-bim's* placing the supreme power in the judicial branch, when we see they may err so far, when the road is previously marked by the legislature. The Farmer, (for I now recollect the signature) appears to have been executed the fore end of this task much better than any other part;—the narrative is very pathetic—the manner in which the bunches of bribes were broken in upon—the profanation of certain positions—the old apron severally pendant, and the materials employed for unwhiting the pitchy garb, are (I suppose) all that can be extracted as pearls out of such a mass of rubbish. His mental prowess has been as far inadequate, as the muscular strength of La Mancha's hero when he stormed the wind-mills. And upon the ground that the cases hold, if — are not competent to the task of directing a boat crammed with lumber, when in the haven, how should they steer a ship freighted with jewels through the perilous ocean?

To the legislature it alone belongs to move forward untroubled in their greatly superior sphere, without a responsibility in any way whatever, no further than sound policy may from time to time require, and of this they are the sole and exclusive judges. This is the great secret of acquiring and preserving this glorious superiority—attending the pulse of the Plebeian mass—soothing their passions, when fermented, and on the whole by deep laid plans moulding the aggregate exertions into a blessed subserviency, and always care to pay a necessary deference

to the popular class in the legislature, as I have already shewn has been done; which is something like (if we may be allowed to illustrate great things by small) the country-born craming the Irishmen with pumpkins, while they regaled themselves on melons; the latter estimating the compliment by the superior magnitude of their repast. On the other hand the judicial powers are to follow at a reverential distance, interpreting the law according to the meaning and intent of their superiors, and if difficulties occur, a solemn pause is to take place, and thus remain till started by the mighty intervention of the legislature. For to that transcendent power it alone pertains to unheath the sword of legislative omnipotence, and sever those gordian knots that otherwise refuse to be untied.

The design of this digression, you may see, was to evince the necessity of certain allowances, and to dispel those intervening fogs, that might otherwise have hung upon the subject by the Farmer's doctrine, both of which purposes being fully answered, we will strike into our road again.

The only intendment of the act, as I before said, was to procure inhabitants to enhance those territories,—the only foundation capable of supporting a respectable superstructure; for it is an immutable position in politics, that the riches of any country is in proportion to the multitude, and equal distribution of its inhabitants. Now how the act under view will have this effect without literally hurting the constitution, or having any kind of retrospective operation, I will proceed to evince.

In the first place, the general rumour of the appointment of an army, for the protection both of the place and emigrants, and the clearing of a road fit for the passage both of waggons and carts, which last you know, has long been a capital objection in the way of the more wealthy, who would otherwise emigrate; these circumstances will have a wonderful effect, and although with respect to the road being cleared in the manner specified by the act, there is a moral certainty it will not be done at this time, but yet the bare promulgation of the act will introduce the matter with a considerable degree of jealousy and attention to the latter sort; as for the pack-horse class, who generally swallow things as they would with, there is not the least doubt, but they will be altered in great multitudes, to such a length that a retreat will become impracticable, and they inevitably come under every possible motive to desert the Indian tribe, when, if the greater number should perish in the enterprise, and they can be very well spared after they have answered the above end, being generally an unrefined gang, and inimical to that subserviency which we would wish to bring about; the aborigines and present claimants of these lands, must be entirely extirpated; and this is the only way it can be done, (to wit) by the above character under the persuasion, that they are fighting for their own interests; for ever, life that is lost and every drop of blood that is spilt, adds to the value and worth of those lands. If the armament should be dispersed on the way and drop into the settlements in small deducted gangs, and then lurk about in the more secure part of the country; yet, in a great measure will have the desired effect. It is true indeed it will raise our taxes, in some measure, for if the cash arising from the lands set apart, for defraying the expence, prove insufficient (which you know in reality was never designed to raise a farthing, every proprietor being prepared to shelter himself under a caveat, which is a blessed and providential interference to those whose prospects are the greatest, in relieving them from a disgusting and enormous burthen) the treasury must be drained as in other cases, so that every interested person, or not interested, is making our fortunes to the West, and not a soul of them can see it, if we conduct with foresight and caution. Perhaps we may lie open to the animadversions of the disappointed philosopher, the political theorist, and the proteus cleric, by (say they) making laws tending to destroy that equality, which constitutes republicanism, and this is one as it tends in its consequences to throw too great a proportion of property into the hands of a few, who in time may lord it at pleasure over the many, &c. Well, admit it; and it will only be laying, what has been eternally, will be while human nature is under the present economy; as far as history or tradition reaches into posterior periods of time, is nothing but one confirmation after another of this truth. If the whole human race were reduced to a mathematical equality with respect to property, from the great variety and complicated digression which each individual is possessed of, a ray or part of the Divinity, this equality could not exist a single moment; therefore, whoever would be for depressing all to a level, would in fact be doing nothing else than fighting against the dispensations of heaven. Has not ability and address, or the superior endowments which human nature is capable of taking, generally directed the current of events? Witness, the contests betwixt the Houses of York and Lancaster, as a superior share of this divine impress, shifted from the one side to the other; in exactly the same manner was the mode of succession to the crown settled. And an assemblage of endowments, meeting in the mighty Cromwell, enabled him to effect, what even at this distance of time astonishes the philosopher and petrifies the politician. But such characters rarely occur, and the one we have mentioned, remains unequalled, and is undoubtedly one of the greatest that has yet come forward on the stage of humanity; from all which it is clear, that we are doing what always has been done, and that from the nature of things, will necessarily ensue and consequently right.

The bulk of the people look upon it as an advantage that the lands to the West, (whither the road is to be cut) should be settled with the present inhabitants of this state, never considering that every person who emigrates leaves our debts so much the heavier, as he carries souls and property with him, and conse-