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For the MINERVA.

MR. BOYLAN,

A writer in your paper of the 25th of last August, under the signature of Lycurgus, has laboured much to impress on the mind of the public the propriety of adopting the proposed amendments, or change in the judiciary system. Had this writer rested his objections to the courts as now established, on the basis of reason alone, instead of investive his comments might possibly have passed on to oblivion without reply; but as he is pleased to sport with the feelings of a class of men who have acted in their official capacities from the most perfect and disinterested motives, he may well afford to forgive the retort of one of those "magical men, whose understanding extends only to farm-yard accomplishments," &c. Lycurgus, in his illiberal expressions respecting the magistrates of North-Carolina, may have followed the bias of his own mind, and thereby well attested his origin and life; for we cannot believe that a man of nice feelings would thus, unprovoked, let loose such a torrent of abuse as appears to have come from his pen; but as it is of greater moment to found his reasonings, than to portray his ill-applied epithets on the "Squires, we shall briefly notice a few of his remarks.

Lycurgus states that tis by no means miraculous to see sensible and discerning men opposed to the proposed change in the court system. This he accounts for from the influence of ferdid views. That self interest has undue weight in public decisions is certainly true; that he himself may feel its effects, we would not deny. If the most respectable part of those who are opposed to the change, were inhabitants of counties and towns in which the Superior courts are now held, we might the more readily suspect the purity of their motives in the opposition; but as we find persons "learned in the law," dispersed throughout the State, as well in other counties as those in which the Superior courts are held, equally strenuous in their approbation of the present system, it is truly unjust to accuse their aversion to the new system to that of avarice. With regard to the additional expence of the new plan, which Lycurgus deems *inconsiderable*, let us not forget that beside the large sums paid to the judges over and above what they at present receive, and the erection and improvement of public buildings, the expence of very many more jurors than are at present required, will form no small item in the account. The superior court jurors are now made up for each district upon an average from seven and an half counties; hence, the expence, as to jurors that in the new superior court plan would apply to a single county, is, under the present mode, sustained by seven and an half: It seems, however, that in the proposed plan their services would only be required two weeks in the year instead of four, which would leave the difference of expence against the new system, on the item of jurors, as three and a quarter to one. That the additional expence on account of the judges under Lycurgus' plan may not be doubted, let us contrast the two modes in this respect and mark the result. At present we have sixteen superior courts within the State in one year: these occupy four judges at 1600 dollars each—in all, 6400 dolls. These sixteen courts take up by 32 weeks of the year. The *little Superior-courts* would produce in one year, at two courts in each county, 120 courts; each county taking up two weeks to the purposes of superior court business: making 120 weeks per year instead of 32, which are now found to answer the purpose. If this calculation may be relied on, the difference of expence relating to the judges would be in favor of the present system as 4 to 1, which is almost four to one: thus instead of paying to four judges 6400 dollars per year, we should pay to fifteen judges at 1600 dollars each, 24,000 dollars. But it may be said in reply to this, that the County court business is to be performed in the new Superior courts,\* for under the present mode of

County court business no judges are to be paid.

Much has been said about the great expence at which witnesses are brought to the Superior courts from a distant part of the district. However great this hardship may be, we cannot be led to believe that, to obviate the evil, the community should be saddled with a heavy tax entirely unnecessary, only for the advancement of this single benefit, which for the most part only serves the purposes of litigious men. Of what consequence is it to my honest neighbour, whose "understanding extends no farther than a tolerable knowledge of plowing, the best season for sowing and planting, and other farm-yard accomplishments," and who never goes to law himself, whether those contentious men whose names stand on the Superior court docket, are compelled to pay for their witnesses the sum of fifty dollars, or whether they get clear by the payment of ten dollars only. These controversies respecting a horse race, which the farm-yard votary has neither time nor inclination to visit, do not touch his interest, but when an enormous tax is levied on his property in order to bring "law," (the object of his hatred) "to every man's door;" he would then only think of the change to curtail it. The establishment of our Superior courts is now truly dignified—the reverse would no doubt exist under the contemplated change. That the administration of criminal justice would in a great degree be destroyed in the *little Superior courts*, no well informed candid person will deny, admitting to the fact, the great influence of "fear or favour" that may pervade the minds of the county generally towards a man overgrown in height and villainy, and the right which a felon has of challenging jurors; these circumstances would render his conviction a difficulty indeed. How many counties are there, within which an insinuating criminal could ascertain the sentiments of each juror towards him, and by his arts and misrepresentations, lay them under his influence as to ensure his acquittal? This temptation will be found the more probable, when we remember that the want of a concurrent sentiment in one single juror will at least procrastinate the conviction; thereby adding to the expence of continuance, &c. the means of escape. The administration of criminal justice is at present conducted upon the most eligible principles. The jurors are collected from the several counties composing the district. They come forward without ever having known, or heard of the prisoner or of the charges brought against him. Thus, with minds unbiassed, they are fully prepared and capacitated to acquit themselves in the important trust to which they have been called, with honor to themselves and to their country. It would be absurd, and expose the ignorance of any person, with these facts before him, to expect to find free, independent, and dignified juries in many of the counties within this State.

Lycurgus inveighs much against the justices of the County courts, as above remarked, and recommends their jurisdiction to be lessened almost to insignificance. That many members of those courts are inadequate to a judicious discharge of their duties, we must confess; neither does it follow from any thing advanced by Lycurgus that his new judges would at once become honest men, and at the same time be exhibited as walking law-libraries. Certain we are that if the salaries are not such as to be an inducement to men of eminence, (for which expence we tremble) those places must be filled by such attorneys as are unable to live by their professions: This is no vague conjecture, for it is well known that many of our lawyers obtain more by their practice, than the annual salaries paid to the Superior judges: hence it may appear that those who are best qualified to grace the new judicial chairs, will be most certain to reject them, unless they are tempted by an extravagant hire. The present establishment of the County courts, and the practices therein, as far as my observations have been made, meet the concurrence of the contending parties as generally as any other tribunal in our government. It may

however be the case in the court of the county where Lycurgus resides, that the justices suffer themselves to become puppets in the hands of the lawyers, but this is no good reason why fifty-nine other counties, merely to gratify a spirit of innovation, should consent to the change; doubtful in its effects even as its votaries admit. Only saying that the new system is doubtful in its effects, is giving it more than its due; for while the benefits ascribed to this sovereign remedy against legal evils, are doubtful, its many deformities rise predominant and stare us in the face, as if they were licensed to exist in spite of every nostrum that has as yet been invented for their destruction. From the County courts to which we have paid attention, there are scarcely as many appeals to the Superior courts, in proportion to the number of trials in each, as there are from the Superior courts to that of Errors and Appeals. Does not this prove the correctness of the decisions in the County courts? Or does Lycurgus believe that the lawyers concerned where an injury hath been sustained by a corrupt or ignorant judgment of the court, would sit as idle spectators, and not advise their clients to appeal to a tribunal where party spirit is supposed not to exist; and where too, the "conflicting opinions of professional men" are overborne and corrected. This would effectually remedy the evils of which Lycurgus complains, if indeed any such exist. The establishments and prevailing practices of our courts are too well known to be salutary to our honest desires, and too well familiarized to our capacities, for the more enlightened part of the citizens to exchange it for a mode produced by the overheated imagination of a ritten-tempered brain, or what is no better, the artifices of fordid and designing men.

Such of the County courts as I have been acquainted with, instead of acting in "secret conclave, and as tools for designing men," are composed of members who set with all the dignified solemnity of a superior court judge; try, and determine, under the highest confidence of the contending parties, all matters of which they have cognizance, and finish the business of the session in four, or at the most, in five days. At the close of the business, the courts are formally adjourned, and its members respectively return to "farm-yard" amusements.

In the *Minerva* of the 8th September, Mr. Porter again offers his remarks and estimates of expence, in reply to *Corrector*. He says that two of our County courts are more expensive than two Superior courts; but why the name of *County court* should incur expence from which Superior courts are free, is a mystery not easily solved. If this allusion be correct, we would be fond to know should be so estimated to that of Superior courts as to influence the cost of holding those of Quarter-session courts. I confess my ignorance as an accountant; therefore, although we cannot understand Mr. Porter's calculations on the expence of the courts, it may be corrected: it is however strange that the time of the justices while holding the County courts, should be reckoned as an expence. They receive no pay for services, and how an item of this nature can be brought in as an objection to such courts, is astonishing. It might as well be said, that although we pay a single judge of the Superior court 1600 dollars per year, the expence would not be less if he was to receive nothing, because the loss of his time in attending the courts one year is equal to that sum. Strange calculation! No other, however, than a strange one could shew the fact. Mr. Porter seems disposed to flatter us with a belief that the existence of a Superior court in each county would dispel ignorance from the minds of the jurors; but when we remember that the enlightened part of each and every county are no less subject to serve as Superior court jurors, than if the laws were administered at "their own doors," this reasoning must fail, unless we believe that one is more or less susceptible of teaching, as he may be nearer or further from home. Mr. Porter also remarks, that States which have adopted the scheme he advocates can do all the business in two weeks that now employs our Superior courts eight; and

adds, that this onethought is sufficient to give credit to his plan, for "will any wife man say that we ought to spend eight weeks at law when two will answer?" We will all agree in this point, that it is better to perform eight weeks service in one fourth part of the time, if such can be thus performed. In the case before us, it should be remembered, that Mr. P's *little Superior courts* have no cognizance of Equity business, therefore, all the business here loaded off, is not done in his courts. His two weeks law, only does the business of five weeks of our courts. We should further remark that the five weeks spent in our Superior courts, performs the business of seven and an half counties, upon an average. Thus the ratio of time to each county, would be four days only for the annual administration of superior court justice,\* while the *little Superior courts*, according to Mr. P's account, drill out 12 days for the same service; which, agreeably to my calculation, is three to one more than we at present require. This miserable shift, Mr. Porter, is a wretched subtlety to delude the unsuspecting people of this State into an egregious error. 'Tis fortunate that the deformities of your schemes are too obvious to flatter you with a hope of success, once you come to scrutinize impartially. As to the thirty shillings a day for your service in the legislature, you may deserve it as far as we can say; but why you would compel a juror to attend the superior courts for only one-third part of the wages you are pleased to vote to yourself for services not only voluntarily accepted, but solicitously obtained, we leave for yourself to decide. The last part of your publication expresses a desire that future writers should not conceal their names under fictitious titles. Hence we infer that you intend to judge of such productions, not from the facts or reasonings advanced, but from the name of the writer. Under this impression, the author of these remarks can expect no favour from your judgment, and therefore withholds his name, giving only his title, that of

A COUNTRY SQUIRE.

\* Exclusively of Equity business.

The following address to Mr. Gallatin is copied from the *Richmond Enquirer*, the paper in which Mr. Randolph's philippic upon Mr. Jefferson originally appeared. Which individual in the administration cannot say, I have been wounded in the house of my friend.

"TO ALBERT GALLATIN, ESQ.  
Secretary of the Treasury.

"Was the man, who now addresses you, your secret enemy, you would not receive from his pen the language of advice. He would suffer you to pursue your present career without a single monitory voice to warn you that it is the career to ruin.

"I admire your astonishing talents. I reverence you for the services which you have rendered to my country. There was a time, when the name of Albert Gallatin ranked in my mind with the Ciceros of Rome, and the Tels of Switzerland; with all that were venerable for virtue or commanding talents. That moment is rapidly passing away. Your talents will forever command my veneration; but how narrow is their empire when combined with suspected virtue!

"What have you not owed to your adopted country? You were in want of an asylum, and you found it among us. You were a foreigner, and yet crowned with the representative honors of the nation. You had talents to display, and you found a noble theatre for their exhibition. You became a representative in the State of Pennsylvania; you became a member of Congress; you have ascended to the dignified office of Secretary of the Treasury. In spite of the prejudices imposed upon the condition of a foreigner; in spite of the contending claims of native citizens; a republican President invited you to the second department under the administration. Was it then to be supposed, that a man thus honoured by the people, and thus selected by its government, should ever adopt an ambiguity of deportment, that exposed him to suspicion.

"Did not the re-jection of Governor

\* If done for both, the time would be double the above statement.