



AND
North-Carolina State Gazette.

Ours are the plans of fair delightful peace,
Unwar'd by party rage, to live like brothers.

MONDAY, SEPTEMBER 24, 1804.

No. 253

VOL. V.

From the National Intelligencer.

TO THE LEGISLATURES OF THE
RESPECTIVE STATES.

Letter the fifth.

The third great object that requires state regulation is the security of property. This, under all circumstances, has been deemed an important consideration. Its importance, however, is almost infinitely increased by the prevalent state of society in this country, and the new aspects and relations which a new order of things has created. It is one of the happiest features of our political institutions that, by inhibiting every species of monopoly and by leaving industry unfettered, the power of obtaining property is placed equally within the reach of every citizen, so far as political institutions can effect this end. The right of primo-geniture, and the principle of entails, being wisely annulled, prevent dangerous accumulations of property, and distinctions, equally dangerous, arising from accidental circumstances instead of merit.

This great end insured, it only remains to adopt wise codes of laws to secure the rights of property. As on these essentially depend its value, it will be evident that they are not inferior in importance to the attainment of property itself.

Are then the rights of property at present adequately secured? It is humbly presumed they are not. Without meaning to derogate from the wisdom of institutions many of which have existed for ages, and most of which have been tested by some experience, it may be confidently affirmed that the great political revolution effected by the United States has placed the people in a situation which requires a modification, to say no more, of the principles adopted in the old world on this point.

A leading feature in the systems of the old world, was to aid the accumulation of property in the hands of a few, and to maintain such accumulation undisturbed for a long succession of years. As on this result principally depended the stability of governments, means the most effectual were devised for commanding and securing it. Hence the rules of primo-geniture, entails, and monopolies—so wisely done away in this country—and hence too, so many provisions by which property, and more especially real property, once acquired, was entrenched; the effect of which was the frequent resistance of just claims made on the individual possessed of the property of another; and hence the adage, that possession constitutes nine points of the law. With this view courts were multiplied; the legal code was rendered too intricate for the apprehension of the unlearned; the forms of judicial proceedings were clothed in an unintelligible phraseology, requiring a distinct order of men to interpret it; and the expenses of carrying forward suits were rendered intolerable, except to the rich. It requires no extraordinary discernments to perceive, that all these circumstances concurred to make the poor dependent on the rich; and of consequence, to fortify the vast possessions of the latter, while they undermined the pittance of the former.

If these are the effects of the existing systems of justice, as they are called, is it not manifest that they are subversive, so far as they go, of some of the great benefits expected from the change effected in our political institutions; and may it not be feared that they will operate, in an insidious manner, to undermine the whole structure.

Let us descend to particulars. One of the great ends of our government is to secure the fruits of every man's industry. This can only be effected by a system of laws which either discourages all credit, or which provide means easily within the reach of each individual for obtaining that which of right belongs to him. In the present instance debts will be rarely paid, and no disappointment will be felt from the inadequacy of laws to secure their payment; while in the

last instance there will exist means of recovering them which shall be easy, prompt and unexpensive. The abrogation of all laws for enforcing the payment of debts is so repugnant to the habits of our citizens, that it would be deemed the temerity of innovation to recommend it, and it is probable that whatever strength of argument might be adduced in its support would be too feeble to make any efficient opposition to the prejudices of habit and preconceived opinion. Leaving then this enquiry, let us proceed to examine whether the existing system of laws provides for the recovery of debts, means which are easy, prompt and unexpensive.

If a debt is due, recourse must be had to a professional man, who is alone viewed by the law as competent to point out the local remedy required. In most instances before his advice can be obtained, a fee must be given, seldom less than three or four dollars, and rising in proportion to the magnitude of the cause. The lawyer frequently resides at a distance of twenty or thirty miles from the party aggrieved; and consequently one or two days will be consumed in reaching him, and in afterwards returning home. Process is then to be obtained from the clerk of the court, for which a charge generally of about a dollar, is made. The Sheriff is then to be sought at probably some distance. These are the steps required for initiating the suit. The expence they involve may be fairly estimated at eight dollars, and the consumption of time at three days. None but men in easy circumstances can afford to lose so much money.—So far, therefore, the present administration of justice operates as a barrier against the just claims of poor men, and as an inducement to those who are unjust to incur debts in the hope of impunity. These are, however, but the first steps required by the legal code. Courts are seldom held oftener than four times, and sometimes not more than once or twice a year for the trial of causes. Such are the usual modes of procedure that it is impossible to know when a cause will come to trial, and of consequence, the parties are under the necessity of attending court for several successive terms and often years, with all their papers and witnesses, the personal concerns of whom are interfered with. It is difficult, almost impossible, to calculate the trouble and expence occasioned by these delays. The cause is at length tried and judgment pronounced. Though years shall have elapsed since the commencement of the suit, a further indulgence is allowed the debtor. Execution may be stayed; and in case they possess real property, its sale may be prohibited, or seven years allowed for the satisfaction of his debts in case the clear proceeds of his property may redeem them within a period of years. Can these means, relative to the recovery of debts, be, with the least color of truth, called easy? Are they not on the contrary, fraught with difficulty, with delay, and with distress? Do they not entirely sap the principle of equal rights? Are they not subversive of impartial justice? Do they not necessarily create distinctions among men; between the rich and the poor? Do they not give power to the former, while they deny it to the latter? They surely have all these effects, and having them, call aloud for legislative redress.

That here means for the recovery of debts are not prompt has appeared from the statement of facts just made. It may, however, not to be unproductive of profit, to dwell further on this point. Money, in this country of great value. It is not incorrect to say that to a man in business, and most of our citizens are in active life, it is worth ten or 15 per cent. Legal interest having been fixed at six per cent, the difference will be so much lost to the creditor, kept out his just debts, and consequently as much gained by the debtor. Thus is a strong inducement held forth to injustice. The debtor under the influence of interest, will generally protract the issue of the suit to which

he is a party to the greatest period. And such is the present organization of courts that a delay of several years is gained by him. The practice varies in different states; in those to the east justice is administered, with comparative speed, while to the south it is relatively tardy. Considering the middle states as those in which a medium exists, it will be found, that on an average, it requires at least three years to bring a contested suit to a close. This is unquestionably a great grievance; and claims a devoted attention to redress it.

The last consideration is whether the means at present necessary for the recovery of debts are unexpensive. This is of all the features of a good administration of justice the most important. Those, from whom just debts have been detained, are generally in an impoverished condition, and cannot be supposed to possess much resource. There is so much force in this fact that it may be assumed as a truth that a good system of laws should enable every citizen to obtain without any expence the property that is withheld from him. If this be a truth, it follows that a system which the nearest approaches this model, is the best, and that which most recedes from it is the worst. In going into details on this point, two views may be taken; one involving the expence which is sustained by the creditor in prosecuting his rights; and the other, the expence sustained by society.

We have already seen that the expence incurred in the mere initiating of an action is far from inconsiderable. This expence is greatly increased before it is brought to a close. It is difficult on a subject so much affected by the different laws of the respective states, to speak with absolute precision. But as far as we are justified by an experience of the expenses attending a law suit in several of the states, we believe we speak within bounds, when we state it in contested cases at between ten and twenty dollars: and as more frequently approaching the latter than the former. The amount sued for is on an average below an hundred dollars. The expence will be, therefore, about fifteen per cent. in addition to the loss arising from delay, from the consumption of time, and from the loss sustained by receiving only six per cent. instead of about twelve which may be considered as the real value of money. Let these losses be added together and the amount will stand thus.

For the recovery of one hundred dollars:

Three years delay producing a loss from withholding the money of the difference between 12 and 6 per cent.	18
Time consumed at least	10
Expence not paid by the debtor, say	6
	34

This is a moderate estimate. From which it appears that under the present administration of justice, about one third of the debt is lost.

The necessary effect of this injustice is the depriving the rightful proprietors of property, so far as it is placed under cognisance of the law, of one third part of it, and vesting it in those who have no just claim to it. Equally aggravated shall we find the evil in its operation on society. Just proportion to the trouble, delays, and expence attending the administration of justice, will be the multiplication of courts, of lawyers, of constables, and the numerous other attendant, who find their interests intimately connected with the perpetuation and even the extension of abuses. Hence it is an incontrovertible fact that this description of citizens will probably, and too successively, oppose all the reforms that have been proposed. It is not meant, by this remark, to cast unusual reproach upon any class of men. Their conduct has doubtless been dictated by motives common to most men; the pursuit of individual profit ought not to be considered as culpable, when it is not in violation of or breach of law, or moral duty. It is evident in the present instance there is no violation of positive law; and it may easily be

conceived that conduct, sanctioned by law and usage, however repugnant to some moral principles, will not be viewed as reprehensible, by those whose immediate interest is connected with it.

In estimating the extent of this evil, we can do no more than offer a rough statement. This shall be done under a scrupulous respect for truth, and in order to avoid its violation our statement shall be within bounds. If we take Pennsylvania as the central state of the union, and consider her as possessed of an administration intermediate between that of the eastern and southern states we shall probably exhibit in the facts furnished by her on this subject the correct view of the union generally. There is in that state,

One court of Errors and Appeals, principally composed of the Judges of the inferior tribunals, and which therefore does not involve much expence, perhaps not more than one thousand dollars.

There is a supreme court of five judges whose salaries and incidental expences may amount to 12,000 dollars.

There are the presidents of five circuits, whose salaries amount to 8,000 dollars.

There are three or four associate judges in each county, whose salaries amount to about 10,000 dollars.

The aggregate of these salaries amount to 31,000.

The establishment of jails may amount to about 30,000.

The fees paid to the various clerks of courts, sheriffs, constables and criers may amount to 80,000 dollars.

The sums paid to lawyers may amount to 220,000 dollars. All these sums amount annually to 351,000 dollars.

In addition to these items of expence, is the expenditure of time and money incurred by the parties, the witnesses and jurymen in attending courts. It may be computed that there are three hundred courts held at which 100 parties, 30 jurymen and 60 witnesses attend, on an average, for six days; valuing the time lost and expences of travelling incurred at one dollar and a half a day, an annual expence is incurred of 85,000 dollars. Add for justices of peace 56,000 dollars.

This added to the preceeding expences amount to 500,000 dollars.

One view still more important remains to be taken on this branch of the enquiry, viz, the quantum of labor lost to the community by the number of persons engaged in the administration of justice.

This may be computed as follows:

Judges and justices	600
Jailors	60
Clerks of courts, sheriffs, constables, criers and their clerks	400
Lawyers	200
Time consumed by parties, witnesses and journeymen about 300	
	1,560

Estimating the value of the time of each person at \$ 300 we have the sum of \$ 468,000; which added to the above \$ 500,000, amounts in the whole to \$ 968,000; a sum but little short of a million.

Let us contrast with this vast expenditure the advantages derived from it.

It is a large estimate to state the property in controversy each year throughout the state at five million of dollars; on which, therefore, it appears, that there is paid a commission of about twenty per cent.

The detailed view, we have taken abundantly proves that the existing means for the recovery of debts are neither easy, prompt, or unexpensive. The only enquiry, remaining to be made, is whether means more competent to secure these ends can be devised. It is confidently believed that they can.

(Subject to be continued.)

THE HILLSBOROUGH RACES

Will commence on Wednesday the 17th of October, and will continue three days, free for any Horse, &c. The first Day's Running will be three Mile Heats, the second, two Mile Heats, and the third one Mile Heat. By Order,

P. DURKIN, Clerk.
Hillsborough, Aug. 24, 1804.
N. B. The Particulars will be published as soon as established by the Club.

Thirty Dollars Reward.

RAN AWAY from the Subscriber, on the 26th July last, a Negro Man Slave named Abram, about 5 Feet 10 or 11 Inches high, twenty-nine Years of age, black, of a trim-make, with long Arms and Hands, which, when he walks, hang straight down by his Sides; he is a little round-shouldered; he is a very likely and artful fellow, can work at the Cooper's trade. He has a Scar on his right knee, occasioned by the Cut of an Axe, and another on his left Buttock, occasioned by a Burn when a Child. I expect he will attach himself to some Villain and endeavour to pass for a free Man. If he should leave this County, I expect he will change his Name and deny his Master, if taken at a distance from home; Since he left me, he hath been apprehended and broke Custody. I would therefore recommend that if he should be apprehended, he should be secured in such a Manner as to prevent his having any Opportunity of escaping, as this will be his first Study.

I will give the above Reward to any Person who delivers him to me in Caswell County, N. Carolina, or one half, if secured in Goal so that I get him, and all reasonable Charges paid. ALEX. MURPHEY.
August 25th, 1804

Fifteen Dollars Reward.

RAN away from the Subscriber, living near York Court-House, South-Carolina, on the 4th July last, a NEGRO MAN named JIM, about 25 Years of age, 5 Feet 8 or 9 inches high, speaks good English, had good Cloathing which he took with him, ties his Hair, and plays on the Fiddle. Any Person taking up said Negro, and bringing him to me, or securing him in any Goal so that I may get him again, shall receive the above Reward, with all reasonable expences. JOHN WATSON.
York District, S. C. Aug. 8, 1804.

SHERIFFS' SALES.

NOTICE.

On the 28th day of September, WILL be sold for Cash at the Court-house in Onslow county, agreeably to Law, the following Lands situate in the said County of Onslow, or as much thereof as will satisfy the Taxes due thereon for the Years as hereafter stated, with all such extraordinary Charges as Land is rendered liable to in such Cases made and provided by Act of Assembly:

42500 Acres of Land, situate in said County, on the branches and head waters of New and Whiteoak rivers, Queens and Bear Creeks, which is said to belong to John Jones, Esq. and the Heirs of Isaac Guion, Esq. dec. and the Taxes are due thereon for the year 1803.

300 Acres situate in said County on each Side of the Main Road leading from Mrs. King's to Wilmington, between said Mrs. King's and Mrs. Sage's, which is said to belong to the Heirs of Samuel Clegg, and the Taxes are due thereon for the Years 1795, 97, 98, 99, 1800, 1801, 1802, and 1803.

200 Acres situate on White Oak river, joining or near the lands of Wm Jones, Esq. and the Taxes are due thereon for the Years 1802 and 1803.

640 do. situate in said County, joining or near Shaking Creek, and the Taxes are due thereon for the Years 1795, 97, 98, 99, 1800, 1801, 1802 and 1803.

LEMUEL DOTY, Shff.
1st August, 1804.

WILL BE SOLD, At the Court-House in Raleigh, on the last Saturday in September next,

THE following Lands situate in Wake County, or so much thereof as will pay the Taxes due thereon for the year 1802, with the expences of sale, &c.

290 Acres, given in by John Rogers, dec.

100 do. given in by Needham Gowen.

100 do. given in by Joseph Gardner, lying on the Waters of Black Creek, and joining the Land of Edmund Stevens.

JOHN DAVIS, Shff
Aug. 11.

WILL BE SOLD, At the Court-house in Lumberton, in Robeson County, on Saturday the 29th of September next,

THE following Tracts of Land, or as much thereof as will pay the Taxes and Charges thereon, for the year 1802 and 1803.

1637 Acres, in several Tracts, on the south side of Rockfish Creek, enlisted by W. H. Herrington, of Richmond County, for the years 1802 and 1803.

350 Acres, on the south side of Rockfish Creek, enlisted by the Justice who received the lists as the property of Goodwin, for 1802 and 1803.

450 Acres, enlisted as the property of Tryon Smith, for 1802 and 1803.

100 Acres on the south side of the Great Marsh, enlisted by George Iknor for Philip Hill.

460 Acres near Wilkinson Swamp, enlisted by John McNeill.

163 Acres between Ashpole and Shoe-heel, enlisted by Charles Seais.

100 Acres on the south side of Rockfish, the property of Hugh M'Ray, Esq.

100 acres on the north side of Drowning Creek, joining Charles Oxendine's Lands, the property of Wm. Thompson.

100 Acres on the south side of Ten-mile Swamp, enlisted by Samuel Lane, for 1802.

200 Acres near the Great Swamp, enlisted by Elizabeth Lee for 1802.

THOMAS BARNES, Shff.
August 18, 1804.