(Continued from first page.)

blish," I contend such must necessarily be the organization of the federal judiciary. When it goes on and provides in the subsequent part of the same section, that the judges both of the supreme and inferior courts shall hold their offices during good behaviour, I boldly affirm, that such only can be the tenure under which they can hold their offices; nor have the government any other means of getting rid of them than that pointed out by the 4th sec. 2d art. viz. impeachment. The legislature and executive, whether acting separately, or in unison with each other, have no more constitutional right to evade or contravene the fair and honest meaning of the express tenure, i. e. good behaviour, under which the judges hold, and to derange or displace a judge either of the supreme or inferior courts, whilst he continues to behave well, than they have to diminish the number of years, during which the executive now remains in office, or to encreate that, for which the members of the senate and house of representatives are at present elected.

I am not only, however, Mr. Chairman, strongly impressed with the conviction, that the framers of the federal constitution intended to secure the absolute independence of the judiciary, as well against the power and control of the legislature, as the executive; but humbly conceive according to my weak judgement, that they have wisely done so. We have indeed, heard a great deal of rhodomontade about the dangers, which were to be apprehended from an independent judiciary. We are threatened with an army of judges, and some gentlemen, whom neither the roar of cannon, nor glistening of steel could e'er appal, begin already to tremble at the idea of facing a few decrepid old men, seated on the bench of justice. This is the first time, Mr. Chairman, I must confess, that I have ever heard the independence and consequent impartiality of the judge, could give alarm to honest men, strong in the rectitude of their intentions and conduct. To the guilty, indeed, I had been taught to believe such a tribunal, before which party influence and the power of friends could afford no protection, was truly awful. The conscious culprit might well tremble, might well dread to appear before a tribunal of this kind. But reverse the position. Destroy the independence of the judiciary—let the judge depend on the nod of the legislature, or rather of the party, which may for the moment prevail in the legislature—and of what avail will innocence itself be to the accused. Can his innocence protect him against the power of his oppressor, armed with the whole force of the government, and on a compliance with whose will the judge knows his subsistence to depend. Alas! sir, they are little acquainted with human nature, who suppose, that in such a state of things innocence would avail ought. Those, who have power will use it—will command. Those, who are subject to and feel the effects of that power, must obey and will forget right. From an ex post facto law, from a suspension of the habeas corpus in time of peace, from a bill of attainder, from any other act of violence, however unconstitutional, on the part of the executive and legislature, where are we to look up for relief? To what tribunal are we to apply for the protection of our persons and our rights against the predominant faction, or leaders of a faction—against the rage and violence of party zeal and party animosity—if this tribunal, instead of being a barrier, behind which the weak may take shelter, is to become the tool of those in power, and to be made use of, as the instrument of their persecution and oppression? In contests between individuals of different states, between the different states themselves—what reliance will be placed in the federal courts, when deprived of their constitutional independence? What confidence could one of the smaller states—Delaware for example, placed as she now is in the minority, and exposed to a contest of rights with the great and powerful state of Virginia, possessed of the preponderating influence, she avowedly has at this moment, in the two branches of the legislature, and having one of her immediate citizens at the head of the executive department.—What confidence could the state of Delaware place in the impartiality and justice of the national tribunals; if those, who are to preside in them and decide on their conflicting claims, are to be dependent on the legislature and executive, and of course on the nod and pleasure of Virginia, the most powerful of the parties concerned? What must necessarily, sir, be the consequence of such a state of things? Must it not—will it not give rise to jealousies, and excite the fears and apprehensions of the least powerful states? Will they not be seeking out for some other protection, some greater security for their rights; and must not the want of an independent tribunal, in which all parties might equally confide, drive the weaker into compacts for their mutual protection against the encroachments of the larger and most powerful states? The next step is an appeal to arms, and a civil war follows. Such must be the natural course of things. Such has been the invariable effect, produced by the same causes among other nations. And I hesitate not in saying, that between an independent judiciary; constituting a tribunal, which can control the unconstitutional attempts of the other two branches of the government, which dares without dread or fear, to deal out justice with an impartial hand, between the weak and the strong, the great and the small; between such a *tribunal* and the *bayonet* there remains no resource or alternative.

The great object of government, Mr. Chairman, is, to provide against danger from abroad and to ensure protection at home. For these purposes adequate powers must be lodged some where. Place them in what hands you please, dispose of them, as you will—still you are exposed to the risque of their being abused, and converted to improper ends. In those governments, which approach nearest to monarchy, the powers of the executive, will of course preponderate. In proportion on the other hand, as a government verges more or less to democracy, will the powers of the government vest more or less in the popular branches of it. To shew that these branches are liable to error, and will abuse the powers entrusted to them, as well as the executive, cannot be at this day necessary. The experience of every gentleman who hears me, must convince him of this fact. Every page of history equally corroberates it, and proves beyond all doubt, that in the most popular governments power is at times abused, and injustice and tyranny carried to the most unjustifiable lengths. The American people from one end of the continent to the other, are well convinced of these truths. Hence the care and anxiety, with which they have separated and balanced the powers vested in different branches of their state governments. Hence the limitations and checks they have introduced with so much caution in their state systems. The judges, who were drawn together from every part of the union, and who framed the federal constitution, knew equally well; that the powers, necessary to provide for the common defence against foreign invasion, no less than to ensure domestic tranquility, were liable to abuse, might be converted to improper uses, in whatever hands they were placed. These wise men, therefore, endeavored to steer a middle course, and to divide & balance in various ways, the powers, given for these purposes. They deposited such power with the executive, as was sufficient to carry the laws into execution, and to give energy to the national force in times of danger. They gave him a temporary & limited control over the proceedings of the legislature, as well to protect his own rights, or to check in some degree that fervent zeal and headlong impetus, to which all numerous bodies are more or less subject. With the same view of ensuring greater moderation and reflexion, and as a mutual check on each other, they divided the legislature into two distinct branches. Still the history of other nations, the experience of past ages taught them, that all this was not sufficient. They foresaw, that the popular branches by uniting might overpower the executive; or the executive might by corruption induce them to favor his views; or finally, from whatever cause, these two branches might come to an understanding and unite in a common interest. They had seen examples of all this in the very country from which their forefathers had emigrated; and they well knew, that if these two branches were by any means induced to unite in a common cause, they would construe the constitution, as might best suit their purposes, and all power would of course be in their hands; civil wars and dissentions, they were perfectly aware, would, as had been heretofore invariably the case in other countries, necessarily follow; and this happy country must sooner or later swell the long catalogue of republics, which have fallen victims to the same or similar causes, and now exist but in name. To obviate this fatal catastrophe, one only alternative, hitherto unknown or untried by other nations, presented itself to them. This was to establish a third *co-ordinate and equal branch in the government*; an independent judiciary; which, without interfering in the peculiar duties of either of the other two, without having any thing to do either in making the laws, or when made, in calling forth the force necessary to carry them into execution, should serve as a protecting shield, as well to individual citizens, as the states themselves, against the encroachments and attacks of either or both these branches, acting either separately or in union; should keep each of them within its proper sphere, and check the career of one or both, when stepping beyond the limits, which had been assigned them; when trampling on the constitution, under which the people had authorised them to act, they undertook to extend their powers at pleasure, and to make their will, instead of the written will of the people, the criterion, by which their powers were to be judged. These, sir, were the august functions, the all-important purposes, for which the federal judiciary were originally intended. And can it be said, is it reasonable that the judges, who were destined to check the assumption of powers not given, ought or could have been intended to have been left in the power and at the mercy of those very branches, whom they are to check and control.

Was this the intention of the constitution? Was there no other object contemplated in the establishment of the judiciary, than to have such courts, as might be necessary to dispatch the current business of the day? It would have been sufficient to have given congress the general power of establishing such courts, as might from time to time be found necessary, and to have simply included it in the enumeration of other powers delegated to congress in the eighth section of the first article. But what have the framers of the constitution done in this respect; have they not established the judiciary in as pointed and direct terms, have they not made it as necessary and distinct a branch of the government, as either the executive or legislature? Turn to the constitution and you will find, sir, that the same formalities, the same divisions, the very same expressions are made use of in establishing the one, as the other of these three great departments of the government.

The first article declares, "that all legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The second in the same way, that "the executive shall be vested in a President of the United States of America." And what says the third article? Why in the very same words, mutatis mutandis, that the judicial power of the United States shall be vested in one supreme court and such other inferior courts as the Congress may from time to time ordain and establish.—Again, article the 1st. "The House of Representatives shall be composed of members chosen every second year; the Senate of the United States of two Senators from each state, chosen for six years.—Art. 2d. "The President shall hold his office during the term of four years."—Article the 3d. "the judges, both of the supreme and inferior courts, shall hold their offices during good behaviour." Thus, sir, in vain do I con over each article and section of the constitution.—I see not the smallest difference in the divisions, terms or expressions made use of in the establishment of these three departments. I cannot find a word or syllable which goes to establish and declare the judiciary of the United States to be a subordinate or dependent department, and not a co-ordinate and independent branch of the government.

And as to the danger to be apprehended from an independent judiciary; what can it be? Whence can it arise? The number of the judges of the United States, must necessarily be curtailed; and encrease them, even as far as the imagination of any gentleman will carry him, still they cannot act effectually without the aid of the Executive and Legislature. They are besides scattered over an immense continent; never assemble together in a body; and four fifths of them will in all human probability, remain utter strangers to each other, except by name and reputation. They neither wield the sword, nor have they the purse strings at their command. They cannot move until the other two branches have acted. They can neither say what laws are to be made, or direct what measures must be pursued. Their whole power consists in assisting to carry the laws and measures, adopted by the other two branches, into operation; in dealing out justice, protecting the weak against the strong, and restraining and checking the unconstitutional attempts of the other branches of the government. Their only shield is the constitution; their only force, argument. They not only are without the means of acting offensively, but the very situation in which they are placed, at the moment I am speaking, shews how unequal they are, even to the defence of their constitutional rights; and proves but too clearly the justice and truth of an observation made by one of the most eminent writers of modern times.—"Of these three branches of government," says President Montesquieu, speaking of the Executive, Legislative, and Judiciary, "the latter is, in some measure, next to nothing." By what means indeed are the judges to obtain an undue and overweening influence? From what source are they to acquire to themselves a dangerous and preponderating control over the other two branches? They have nothing to give, no inducement of power or profit to hold out to their friends and supporters.—Their age, their habits of life, decorum, every circumstance combines to deprive them of the use of those means, which lead to popularity; and popularity, in a government like ours, is real strength. In a contest therefore, with the other two branches, the judiciary has nothing but the sober reason, and good sense of the community to depend upon for its support. How unequal then must the combat be; for we all know full well, that the phrensy of the moment, the rage of the day, but too frequently clouds and overwhelms the sober reason and good sense of mankind.

These few observations, Mr. Chairman, I have deemed it my duty to offer to the committee. They are dictated, however, I will honestly and candidly confess, rather in the hope, that they may serve as a justification of my conduct and vote on this awful occasion, to those, who have done me the honor of sending me here, than from the most distant expectation, that they could have the least effect on this floor. No, sir, all my hopes of stopping the further progress of this, in my humble opinion, unconstitutional and baneful measure through this house, have long since vanished. The bill on your table, I foresee, will pass. The dyke is broken down—the torrent must have its way—and God grant, that its ravages in that fertile region, through which it has to flow, may be confined within a narrow and circumscribed channel. In one point, however, I differ with those who think with me on the present question. I am, perhaps, of a more sanguine complexion than most of them. I do not, therefore, despair of the Republic. I have the most perfect confidence in the good sense and wisdom of the American people. I believe they are strongly impressed with the necessity of having an independent and impartial judiciary, and will not allow myself to doubt, but that they will at no distant period restore to this branch of the government its wonted splendor and independence, and close the wound which we are about at this time to inflict on the constitution. Under these impressions and in this hope, I shall patiently, though with pain and reluctance, submit to the will of the majority, whatever it ultimately may be, on the subject now under consideration.

NOTICE.

Committed to the jail of Washington County, District of Columbia, the following Slaves, viz.

NEGRO Sarah Ann Owens—Committed the 20th February; says she belongs to William Foote, of Alexandria. Has a scar on her breast, is four feet one inch high, supposed to be about 23 years of age.

Also—A dark Molatto Woman, calls herself Peggy—Committed 23d February; says she belongs to Joshua Power, near Port Tobacco, Maryland. Has a scar on her right arm, occasioned by a burn—is 5 feet 4 inches high, supposed to be about 35 years of age. The owners of the aforesaid slaves are requested to come and pay charges and take them away; otherwise they will be sold for their fees, agreeably to law.

DANIEL C. BRENT,
Marshal of the District of Columbia.
March, 8, 1802. ep3w

Lands for Sale.

WE will sell that valuable Farm, lying in Prince George county, containing 400 acres more or less, and one other tract containing 150 acres adjoining the above late the property of Richard Beall deceased; those lands are well timbered and watered, and at a small expence there might be made at least 40 acres of meadow. The improvements on the first mentioned land are a good dwelling house, kitchen, new barn, an excellent tan yard, and several other convenient out houses; and the last mentioned land has a new Log dwelling house, and other convenient out houses. Those lands lie four miles from Bladensburgh and ten from the City of Washington. For terms apply to Samuel N. Smallwood at the Washington Navy Yard, or to the subscribers living near the premises.

AZEL BEALL, } Executors.
RICHARD WALKER,
March 1, 1802. ep4w

GENNESSEE.

For Sale,

All the Subscriber's Mills, Houses and improved Farms, in the Counties of Ontario and Steuben, in the state of New-York.

TO meet the views of the numerous applicants for this valuable property, and to give an opportunity of acquiring it on fair and equal terms, the subscriber offers it for sale at Public Auction, on Wednesday the 15th day of June next, at POWELL's Hotel in Geneva, on the favorable terms of one sixth cash, and the remainder payable in six annual payments with lawful interest.

The Mills are situated at Hopeton, Lyons, Sodus, Genessee-Falls, Caledonia, Hemlock-Lake, Painted Post, Bath, and Canisteo, several of which are merchant mills, and the greater part of them are erected on the navigable waters leading to Montreal, Albany and Baltimore.

The houses are situated in Bath, Painted Post, Hopeton, Geneva, Lyons and Sodus, and the improved farms are in the neighborhood of those towns. All of which will positively be sold except the House and Farm occupied by the subscriber, near Bath.

CHARLs. WILLIAMSON.
Bath, March 1, 1802. ep3w

Public Auction.

By virtue of an order from the Orphan's court of Prince George county, will be exposed to Public Sale, for cash, on the 24th day of March next, at the dwelling of Richard Lamar, in said county.

ALL the property of Mary Lamar, deceased; consisting of twelve negroes, among which are women, girls, and boys—Also a variety of household furniture.

All persons indebted to the said estate are desired to make payment immediately; and those that have claims against the same, are requested to exhibit them properly authenticated, before the first day of May next, to the subscriber.

JOHN LAMAR, Adm'r.
Feb. 19, 1802. ep3w

For Sale,

A NEGRO WOMAN about 21 years old, who is a good Cook; and a complete house servant in every other respect.—Also a large well formed horse, that goes well in a carriage, and pleasant under the saddle.—Enquire at this office.

March 5, 1802. eptf

For Sale,

Or to To Let, on Ground Rent for ever,
FIFTY LOTS,

SITUATE between the President's House and Capitol.—The titles to which is indisputable.

ISAAC POLOCK.
Dec. 16. eptf

For Sale,

A NEAT Frame House and Lot, on New-Jersey Avenue, square 690; sixteen by twenty-four, consisting of a shop in front with a large bow window, a parlour and a closet back on the second floor two rooms and a closet, and two rooms on the third floor, together with the lot, twenty-one feet three inches front, running back to an alley one hundred and thirteen or fifteen feet, or thereabout.—For terms apply to

JOHN MINCHIN,
N. Jersey Avenue, near the Capitol.
March 5, 1802. eptf

NOTICE.

COMMITTED to the Jail of Washington County, in the District of Columbia, as a Runaway, a Negro Woman named CHARLOTTE, about nineteen years of age, five feet four or five inches high. She says she is the property of Lewis St. John, near Battle Town, Frederick county, Virginia.

The owner is requested to come and pay Charges and take her away.

DANIEL C. BRENT,
Marshal of the District of Columbia.
Feb. 5, 1802. eptf

THOMAS CARPENTER,

TAYLOR,

SOLICITS a continuation of that generous encouragement which he has experienced from the Ladies and Gentlemen of this City and its vicinity. Having procured an elegant assortment of cloths, cassimeres, swandowns, &c. and engaged workmen of superior talents. His unremitting attention shall be given to merit patronage.

Capitol Hill, next house east of Mrs. Finch's boarding house, and Pennsylvania Avenue between the President's square and Seven Buildings.

Dec. 7, 1801. eptf

Looking Glasses.

J. COOK

Wishes to inform his friends and the public that he has a large and elegant assortment of Looking Glasses and Prints,

FOR SALE,

At J. March's Store, High-street, George-Town.

THE subjects of the Prints are very interesting, and in superbly gilt frames; and the glasses are of the first qualities, in the most modern and elegant frames, and of any sizes.

☞ They are marked at the lowest cash Prices.

March 15, 1802. eptf

CHARLES VARDEN,

Merchant Taylor, from Philadelphia,

GRATEFULLY acknowledges the favors conferred on him by the gentlemen of this City, and flatters himself that the general satisfaction he has already given will merit a continuation of the same. He has also received a handsome assortment of goods from Philadelphia, consisting of,

Best superfine cloths, Cassimeres, Swansdown, Toylenetts, Velverets, Fancy Cords, Coatings, Flannels, &c.

N. B. Regimentals, Naval Uniforms, and Ladies' Habits, made in the neatest and most fashionable manner, and at the shortest notice—Washington City, New Jersey Avenue, next to Mr. Rapine's book store.

Dec. 16, 1801. eptf

VALUABLE

LAND for SALE.

FOR sale about 4500 acres of land belonging to the estate of Judge Mercer, deceased, and situated in the county of Loudon, on the waters of Goose Creek, about 40 miles from Alexandria and the Federal City. A large portion of this tract is meadow ground, of good quality, and the soil of the high land is well adapted to every species of produce usually cultivated on land similarly situated in the upper country. Such portion of it as remains uncleared, affords an extensive and excellent range for stock of every kind. On one part of this land is one of the most valuable mill seats in the state. The supply of water is inexhaustible, and the mill could be erected immediately on the side of the public road leading from Winchester to Alexandria. It is computed that the number of waggons almost constantly travelling along this road, amount to at least 5 or 600. So that a ready market might always be had here, for a very considerable quantity of grain and hay.

'Tis deemed unnecessary to describe more particularly the many advantages of this tract of Land, as it is expected that all persons disposed to purchase, will first view the premises.

To accommodate purchasers the whole tract will be divided into lots of 4 or 500 acres each, with as much wood and meadow land to every lot as circumstances will admit. And it is believed that the whole 4,500 acres may be so laid off into farms of the above-mentioned size, as to leave in each as much wood and meadow land as would be desired.

The price and time of payment will be made known by the subscribers. Letters directed to John T. Brooke, Fredericksburg, or to James M. Garnett, Laytons, will be answered without delay.

JOHN T. BROOKE, } Adm'rs
JAMES M. GARNETT,
Feb. 5, 1802. eptf