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# THE UNITED STATES CHRONICLE:

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THURSDAY, April 24, 1788.

To the EDITOR of the United States Chronicle.

S I R,

I desire you to re-publish, in your impartial Paper, the following Piece:—It has appeared in the New-York and Boston Papers; and is, in my Opinion, worthy the Perusal of every Freeman. A. B.

From the NEW-YORK JOURNAL, &c.

BRUTUS, No. XV.

SAID in my last number, that the Supreme Court under this Constitution would be exalted above all other power in the government, and subject to no controul. The business of this paper will be to illustrate this, and to shew the danger that will result from it. I question whether the world ever saw, in any period of it, a court of justice invested with such immense powers, and yet placed in a situation so little responsible. Certain it is, that in England, and in the several States, where we have been taught to believe, the courts of law are put upon the most prudent establishment, they are on a very different footing.

The Judges in England, it is true, hold their offices during their good behaviour, but then their determinations are subject to correction by the House of Lords; and their power is by no means so extensive as that of the proposed Supreme Court of the Union.—I believe they in no instance assume the authority to set aside an act of Parliament under the idea that it is inconsistent with their Constitution. They consider themselves bound to decide according to the existing laws of the land, and never undertake to controul them by adjudging that they are inconsistent with the Constitution—much less are they vested with the power of giving equitable construction to the Constitution.

The Judges in England are under the controul of the Legislature, for they are bound to determine according to the laws passed by them. But the Judges under this Constitution will controul the Legislature, for the Supreme Court are authorized in the last resort, to determine what is the extent of the powers of the Congress; they are to give the Constitution an explanation, and there is no power above them to sit aside their judgment.—The framers of this Constitution appear to have followed that of the British, in rendering the Judges independent, by granting them their offices during good behaviour, without following the Constitution of England, in instituting a tribunal in which their errors may be corrected; and without adverting to this, that the judicial under this system have a power which is above the legislative, and which indeed transcends any power before given to a judicial by any free government under heaven.

I do not object to the Judges holding their commissions during good behaviour. I suppose it a proper provision provided they were made properly responsible. But I say, this system has followed the English government in this, while it has departed from almost every other principle of their jurisprudence, under the idea of rendering the Judges independent; which, in the British Constitution, means no more than that they hold their places during good behaviour, and have fixed salaries; they have made the Judges independent, in the fullest sense of the word. There is no power above them, to controul any of their decisions.—There is no authority that can remove them, and they cannot be controuled by the laws of the Legislature. In short, they are independent of the people, of the Legislature, and of every power under heaven. Men placed in this situation will generally soon feel themselves independent of heaven itself. Before I proceed to illustrate the truth of these assertions, I beg liberty to make one remark.—Though in my opinion the Judges ought to hold their offices during good behaviour, yet I think it is clear, that the reasons in favour of this establishment of the Judges in England, do by no means apply to this country.

The great reason assigned, why the Judges in Britain ought to be commissioned during good behaviour, is this, that they may be placed in a situation, not to be influenced by the Crown, to give such decisions as would tend to increase its powers and prerogatives. While the Judges held their places at the will and pleasure of the King, on whom they depended not only for their offices, but also for their salaries, they were subject to every

undue influence. If the Crown wished to carry a favourite point, to accomplish which the aid of the Courts of Law was necessary, the pleasure of the King would be signified to the Judges. And it required the spirit of a martyr, for the Judges to determine contrary to the King's will.—They were absolutely dependent upon him both for their offices and livings. The King, holding his office during life, and transmitting it to his posterity as an inheritance, has much stronger inducements to increase the prerogative of his office than those who hold their offices for stated periods, or even for life: Hence the English nation gained a great point, in favour of liberty. When they obtained the appointment of the Judges, during good behaviour, they got from the Crown a concession, which deprived it of one of the most powerful engines with which it might enlarge the boundaries of the royal prerogative and encroach on the liberties of the people. But these reasons do not apply to this country—we have no hereditary monarch: Those who appoint the Judges do not hold their offices for life, nor do they descend to their children.—The same arguments, therefore, which will conclude in favour of the tenor of the Judge's offices for good behaviour, lose a considerable part of their weight when applied to the state and condition of America. But much less can it be shewn, that the nature of our government requires that the Courts should be placed beyond all human controul, so much so as to be above controul.

I have said that the Judges under this system will be independent in the strict sense of the word: To prove this I shall shew—That there is no power above them that can controul their decisions, or correct their errors. There is no authority that can remove them from office for any errors or want of capacity, or lower their salaries, and in many cases their power is superior to that of the Legislature.

1st. There is no power above them that can correct their errors or controul their decisions.—The adjudications of this Court are final and irreversible, for there is no Court above them to which appeals can lie, either in error or on the merits.—In this respect it differs from the Courts in England, for there the House of Lords is the highest Court, to whom appeals, in error, are carried from the highest of the Courts of law.

2d. They cannot be moved from office, or suffer a diminution of their salaries, for any error in judgment or want of capacity.

It is expressly declared by the Constitution,—“That they shall at stated times receive a compensation for their services, which shall not be diminished during their continuance in office.”

The only clause in the Constitution which provides for the removal of the Judges from offices, is that which declares, that “the President, Vice-President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.” By this paragraph, civil officers, in which the Judges are included, are removable only for crimes. Treason and bribery are named, and the rest are included under the general terms of high crimes and misdemeanors. Errors in judgment, or want of capacity to discharge the duties of the office, can never be supposed to be included in these words *high crimes and misdemeanors*. A man may mistake a case in giving judgment, or manifest that he is incompetent to discharge the duties of a Judge, and yet give no evidence of corruption or want of integrity. To support the charge, it will be necessary to give in evidence some facts that will shew, that the Judges committed the error from wicked and corrupt motives.

3d. The power of this Court is in many cases superior to that of the Legislature. I have shewed, in a former paper, that this Court will be authorized to decide upon the meaning of the Constitution, and that, not only according to the natural and obvious meaning of the words, but also according to the spirit and intention of it. In the exercise of this power they will not be subordinate to, but above the Legislature. For all the departments of this government will receive their powers, so far as they are expressed in the Constitution, from the people immediately, who are the source of power. The Legislature can only exercise such powers as are given them by the Constitution, they cannot assume any of the rights annexed to the judicial, for this plain reason, that the same authority which

vested the Legislature with their powers, vested the judicial with theirs—both are derived from the same source, both therefore are equally valid, and the judicial hold their powers independently of the Legislature, as the Legislature do of the judicial.—The Supreme Court then have a right, independent of the Legislature, to give a construction to the Constitution and every part of it, and there is no power provided in this system to correct their construction or do it away. If, therefore, the Legislature pass any laws, inconsistent with the sense the Judges put upon the Constitution, they will declare it void; and therefore in this respect their power is superior to that of the Legislature.—In England, the Judges are not only subject to have their decisions set aside by the House of Lords, for error, but in cases where they give an explanation to the laws or Constitution of the country, contrary to the sense of the Parliament, though the Parliament will not set aside the judgment of the Court, yet they have authority, by a new law, to explain a former one, and by this means to prevent a reception of such decisions. But no such power is in the Legislature. The Judges are supreme—and no law, explanatory of the Constitution, will be binding on them.

From the preceding remarks, which have been made on the judicial powers proposed in this system, the policy of it may be fully developed.

I have, in the course of my observations on this Constitution, affirmed and endeavoured to shew, that it was calculated to abolish entirely the State governments, and to melt down the States into one entire government, for every purpose as well internal and local, as external and national. In this opinion the opposers of the system have generally agreed—and this has been uniformly denied by its advocates in public. Some individuals indeed, among them, will confess, that it has this tendency, and scruple not to say, it is what they wish; and I will venture to predict, without the spirit of prophecy, that if it is adopted without amendments, or some such precautions as will ensure amendments immediately after its adoption, that the same gentlemen who have employed their talents and abilities with such success to influence the public mind to adopt this plan, will employ the same to persuade the people, that it will be for their good to abolish the State governments as useless and burdensome.

Perhaps nothing could have been better conceived to facilitate the abolition of the State governments than the constitution of the judicial. They will be able to extend the limits of the general government gradually, and by insensible degrees, and to accommodate themselves to the temper of the people. Their decisions on the meaning of the Constitution will commonly take place in cases which arise between individuals, with which the public will not be generally acquainted; one adjudication will form a precedent to the next, and this to a following one. These cases will immediately affect individuals only; so that a series of determinations will probably take place before even the people will be informed of them. In the mean time all the art and address of those who wish for the change will be employed to make converts to their opinion. The people will be told, that their State officers, and State Legislatures are a burden and expence without affording any solid advantage, for that all the laws passed by them, might be equally well made by the general Legislature. If to those who will be interested in the change, be added those who will be under their influence, and such who will submit to almost any change of government, which they can be persuaded to believe will ease them of taxes, it is easy to see, the party who will favour the abolition of the State governments would be far from being inconsiderable.—In this situation, the general Legislature might pass one law after another, extending the general and abridging the State jurisdictions, and to sanction their proceedings would have a course of decisions of the judicial to whom the Constitution has committed the power of explaining the Constitution.—If the States remonstrated, the constitutional mode of deciding upon the validity of the law, is with the Supreme Court, and neither people nor State Legislatures, nor the general Legislature can remove them or reverse their decrees.

Had the construction of the Constitution been left with the Legislature, they would have explain-









ed it at their peril: if they exceed their power or ought to find, in the spirit of the Constitution more than was expressed in the letters, the power from whom they derived their power could restrain them, and do themselves right; and indeed I see no other remedy that the people can have against their rulers for encroachments of this nature. Constitution is a compact of a people with their rulers; if the rulers break the compact, they have a right and ought to remove them all themselves justice; but in order to enable them to do this with the greater facility, those who people choose at stated periods, should have power in the last resort to determine the sense of the compact; if they determine contrary to the understanding of the people, an appeal will be made to the people at the period when the rulers are elected, and they will have it in their power to remedy the evil; but when this power is lodged in the hands of men independent of the people, of their representatives, and who are not, constitutionally, accountable for their opinions, no power left to control them but with a high and an armed arm.

MR. WHEELER,

As some Persons here have spoken highly of the new Constitution, under the Signature

The MONITOR, No. 6.  
EMULATION.

If thy soul thirsteth for honour, if thy ear hath any pleasure in the voice of praise, raise thyself from the dust wherewith thou art made, and exalt thy aim to something that is praise-worthy.

The oak that now spreadeth its branches towards the heavens, was once but an acorn in the bowels of the earth.

Endeavour to be first in thy calling, whatever it be; neither let any one go before thee in well-doing: Nevertheless, do not envy the merits of another, but improve thine own talents.

Scorn also to deprecate thy competitor by any dishonest or unworthy insinuation; strive to raise thyself above him only by excelling him; so shall thy contest for superiority be crowned with honour, if not with success.

By a virtuous emulation the spirit of a man is exalted within him; he panteth after fame, and rejoiceth as a racer to run his course.

He rejoiceth like the palm-tree in spite of oppression; and, as an eagle in the firmament of heaven, he soareth aloft, and fixeth his eye upon the glories of the sun.

The examples of eminent men are his visions by night, and his delight is to follow them all the day long.

He formeth great designs, he rejoiceth in the execution thereof, and his name goeth forth to the ends of the world.

But the heart of the envious man is gall and bitterness; his tongue spitteth venom; the success of his neighbour breaketh his rest.

He sitteth in his cell repining; and the good that happeneth to another, is to him an evil.

Hatred and malice feed upon his heart, and there is no rest in him.

He feedeth in his own breast no love of goodness, and therefore believeth his neighbour is like unto him self.

He undertakes to deprecate those that excel him, and putteth an evil interpretation on all their doings.

He leech on the watch, and meditates mischief; but the detestation of men pursueth him; he is crucified as a spair in his own web.

INFORMATION,

For the Benefit of such VESSELS as may be destined for NEWBURY-PORTR, or otherwise fall into IPSWICH-BAY.

TWO Light-Houses have been lately erected on the north end of Plumb-Island, at the entrance of Merrimack River, which are kept constantly lighted from sun-set to sun-rise.

When any vessel shall fall into this Bay, or shall be forced in by distress of weather, and shall make these lights, she may run safely in, over Newbury-Bar, observing the proper time of tide, and taking care to keep the two lights in one, until she gets within twice her length of the shore; then directing her course by the beach where is bold water, she may proceed until abreast of the Western Light-House, where is good and safe anchorage in three fathoms of water.

A vessel passing near aboard the rocks off Cape-Ann, called the Salvages, and steering N. W. about five leagues, will come up with the Bar in about ten fathoms of water—there is good anchorage in twelve fathoms of water about half a league short of the Bar.

The Light-Houses now bear due East and West of each other, and are so constructed as to be moveable; and care will be taken in case the Bar shifts to place them in such a situation as that the foregoing direction will always be a good guide to strangers.

The Marine Society and other gentlemen of Newbury-Port, in the course of the last summer caused to be erected upon Plumb-Island three small houses for the reception of such unfortunate Mariners as may be cast on shore there. They are situated near the beach, about three miles asunder, and high poles erected on them. In each of them are deposited fire-works and proper fuel for speedily

kindling a fire.—It is hoped that no person will make a wanton use of their means of preservation, so humanely provided for the most distressed of our fellow-men.

Strangers who may be driven upon Plumb-Island, or the sandy beaches of Salisbury, or Hampton, are earnestly cautioned to continue on-board their vessel, if possible, until the tide shall leave them, when they can safely proceed on shore in search of the above-mentioned houses.—The number of instances of fatal miscarriage, which have attended those who have too suddenly forsaken their vessel, which has afterwards been found safe and dry, and the almost constant safety of those who have continued on-board, are a serious confirmation of the propriety of this advice.

N. B. There are seven feet of water on the shoal part of the bar at low-water, and at half-tide better than eleven feet.

Newbury-Port, April 2, 1788.

DIRECTIONS

For sailing in and out of Boston Bay, from Cape-Cod or Cape-Ann, to Boston Light-House.

THE Light stands on a small island at the N. entrance of the channel, about 65 feet high. To steer for it from Cape-Cod, your course is W. N. W. when within one league of the Cape. From Cape-Cod to the Light-House is about 16 leagues. From Cape-Ann to the Light-House, the course is S. W. distance two leagues. After making the Light, and the wind fair, you may bring it to bear W. b. N. or W. N. W. and then run for it, till you come within two cables length of it. If the weather is bad you cannot get a pilot from the Light-House: After running abreast of it, so as to bring it to bear N. b. E. you may run W. b. S. about one mile and an half to Nantucket-Road, and you may anchor from 7 to 5 fathoms in safety. To work into Boston Bay, you may stand to the Southward till you bring the Light to bear W. N. W. and to the Northward till you bring it to bear W. S. W. till you come within one league of the Light; then you must stand to the Northward any further than to bring it to bear W. b. N. and to the Southward to bring it to bear W. N. W. You may anchor in the bay in safety, if the wind is off the shore.

The Light at Cape-Ann stands on an island, named Thatcher's Island; the two Lights bear of each other when in one S. S. W.  $\frac{1}{2}$  S. and N. N. E.  $\frac{1}{2}$  N. To go outside the Londoner or Thatcher's Island ledge, you must give the Light one league distance.

THOMAS KNOX, Branch Pilot  
(for the Port of Boston.)

GERSHOM JONES,

Pewterer, Copper-smith and Brazier,  
In Westminster-Street, Providence, next Door to Mr. Jacob Whitman's,

MAKES and sells all Kinds of Pewter Ware, Wholesale and Retail, warranted to be equal, if not superior, to any imported from Europe, and as cheap as can be purchased in America; also, all Sorts of BRAZILERY, viz. Brass Kettles, Coffee-Pots, Sauce-Pans, Skillets, Skimmers, Ladles, &c. &c.—He makes STILLLS and WORMS, of all Sizes, on a new Construction, proved by Experience to consume less Fuel, and produce at least One per Cent. more Spirit, than the common Still, some of which, in this Town, containing 1500 Gallons, will run off in Ten Hours from the Kindling the Fire under them.—He returns his best Thanks to his Customers for their past Favours, and begs Leave to inform them, and all others, who wish to encourage those useful Manufactures, and will please to honour him with their Commands, that they may depend on the utmost Punctuality and Dispatch.

N. B. Cash, or any of the above Articles, will be given for old Pewter, Brass, or Copper.

A Journeyman PEWTERER, well recommended, may have constant Employ, and good Wages, by applying as above.

JOHN PEARSE

RESPECTFULLY informs the Public, That he carries on the PAINTING BUSINESS in all its Branches, at the Store at the Southwest Corner of the Market-House, in Providence.—Those who please to favour him with their Custom may depend on the utmost Fidelity, and as much Dispatch as the Work will admit.—He keeps for Sale—Paints of all Kinds, both ground in Oil and dry;—also, Putty, Oil, &c. &c.—He takes this Method to return his hearty Thanks to his former Customers, and requests a Continuance of their Favours.  
Providence, April 2, 1788.

WANTED,

TWO Journeymen PAPER-MAKERS, at the Paper-Mill in Providence.—Good Encouragement will be given by CHRISTOPHER OLNEY.  
March 18, 1788.

JOHN WARD & Co.

Have for Sale, at their Store, opposite the Friends' Meeting-House, Providence.

BOHEA Tea of the first Quality, in half Cheils and smaller Quantity—Powder of best Quality, in Quarter-Casks of 27 lb. Sugar, Chocolate, Flour, Sherry Wine, Brandy, West-India and New-England Rum, Molasses, Turpentine, Soap, German Steel, Crockery Ware.—A Confirmation of Chintzes, Calicoes, Irish and printed Linens, 7-8ths and 11-8th Checks, from the Manufacturers, very low.—Also, a few Pieces of Broadcloths, Duffels, Blankets, Linen and Silk Handkerchiefs, black Mode, black Gauze, and some saleable Articles of Hardware.

Moreens, Durants, Shalloons, Tammies, Calimancoes,  
Providence, March 6, 1788.

TO BE SOLD,

A PUBLIC VENDUE, on Monday, the 28th of the present Month, at the Shop lately occupied by Mr. ABNER THAYER, deceased, near the Mill-Bridge, in Providence,

Sundry Articles of Household Furniture, Wearing Apparel, an Eight-Day Clock, and some Public Securities, with a Variety of other Articles, which were the Property of said Deceased.—The Sale to begin at Two o'Clock in the Afternoon of said Day, if the Weather should prove fair; if not, the first fair Day.

ROBERT NEWELL, Adminisr.  
Providence, April 10, 1788.

N A V Y.

AGREEABLE to a Request from several Proprietors of the above Township, I do hereby notify all Persons who are interested, to meet, either in Person, or by Agent, at the House of Mr. ANDREW WILLIAMS, Innholder, in Providence, on Monday, the 28th Instant, at 2 o'Clock in the Afternoon, to take into Consideration a Letter received from Dr. JONATHAN ARNOLD, containing certain Proposals for laying out said Township, and transact such other Business as may be laid before them.

THOMAS SMART, P. Clerk.  
Providence, April 9th, 1788.

STOP THIEVES!!

ON the Night following the 10th Instant, the Store of the Subscriber was broken open, and a Number of Articles taken out, to the Value of Fifty Dollars—supposed to be stolen by Two Negroes—One of whom was named CÆSAR, about 30 Years of Age, small of Stature;—the other named CUFF, about the same Height, but thicker built.—Said Negroes are supposed to be gone towards Boston.—Whoever will take and secure them, so that they may be brought to Justice, shall have TEN DOLLARS Reward, and all necessary Charges paid, by me

DAVID HOLMES.  
Woodstock, April 14th, 1788.

TAKE NOTICE!

ALL Persons indebted for Tickets in SMITHFIELD and CUMBERLAND BRIDGE LOTTERY, who neglect to make Payment by the 10th of May next, may depend on being sued, without further Notice.

DAVID SAYLES, } Managers.  
JOTHAM CARPENTER, }  
Smithfield, April 12, 1788.

THE Honorable Court of Probate for the District of Plainfield, having allowed Nine Months from this Date for the Creditors to the Estate of SAMUEL DORRANCE, Esq; late of Voluntown (Connecticut) deceased, to exhibit their Claims against said Estate; those who neglect to bring in their Claims, well attested, within said Time, will be legally debarred: And all who are indebted to said Estate, are hereby called upon to make immediate Payment, to

MARGARET DORRANCE, } Adminisr.  
JOHN DORRANCE, }  
Voluntown, April 1, 1788.

State of Rhode-Island, &c.

TO ALL WHOM IT MAY CONCERN.

KNOW YE, That PELEG ARNOLD, of Cranston, in the County of Providence, Yeoman, on the 4th Day of January, 1788, at my Dwelling-House at Smithfield, lodged with me the Sum of £25 2s 6d, lawful Money; being in full of the Cost and Interest due on a certain Judgment of Court and Execution, obtained against the said Peleg Arnold by Simeon Smith, of Warwick, in the County of Kent, Yeoman, and Martha his Wife, at March Term in the County of Providence, 1787, on an Action of Trespass and Ejectment: That the said Peleg Arnold hath in all Respects complied with the Law respecting the Paper Currency; and that the said Simeon Smith and Martha his Wife hath been legally and duly notified thereof.

Witness,  
A. MATHEWSON, J. C. Pleas.