

Gazette of the United States.

[No. XLIII.]

W E D N E S D A Y, SEPTEMBER 9, 1789.

[Published on Wednesday and Saturday.]

THE TABLET.—No. XLIII.

"The passions and prejudices of men often mask themselves under the names of virtuous qualities."

MY last number exhibited to the view of the reader two characters, who, without any bad intentions, were instrumental in keeping alive a spirit of jealousy and uneasiness among the people, relative to the affairs of government. I shall now introduce some more of my acquaintance, whose motives perhaps are not quite so unexceptionable.

The noisy FUMOSUS is more troublesome, if not more dangerous, than either of the characters just mentioned. His passions are so tumultuous that he can never examine any circumstance with candor, and deliberation. He carries every thing to extremes. Whether he is in or out of office, he creates many enemies against the government, by his rashness and indiscretion. If he or some of his particular friends should happen to have a leading influence, he runs into a vehemence of applause on public men and measures. Should the reverse be the case, the whole fury of his passions takes a different course. He joins the discontented and seditious, and reprobates public proceedings with acrimony and revenge. Though he enters into no systems to overthrow the government, and though his passions will vary or subside, yet he is a great fomentor of jealousy and uneasiness among the people. His petulance does not, like that of INFELIX, waste itself in indefinite clamor, but he points his arrows at particular objects, and hunts after them with eagerness and rage. Different passions and feelings at times are uppermost. By turns he shews jealousy, envy, resentment, antipathy, and attachment; and which ever of them prevails, it does not stop short of the highest degree of excess. When disappointed, he raves at the administration; when successful, he idolizes it, and threatens perdition to its enemies. Upon the whole, FUMOSUS, though he is not a man of knavery and intrigue, is still a dangerous character. The impetuosity of his conduct is calculated to excite undue prejudices against the government, and frighten many well-meaning people with false alarms.

My acquaintance PROFUNDUS puzzles many people exceedingly. No person can penetrate more readily into the view of another.—He is cool, designing and mysterious. His favorite theories must not be called in question; and he approves or disapproves of any public transaction, according as it will promote or frustrate his peculiar system of politics. Such characters as PROFUNDUS are not common. It requires researches so elaborate, and an attention to objects so minute and persevering to form abstract systems, that a small proportion of mankind will ever make the attempt. Few men have patience and application, and fewer still have the abilities and address to proceed systematically.—Such speculative men often lead others astray; because their plans, when compared with practice and experiment, are fallacious. I entertain a good opinion of the talents of PROFUNDUS, and I have no reason to scruple his integrity. But he is so dark and incomprehensible, that when he happens to take a wrong way of thinking, he draws others into the same error, by starting difficulties, with which common minds are perplexed and alarmed. I would recommend it to the honest part of my readers, who love tranquility, to have little to do with men, whom they cannot understand. Plain, practical politicians, who are more noted for good actions than for loud or fair words, are the safest guide and counsel.

The vanity and ostentation of OPINUS is very disgusting. His dislike to public measures proceeds from an affected singularity of opinion. It is his highest aim to recommend himself to the world as a person of more than ordinary discernment. This easily accounts for the spirit of opposition which is so predominating a part of his character. If he should acquiesce in any measure, which he did not originally propose, it would prevent the pride and triumph of opposing the current opinion of mankind, and making his own sagacity more conspicuous. The only conclusion that can be drawn from his disapprobation of any measure, is, that he did not introduce it; but it is no argument that the thing is wrong.

Thus have I delineated some of the motives and qualifications of a few individuals, for whose friendship, I have a great value. Their conversation, however, sometimes makes unfavorable impressions; and I find that some of their associates catch their foibles. The peevishness of INFELIX sours the temper of some people against the government. The incapacity of BENEVOLEUS, makes him unqualified to give such advice, as the wildness of his disposition tempts his acquaint-

ance to ask of him. The turbulence of FUMOSUS, frightens his companions into a dread of imaginary evils. The mystery of PROFUNDUS entangles many an honest man in doubts. The vanity and pomp of OPINUS allures the shallow and fickle-minded into error and instability.

It would be well for people to obtain a satisfactory solution to this question; whether there are not more causes that induce public men to seek the public prosperity, than probably influence either of the characters marked out in this speculation.

NEW-YORK, SEPTEMBER 9, 1789.

SKETCH OF PROCEEDINGS OF CONGRESS.

In the HOUSE of REPRESENTATIVES of the UNITED STATES,

MONDAY, AUGUST 31.

In committee of the whole on the JUDICIAL BILL.

THIRD SECTION UNDER CONSIDERATION.

MR. LIVERMORE: I think this law will entirely change the form of government of the United States.

Several observations have been made on the clause: It is said to be the hinge on which the whole turns: Some of the objections which I have thrown out, have been attempted to be answered—among others the great expence—by expence I do not mean the salaries of Judges—this will however be greater than the whole expence of the Judiciary throughout the United States; but I refer to the general expences, which must be borne by the people at large, for jails, court houses, &c.—the expences of jurors and witnesses, and other incidental charges, will be another great burthen: This is at present borne without repining, as the people receive compensation in personal security and public justice; but if all these are to be doubled throughout, it will be justly considered as intolerable. Another burthen is the rapidity of the course of prosecution in these courts, by which debtors will be obliged very suddenly to pay their debts at a great disadvantage: Something like this, occasioned the insurrection in the Commonwealth of Massachusetts: In other States similar modes of rapidity in the collection of debts have produced conventions: This has been the case to the Northward, and as I have been informed, has also to the Southward.

This new fangled system will eventually swallow up the State Courts, as those who are in favor of this rapid mode of getting debts will have recourse to them. He then adverted to the clashing circumstances which must arise in the administration of justice, by these independent courts having similar powers. Gentlemen, said he, may be factious respecting dividing the horse—but these are serious difficulties—the instances mentioned by the gentleman from South Carolina, do not apply—the officer here is the same—the same Sheriff has the precepts committed to him—and the execution does not clash—the same goal answers for both, &c.

I do not think that the difficulties have been answered by any of the examples brought for the purpose:

As to the instance of the trial for piracy in the State of South Carolina, that was a particular case, which could not otherwise be provided for; but these so rarely happen, that no precedent can be drawn from them, to render it necessary to establish these perpetual courts.

He then referred to the observation which had been made respecting those who are opposed to the clause, offering a substitute, and said, he thought upon the whole that the motion made by an Hon. Gentleman from South-Carolina, (Mr. Burke,) that there should be no district courts, is better than any substitute.

It may be proper here to refer to the Constitution: He then read the clause upon this subject—The Supreme Federal Court is to have original jurisdiction only in certain specified cases—in all other, it is to have only appellate jurisdiction: It is argued from this, that there are to be inferior Federal Courts, from which these appeals are to be made: If the Constitution had taken from the State Courts all cognizance of federal causes, something might be said; but this is not the case. The State Courts are allowed jurisdiction in these cases.

It has been objected that bonds taken by the Judges of the Supreme Court, cannot be sued in the State Courts: I do not see why this cannot be done: Similar processes have been usual among us in times past, and there has been no difficulty.

Admiralty Courts should have cognizance of all maritime matters, and cases of seizures should also be committed to their decision. I hope therefore that the clause will be disagreed to, or struck out, and that the bill may be rejected, that a short concise system may be adopted.

Mr. VINING: I conceive that the institution of general and independent tribunals, are essential to the fair and impartial administration of the laws of the United States—That the power of making laws, of executing laws, and a judicial administration of such laws, is in its nature, inseparable and indivisible, if not "*Justice might be said to be lame as well as blind among us.*" The only plausible argument which has been urged against this clause, is the expence: It is true, that expence must in some degree be necessarily incurred; but it will chiefly consist and end with the organization of your courts, and the erection of such buildings as may be essential—such as Court-Houses, Jails, and Offices, as the gentleman has mentioned—and what, at all events, do such expences amount to—they are the price which is paid for the fair and equal administration of your laws: From your amazingly increasing system of government, causes must necessarily multiply in a proportionately extensive ratio: These causes must be tried some where, and whether it is in a State Court, or a Federal Judicature, can, in the article of expence, make but little difference to the parties: It is only (for the sake of more impartial justice) transferring the business from one tribunal to another.

The gentleman has told us, that the people do not like courts—that they have been opposed and prevented by violence—nay, by an insurrection in Massachusetts: Surely this operates as a powerful reason to prove that there should be a general, independent, and energetic judicature—otherwise, if either the State Judges should be so inclined, or a few sons of faction choose to assemble, they could ever frustrate the objects of Justice—and besides, from the different periods fixed by the Constitution of the United States, and the different Constitutions of the several States, with respect to the continuance of the Judges in office, it is equally impossible and inconsistent, to make a general uniform establishment, so as to accommodate them to your government.

I wish to see Justice so equally distributed as that every citizen of the United States should be fairly dealt by, and so impartially administered, that every subject or citizen of the World, whether foreigner or alien, friend or foe, should be alike satisfied: By this means you would expand the doors of justice, encourage emigration from all countries into your own, and in short, would make the United States of America, not only an Asylum of Liberty, but a Sanctuary of Justice: The faith of treaties would be preserved inviolately—your extensive funding system would have its intended operation—and your revenue, your navigation, and your impost laws would be executed so as to receive their many advantages—and in effect establish the public and private credit of the Union.

Mr. STONE: I have given the arguments all the attention which their weight demands, considering the respectability of the characters which have spoken upon the subject.

It has been said that the clause in the Constitution is imperative—if this is the case, let us see where it will carry us: It is conceded on all hands that the establishment of these Courts is immutable; but the Constitution says, that Congress shall constitute such inferior Courts *from time to time.*

The Constitution gives you a right to extend the judiciary power to all those cases specified; but it does not say that these powers shall be exercised over all these cases.

He then extended this idea to the Legislative Power, which it cannot be pretended (said he) is incomplete, because it is not extended to all possible cases: Do you divest yourself of the power by not exercising it? Certainly not. This idea involves the principle mentioned by the gentleman from New-York, (Mr. Benson,) that the establishment of these inferior tribunals or district courts, will draw the whole judiciary power along with them; so that the clause which restricts their cognizance to a certain sum, is a nullity.

State Judges may be considered in two respects, as men, and as Judges: As men, they are to submit to the modification of the Constitution, as it respects them as citizens: As Judges, they are to consider their relation as such to the Constitution, and are to administer justice agreeable to that Constitution, or they may resign. I can hardly bring myself to consider the subject in a reverse point of view: If it is admitted that the Judges of the several States cannot take cognizance of a law of the United States, because they are laws *de novo*, you annihilate their judicial capacity at a blow.

It appears to me that there is nothing that the State Courts are not competent to, but certain cases which are specially designated.

He then went on to shew that there was no species of treason which could be committed against