KENTUCKY REPORTER EXTRA.

Shane.

ACHILLES SNEED

TO THE PEOPLE OF KENTUCKY.

"When vice prevails, and impious men bear sway,
"The post of honor is a private station."

PEOPLE OF KENTUCKY:

IT is not my wish to tax the patience or politeness of any one, by rehearsing "the story of my wrongs," nor to burthen them with my complaints for injuries received; but that among the wars for office, and for power, in which I had no agency in creating, nor desire to become a party, unless in self-defence, I am made the greatest victim, no one will deny. Indeed I am sacrificed at the shrine of avarice, cupidity, and lawless power, to make way for the favorites and partisans of unrestrained deception and ambition. You have seen, and I have heretofore detailed to you, the manner in which I have been treated and abused by a party, which by way of description I shall denominate "the Barry party." Not because Wm. T. Barry is the only leader of the same, but because I mean to call your attention more particularly to this man's conduct, together with two others of his brethren of the bench. In doing which I am aware, that I shall be considered as treading on ground, which will not only draw down on me the most inveterate hatred and malice, but every additional injury which is, or may be in the power of those men to inflict. I am also aware, that much of my property may possibly, from the course of things, be thrown into litigation; and if my rights are to be decided by the Barry court, no one will envy me the prospect of justice which I may calculate on. From men who climb into power by detraction and deception, and acknowledge themselves the tools of whatever dominant party may prevail in the legislature, (as these judges have done by their acceptance of their offices, under the circumstances attending them) but little may be expected from the dictates of justice or their own sense of propriety.

Even were they convinced, that justice inclined on my side of the question, and they could lay aside all feelings on their part as men, in deciding in my favor; yet, if in so doing, they should meet the frowns of a leading demagogue in the legislative department, they must kick the beam against me, for fear of losing their own seats. But I have no hopes of justice from them: nor shall I court it. I know others may court their smiles and they may be very *graciously* bestowed. This is not my way of doing business with courts. I view men in office as judges, bound to do what they shall consider right, after applying the law and evidence to the case; that they are bound by their oaths as well as their honor so to do; and those who would not do so as judges, the frowns of the legislative and executive departments to the contrary notwithstanding, are unworthy the trust reposed in them by the people under their constitution. I therefore disclaim any wish for favor from *any court* incompatible with its duty. I am not conscious of ever receiving any, nor of expecting any. Let it therefore be understood, that whatever fate may attend me, that fear of the *judicial power* of the Barry court, shall never influence my conduct. Would it were the case with others, who, like me, are and may be under their power, to despise it. But it is not the case. Instead of boldly meeting the consequences of their lawless power, too many seek to gain their ends by feeing their private minions; as if justice (were it in them) could be approached through no other gates than those at which these minions stand porters. It is with them to act as they please. From their superior address, their knowledge of men, and skill on such occasions, they may succeed, and it may be their better policy. The ear of a court may be better *to some* than all the laws in existence. But it seems to me that more honor and praise is due to him, who, in an open manly manner, detects and exposes favouritism and error, than to one who fattens on the smiles of judges. But, while a watchful eye should be held over the conduct of judges, it is due to one's own standing, to justice and common decency, that faults should not be charged against, nor praises awarded them, without just cause. I should be sorry to violate this rule—I will not knowingly do so.

I have promised to call your attention to the conduct of three of the Barry court justices. I am conscious, that many will attribute the conduct on my part, in doing so, to the worst of motives. I am free to acknowledge that I feel much displeasure at the conduct of those men towards me; because they have not only aided in an unwarrantable manner, in the passing of a law which was to put me out, and themselves into office; but, on effecting their p[illegible] have wantonly attempted to

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throw the blame of the loss of office, on my part on myself; although they, and their coadjutors in that unrighteous project, well knew, that it never was the intention of the party, to keep me in office, if they passed the law. It is idle to attempt to deny this on their part. Do they not know that if they had the power to pass the bill as they did pass it, that they had equally the power to pass it in a modified shape by which I should not have been interrupted? Yes, they well know the maxim, that the major includes the minor power. It is true. it might have been the understanding, and I incline to think it was, of some of the members of the legislature, that I would be continued in office, no matter who were made the judges. Whether such was or was not the opinion of James Allen, of Green; A. T. Hughes, of Nicholas; William O'Bannon, of Fleming; Robert M'Afee, of Mercer; Richard Ballinger, of Knox; it is with them to state. They well know the assurances given individually by them, of my being continued, and some of those gentlemen will recollect, that they went so far as to state to me, that they as senators, would approve of no man as a judge who would not continue me in office; others of the senate must recollect the assurances of Barry, Trimble and Haggin, through them to me, that I was to be appointed. It is true that I made a memorandum of the substance of what was said by those gentlemen, together with the remarks which John Rowan, Samuel H. Daviess, John Buford and others of the lower House also made on this subject; but not with a full belief of seeing those assurances realized, but from a determination to remind them, at a future day, what little confidence I ought to have placed in them. I have now to state, that if they did not use these assurances to deceive me and my personal friends, and as inducements to make no opposition to the passage of the reorganization act, but did believe what they stated, that I am satisfied they had not been let into the sanctum sanctorum of the *high priests* of the *holy caucus*; but had been debarred that privilege, and kept in ignorance of the extent of the whole plan contemplated. It rests with them to say, whether they intended ungenerously, nay wantonly, to deceive me for the purposes aforesaid, or that they were deceived themselves. But, how shall I apologize for Wm. T. Barry and his associates, Haggin and Trimble? To suppose them ignorant of the decrees of the holy caucus, as they formed a part, would be saying that they did not possess capacity to understand their own intentions.—Yet this same Wm. T. Barry took me out in the little passage between Col. Taylor's dining-room and the front part of the building, on the night that Col. Taylor gave a party, and told me, that he never had but one sentiment towards me; that they did not war against the officers of the court, [illegible] entertaining different politics from his, made no difference; that I was considered a faithful officer; that he had had conversation with Judge Trimble, who was in my favour, and he had no doubt but Haggin was likewise; that I might go home, go to bed and sleep as soundly as if I were then appointed. It is true no one was present but ourselves; yet it will be recollected by Young Ewing and Nathaniel S. Dallam, of Christian, Presley N. O'Bannon, of Logan, with many others, that it was in contemplation by them to collect these judges, to have me appointed, in order that copies from the office might be obtained and business again progress. If Mr Trimble's and Mr Haggin's assurances to my myself and friends, were not equally pointed with Mr Barry's, they will say wherein they were short thereof.

Yet what was the issue? After much talk, intrigue and pretence shewn and done, with a view to deceive and delude, as well as to furnish apologies, as I think, to justify the appointment originally intended, I am told—you have attended the old court by your deputy, (as if I could have a deputy without being clerk, and if clerk it was not my duty to attend them,) and Col. Beauchamp, among others, (no doubt of the like clean birds) have advised us not to appoint you. And Francis P. Blair, the favourite originally intended, receives the appointment. I say I believe originally intended. This Mr Blair held at the same time, the office of circuit court clerk of Franklin county; but was more fond of political scribbling and acting the man of pleasure, than he was of performing the duties of his office. The latter he left to be done by deputies. Mr Blair had acquired the credit of a sharp newspaper writer; and having talents that way, which it is said he displayed in the pieces under the signature of Patrick Henry, and has given further evidence no doubt, in the late pieces under the signature of Jefferson, was found to be an important character in the play. Mr Blair was well qualified in habits, politics, and circumstances, as well as talents, to be confided in as their clerk. But with all Mr Blair's acquirements, it remains for the good and the virtuous to say, how much praise should be bestowed on one who can deliberately climb into the office, over the head of him who without charge of improper conduct, has been forcibly deprived of its benefits.

I will now discuss the correctness of the law, under pretence of which, my office has been taken forcibly from me, and will then

attempt to show, by laying before you the conduct of these judges, &c. why it was necessary to remove the old judges.

The 1st section of the 4th article of the constitution states, that "the judicial powers of this commonwealth, both as to matters of law and equity, *shall be vested in one supreme court* which *shall be styled the court of appeals*, and in such inferior courts as the legislature *may* from time to time erect and establish;" and the 5th section of the same article states, that "there *shall be* established in each county *now*, or which *may* hereafter be erected within this commonwealth, a county court."

The court of appeals and county courts, which the constitution declares *shall be* and such inferior courts as (it also declares) the legislature *may* from time to time erect and establish, comprise one of the distinct departments of government, to-wit: "the judiciary" spoken of in the 1st section of the 1st article. That section reads as follows: "The powers of the government of the state of Kentucky *shall be* divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judiciary to another."

The 9th section of the 3d article states, that "the governor *shall nominate*, and by and with the advice and consent of the senate, *appoint all officers whose offices are established by this constitution*, or shall be established by law, and whose appointments are not herein otherwise provided for."

The office of judge of the court of appeals, attorney general, surveyor, coroner, justice of the peace for a county and the higher grade of militia officers, are believed to be all established by the constitution, which the appointment of officers to fill, is not otherwise provided for than as specified in this 9th section of the 3d article, and who hold their offices or appointments during good behaviour. It is also believed that the judges, and clerks of "such inferior courts as the legislature may, from time to time, erect and establish by law," as aforementioned, are the officers alluded to as holding their offices during good behaviour and the continuance of their respective courts, as stated in the 12th section of the 6th article. In this way the wording of this last mentioned section becomes accordant with the 3d section of the 4th article, which states that "the judges both of the supreme and inferior courts shall hold their offices during good behaviour."

The office of the judge of the court of appeals is erected and established by the constitution; that of a judge of the circuit or inferior courts is established by a legislative act. The former is as permanent as the constitution itself, the latter is as permanent as the law which created it, and no longer. As the constitution gives the power to the legislature to establish by law the circuit courts, they can under the same power, abolish those courts by repealing the law. Not so with the court of appeals and county courts; they *shall be*, the circuit courts *may be*, if the legislature so choose.

The 10th section of the 4th article states, "Each court shall appoint *its own clerk*, who shall hold his office during good behavior," and that clerks of courts "shall be removable for breach of good behavior, by the Court of Appeals *only*." It seems therefore to follow as a necessary consequence that after the judges of the court of appeals were nominated and appointed, commissioned and sworn into office, that the supreme court, to be styled the court of appeals, was complete—and having been regulated as to their jurisdiction and manner of bringing business before them, by legislative enactments, it became expedient to appoint its clerk. That the judges and clerk, thus appointed, became officers of the constitution, and beyond the power of the legislature to displace, but by impeachment or an address of two-thirds of the legislature. But, if the judges had been removed by impeachment or address, it is conceived that the clerk could not be displaced while the constitution exists, but by the judges of the court of appeals ONLY.

How then, can it be conceived that the act of the last legislature is warranted by the constitution, so far as it goes to displace from office the judges and clerk of the court of appeals? And even had that wonderful body, been vested with the power to displace the clerk, it might be asked, for what reason was that power exercised, save for the reasons heretofore mentioned?

Let it be remembered that the constitution divides the powers of government into three distinct departments: the legislative, executive and judicial. It provides that there shall be a governor, a legislature, and one supreme court, to be styled the court of appeals. It certainly establishes any one of the three departments as well as another. If it does not establish the court of appeals, county courts and the power in the legislature to establish by law, from time to time, such inferior courts as it *may* choose, which you have seen to compose the judiciary department, it does not establish the office of governor, nor the legislative department. The constitution does not appoint the judges of the court of appeals, nor limit the number; but you have seen, that it directs that the governor shall nom-

inate and by and with the advice and consent of the senate, appoint *all officers* whose offices are established by the constitution, or shall be established by law. And it is fairly inferrable from the language of the 5th section of the schedule to the constitution that the judges of the court of appeals should never be fewer than three; as *at least two judges* of said court were to perform a certain duty required of them by that section, and two-thirds of the members of the court is required to concur in the removal of a clerk. Nor does the constitution appoint the governor, or elect the members of the legislature; but points out the way such appointments or elections shall take place. The style of the constitution is: "The legislative *power* of this commonwealth; the supreme executive *power* of the commonwealth; and the judicial *power* of this commonwealth, both as to matters of law and equity, *shall be vested*," &c. It therefore establishes the offices of the three departments, and points out the way in which they shall be filled by the legislature; and that no inconvenience might arise from the changes made in the constitution by the convention of 1799, it was directed not to be in force till the first day of June, 1800, in order to give time to organize such portion of the departments which might be necessary, under the directions of the constitution, as may be seen by reference to the schedule. If the legislature can repeal out of existence the judiciary department, it can do the same with the supreme executive department, as well as the legislative department; for if the repealing of the laws made in pursuance of the direction of the constitution to complete the organization of either department, abolishes that department; to repeal the laws regulating elections, must abolish both the executive and legislative departments as completely and entirely, as the repealing the act organizing the court of appeals abolishes the office of Judge of that court. The idea of repealing out of office a governor, lieutenant governor, or a member of the legislature, in passing an act by a majority of even all the members elected, has never yet been contended for; and indeed, it would be hard to conceive of an idea equally absurd, save that now contended for—that the act of last session reorganizing the court of appeals, does constitutionally displace from office, the judges of the constitutional court of appeals.

Although the constitution does not say of how many members the court of appeals shall consist, yet it defines the duties of the court; and the 3d section of the 4th article declares, that the judges when appointed, shall hold their office during good behavior. Nor does the constitution say of how many members the senate or house of representatives shall consist, but leaves the number to be fixed by law, between 53 and 100 in the lower house, and in the senate, in a due proportion to the number in the lower house. The member who is elected to a seat in the House of Representatives, over the number 58, this being the number when the constitution was amended, in that house—is as much in by the constitution as any member of the 58—although all above 58 are provided for by an act of the legislature, as directed by the constitution. And will any one contend, after the members are elected under the mode pointed out by said act, that the legislature can, by repealing that act, turn all members thus elected out of their seats? Or will any one contend that the whole members elected, could not serve out the term for which they were elected, because the election law under which they were elected was repealed?

Let us apply this principle to the case of the governor, and suppose that the legislature had by a constitutional majority of all the members elected, passed an act repealing the election law by which he was elected, the governor's objections to the passing said law, notwithstanding—would his excellency and his judges, concur in saying that thereby he was removed from office? It is presumed that his excellency would really think the case being altered, altered the case; and would feel inclined to say, *Indeed Mr Legislature I am not the Governor your act removes from office*; my constitutional term of office has not yet expired; and I shall let you know that your "legislative *power*" has no right to exercise any *power* properly belonging to my "supreme executive *power*." This law is unconstitutional, and cannot take from me my precious two thousand dollars a year. No, no, this will not do. Where are my judges of noses of wax? Come forth, my lords, and declare this act void, and direct the auditor to issue his warrants and the treasurer to pay them to me as usual, or by the virtue contained in my "supreme executive power," and my great cane, I will cause the constitutional laws of my country to be executed.

But to return to our subject. Will any one contend that by repealing the acts regulating elections, the term of service for which the governor, senators or members of the house of representatives have been elected, can be curtailed and the office abolished? How absurd is it then to say, that by repealing an act regulating the court of appeals, or prescribing the numbers of which it shall consist, remove the judges until their term of service (good behaviour) expires.

The reason for all this is, that whenever

the constitution provides for the existence of an office that office must always exist.—The constitution provides expressly that the office of governor shall exist; that the office of judge of the court of appeals and justices of the county courts shall exist; and that the office of legislators shall exist. They must each and all exist, or no one of them can; for the destruction of one of the departments destroys the whole fabric of government as made by the people. The people by their representatives in convention met for that purpose, made the constitution; it is the supreme or paramount law of the state government. It divides the powers of that government, by assigning to the legislature the right of making laws; to the judiciary the right of expounding laws, and to the executive the right of enforcing laws by causing them to be executed. It makes these departments mutual checks on each other. If the legislature violate the constitution, the governor or judges may refuse to carry the law into effect. But if a bare majority could remove the governor from office for refusing to carry the law into effect, of what avail would the powers given the governor be? If the legislature could by a bare majority, repeal the judges of the court of appeals out of office, these judges would form no barrier to legislative encroachments; and all powers would necessarily result in one body, the legislature. This is what Mr Jefferson, in his Notes on Virginia, page 126, declares to be "precisely the definition of despotic government." The executive and judiciary can check the legislature by refusing to carry a law into effect. But, if two-thirds of the legislature conceive, that the judges or governor have violated their duty in refusing to carry the law into effect, they can vote a removal by address or impeachment. But the causes of removal must be spread at length on the journals.—So if a member of either branch of the legislature be unworthy, or misbehave himself, he can be expelled from the legislature; not by a bare majority, but by two-thirds of the members, (see 20th section 2d article constitution of Kentucky) In all cases of removal, the constitution requires the concurrence of two thirds of the members. The most ordinary justice of the peace of this commonwealth, cannot be removed by a less number than two-thirds of the members. And even Mr Barry himself has acknowledged this by his own acts, in the cases of David Logan and Leo. K. Bradley, justices of Fayette county, (see journals of the senate 1817.)—Can it then be believed, that the framers of the constitution ever intended to commit the fate of the judges of the appellate court of the state to the vote of a bare majority? Besides have you not all heard and read from the leaders of this relief and judge breaking party, in their speeches and circulars, that their reason for voting for the convention bill the session before the last, was that they wished to have the constitution amended so as to have the judges removable by a bare majority. But the people gave such indications at the last election against the convention project, that these constitution breakers were last session compelled to vote against the convention bill. And, strange to say, they then in violation of the plain letter of the constitution, what they had admitted was its meaning, and why they wanted a new constitution, passed a law by a bare majority, removing the judges from their official seats. And what is still more strange to tell, they now have *contempt* enough for the understanding of a high-minded free people, to *pretend*—yes, *pretend* that they believe that they did not not violate the constitution. They have caused volumes to be printed to shew that they have *only* repealed a law that the legislature had heretofore passed, and which they could rightfully do; that one court of appeals can be done away and another erected in its place with the same ease and with the same right that the members of the legislature of one year may succeed those of another. See their Jefferson pamphlet. What ignorance they must attribute to the people, or how barefaced and daring is the delusion here attempted to be fastened on them! Who does not know that the members of one annual meeting of the legislature, may give way to that of another; yet the office of legislators is the same though filled by different men at different times! And who will deny, but that the court of appeals may be filled by different men at different times, and still the office of judge of the court of appeals remain the same! The incumbents of office at one time, may constitutionally be succeeded by others at other times; but still the office both of judge and legislators undergoes no change.

It is admitted that the legislature may repeal former laws; but when they do so, they must not violate the constitution by impairing contracts entered into, or rights sanctioned by the law. They may repeal all laws providing for the election of governor, but they cannot declare the office of governor vacated, and provide for the election of a new governor. They may repeal all laws regulating elections of members of the general assembly; but cannot turn out of the house a single member, but by a vote of two-thirds. And so they may repeal the laws relating to the court of appeals. But the court like the legislature, being of constitutional creation, cannot

be destroyed; and to remove the judges two-thirds must concur in an address, or two-thirds of the senate upon an impeachment. The legislature may repeal the act of 1796, and all other laws declaring who shall be slaves, but would that set all slaves free? and why not? Because the constitution has declared how slaves shall be freed, (see the 7th article.) And so has it declared how judges shall be removed from office. The legislature may repeal all laws relating to and fixing the seat of government: but would that remove the seat of government? and why not? Because the constitution, as in the case of the judges, has prescribed the mode in which the seat of government shall be removed It requires a concurrence of two-thirds of the legislature elected in removing it.

People of Kentucky, can you believe that the law of last session repealing the laws heretofore respecting the court of appeals, and for reorganizing that court, is not a violation of the constitution of your country? Have you read your constitution, unbiassed by any other considerations than that of a regard for truth? If so, you cannot doubt its violation. If you never have read it, let me entreat you to get it and read it for yourselves. Take not my construction, nor any man's construction of its meaning; let your own plain common sense determine its meaning. Read it, not for the purpose of supporting this man's or that man's opinion or election; nor, to retain in office this man or to displace another; read it for the sake of *truth* and *justice*, read it for the purpose of securing and maintaining your natural and constitutional rights. Condemn none of its provisions till you have thoroughly examined the reason for their existence. Tread slowly, and cautiously, over its contents. Understand it thoroughly, and you will hug it to your bosom as your safeguard against oppression and oppressor's wrongs. With the aid of an independent, firm and honest set of judges, it will shield the poor from the influence of the rich; the ignorant and the artless from the designs of the learned and artful; the weak from the violence of the strong, and the rights of the minority, from the grasp of the avaricious majority. It will do more,—it will secure to the poor but honest labourer the fruits of his industry and labour; and force the *scientific debtor*, those head-working gentlemen that tread on fine carpets, indulge in splendid carriages and entertainments, to live within their income, by making them pay their debts. I beseech you not to disregard these requests because they may not now seem to call forth your attention as to any immediate interest which you may now feel on the question of judge breaking &c. The axe has been applied to my rights and privileges, and may, ere long, be laid to your tree of liberty.

Once settle, and yield the point, that a bare majority of the legislature can repeal all laws and when repealed, that whatever is held under them or brought into existence by them, (the constitution notwithstanding) goes with the repeal; and the aspiring mortals of the day, may by a single act of intrigue, divest you (as they have me of my office) of all your slaves; nay they may go farther, and like William the Conqueror, divest you of your lands, and parcel them out among their followers and supporters. Suppose the legislature should repeal all land laws, (and they may well do so by a bare majority,) should we not lose all our lands according to this doctrine of legislative supremacy? We certainly, under this doctrine, jeopardize every article of property, as well as our lives and liberty. Who ever had an uncontrolled and unlimited power, that did not abuse it? And, who has for years observed the *temper* and *importance* of members of the legislature, that would not dread their power if not checked by some constitutional restraint? Suppose a bare majority of the members were to pass a law, declaring that there should not, at the August ensuing, be an election held, in express contravention, as it would be, of the provisions of the constitution on that subject; and this they might pass even in despite of the *supreme executive and his great cane*: can any sober, balanced mind say, that the majority had a right to pass such a law? And that the act of the majority in this case, as in all others, must govern? If any one be disposed to sanction this stretch of power on the part of the majority, such a person cannot deny the right of the majority to pass a law unhinging every legal tie by which we hold our lands, our slaves, and personal property. What would prevent their passing a law to distribute the proceeds of the honest, economical, industrious part of society, equally among the political spendthrifts and the lazy idle part of society? Do we not already see the doctrine contended for, that the legislature are the people, and the *only organs* through which the people speak and act? And if so, of what avail is the office of governor and judges? are they not infallible nuisances? For if they cannot act in any manner as a check upon the legislature, but in accordance at all times with their views, we pay too high a price for, and too much respect to, such tools for the legislature to work with. But who is he that has read the constitution and reflected thereon, without the aid of *a teacher* of the principles of this majority, that can say, that the people do not act through the judicial

as well as the executive and legislative departments of the government? If there be such a one, let him be silent, or reflect well before he exposes his own ignorance, or barefaced contempt for the understanding of his fellow men. Does he consider the people of Kentucky as a simple flock of geese, ready to cackle out at all times an acquiescence in, and approbation of whatever absurdity of construction of their constitution, as well as to adopt, without reason or justice, whatever measures Wm. T. Barry and his party shall dictate? And yet, we are very seriously informed, not only that the legislature are the people, but that the people are not bound by their constitution; and that a majority of the legislature ought to govern in all things — Who made the legislature the people? The history of my country, common sense and matter of fact, state, that the people in convention made the constitution, in which is pointed out the way the legislature came into existence; not *as the people themselves*, but as the servants of the people, vested with limited powers under the authority of the constitution made by the people; which powers cannot be transcended by them rightfully; but every attempt to transcend them, is running against the constitution, which they swear to be faithful and true to. Would it not be absurd, to say that the people made that constitution under which the legislature came into existence, and yet contend that the legislature is the people? If the legislature be the people of Kentucky, and as pseudo Jefferson says, one legislature passes away and another succeeds, Kentucky must have had at least thirty-four sets of people within thirty-three years past, as there has been that many elections for members to the legislature.

But it is said, although the constitution has pointed out two ways by which the judges may be removed from office, it does not say no other way shall be resorted to by the legislature for that purpose. Here is another wonderful display of the acumen of thought and judgment of this party. The legislature in the preface to the resolution which they passed at their session of 1816–17, furnishes an appropriate answer to this question. (See Journals of that session; of the Senate, page 193, and of the H. R. page 243.) It is as follows:

"The late mournful event, the death of his late excellency George Madison, may have excited in the minds of some, the constitutional inquiry, whether the lieutenant governor must exercise the functions of governor during the residue of the gubernatorial term, or whether this legislature can provide by law for a re-election to fill the vacancy? It will be readily admitted that the right of suffrage ought to be supported by this body, and that every door to the exercise of that right should be fully opened by statutory provisions. But at the same time a greater stretch at an unlimited exercise of that choice privilege than the constitution will justify, ought not to be made. By that charter the people in convention assembled have seized upon, secured and provided for many of their rights and privileges, and restrained the departments of government, as if too jealous to trust them to the yearly provisions of this assembly, or have counted them too sacred to be exposed to the jeopardy and hazard of momentary feelings or party zeal. It will also be admitted that where the voice of the people, expressed in that broad charter of their liberties, has not restricted and forbidden the exercise of power, that power remains with them and may be exercised by their representatives. But it must at the same time be acknowledged, that where the constitution has in constructing the machinery of government, fixed any part of its organs, and provided the mode of appointing its officers, there we as a legislative body cannot derange its organization by substituting any thing in its place. It has said, that elections shall be held on the first Monday in August, annually: It has no where said, that they shall not be held at any other period; yet the legislature could never fix upon any other day. It has said, that senators shall be elected for four years: It no where declares that they shall not be elected for a longer or shorter period; yet a provision by law for a longer or shorter time of service to that branch of the legislature would be inoperative and void.— It has said, that the legislature shall direct the mode of issuing writs of election to fill vacancies in either branch; and has not expressly restricted other modes of supplying vacancies; yet a legislature, it is presumed, could not be found hardy enough to fill a vacancy by its own vote, or executive appointment. The governor by and with the advice and consent of the senate, must appoint and commission all officers, whose appointment is not otherwise provided for, while other modes of appointment are not expressly forbidden, yet an act of assembly, cannot create a judge or commission even a justice of the peace. In like manner the governor shall be elected at the end of every four years; can we elect one in the intermediate space of time! The successor of the governor is pointed out, and even the successor of that successor; can we substitute another successor unknown to the constitution! The officer assigned to fill the place of the governor, must be elected simultaneously with him; can we create one that is not elected with him? Such a con-

clusion must not only be prepostorous, but subversive of the instrument which we ought to support. If this body can by legislation, or the people by election, create a governor to fill fractional periods, it must be only in those cases where the constitution is silent and has furnished no remedy; such a case has not occurred; no such event has happened. Without, therefore, further reasoning on this subject, this legislature does not hesitate to declare that the present lieutenant governor now acting as governor, is the constitutional incumbent of that office, until the next revolving period of four years has elapsed, when the right of free suffrage again will recur; and they decidedly concur in the following resolution:

"*Resolved, by the General Assembly of the Commonwealth of Kentucky*, That the present lieutenant governor is entitled to hold, by constitutional right, the office of governor, during the residue of the time for which his late excellency George Madison was elected, and that no provision can be made by law for holding an election to supply the vacancy."

Let it be remembered, that on the adoption of this resolution in the house of representatives, the yeas and nays stood thus:—YEAS—Messrs Barret, Birney, Blackburn, P. Booker, Bowman, Caldwell, Cook, *Henry Cotton*, Cox, *Moses Cummins*, Cunningham, *Benjamin Davis*, Dollerhide, *Benjamin Duncan*, of Lincoln, Eggleston, *Urbin Ewing*, Ford, Gaither Garrison, Gwin, Gilmon, *Wm. Good*, *E. Grant*, *L. Green*, Grundy, Harrison, *Jamison Hawkins*, *Chas. Helm*, Holman, John Hombeck, H. Jones, Logan, Love, Marshall, Mercer, Mills, Moreman, *Thomas B. Monroe*, *Samuel M'Cown* of Mercer, *M'Hatton*, *James M'Mahon*, *Wm. M'Millan*, B. H. Reeves, *James Robinson*, *John Rowan*, *Richard Rudd*, Shepherd, Slaughter, Spillman, S. Stevenson, Stapp, T. Stevenson, Todd, True, Underwood, Ward, *Philip White*, Weir, Wickliffe, Woods and Yantis—63.

Those who voted for it in the Senate, were—Ed. Bullock, (Speaker,) *Anthony Bartlett*, *Harman B. Logan*, A. Chaplain, *S. Churchill*, Robert Ewing, Faulkner, Griffin, J. Garrard, D. Garrard, Hillyer, Hardin, Jones, *John Lancaster*, *James Mason*, of Montgomery, *Wm. Owens*, of Adair, *Josephus Perrin*, of Harrison, *Uriel Sebree*, of Boone, *Fidelio C. Sharpe*, Simral, *John B. Smith*, *David Thompson*, of Scott, Richard Taylor, *Wm. Worthington*, of Muhlenberg, Wickliff, *Wm. Woods*, of Cumberland, Waide, Welch and Matthew Wilson, of Christian.

It would seem from the doctrine laid down in this preamble and resolution, that Mr Rowan, Mr Monroe as well as Mr S. M'Cown, must have cut a somerset as to their opinion of the constitution, since 1816. How humiliating it is to see our big men blowing hot and cold from the same mouth!

Pause, my countrymen, and examine the ground well before you venture to follow Wm. T. Barry, and suite further in their proud career of mischief and usurpation.—These men are designing and treacherous to your interests. Their course is not dictated by love of country; the good of the people; but from sordid, interested motives and a thirst for power. To accomplish these ends they will stickle at nothing; no nothing which they conceive prudent to perpetrate.

I know how little consequence is attached to the declarations of so humble an individual as myself, and how ready the world is to join in lessening the consequence of the unfortunate and powerless, and to pelt him as he passes down the current of misfortune. I have often seen the bare declaration of the honorable B. and the like honourables of the day pass for current coin, without any more substantial reason to support them than there is silver to pay off the notes of the President, Directors & Co. of the Bank of the Commonwealth; they were the declarations of great men, of captains, majors, colonels and generals,—of pert clerks, attornies and honorable judges, governors, and secretaries, of members of the legislature and of congress, seasoned with self-confidence and consummate impudence, highly necessary to consummate the portrait of a modern great man. I have felt the weight and power of such honourable men. I expect to feel their power and influence.

I have seen the wise, the virtuous and the good, say but little, while the foolish, the wicked, and the self-conceited were spouting out their own consequence; teaching when they should have received instruction; condemning where they should have bestowed praise, and exulting in their own consequence when the honest cheek would blush at their folly and depravity. From the latter I expect every injury, while I fear the supiness of the former will suffer me to sink beneath accumulated injuries. Be it so. Yet I will not be deterred from making an exposition of the powers that be, and laying before the people of Kentucky some of the motives and reasons which governed the Barry party in their high-handed measures, and of the characters of those who fill the judgment seats, so sinfully usurped. As an American free-born citizen, I claim the right of freely communicating my thoughts and opinions, and of speaking, writing and printing the same; and illustrating them by facts, which shall speak for themselves. I know that the

public will only take that which I say and shew, for what it is worth, and I ask no more. But before I am tried, condemned and cast out as prey to the vultures of the party, I humbly beg that the good people will examine for themselves the opinions and statements I shall give and the documents I shall refer them to. I regret much that my ill health has prevented my doing more justice to the subjects on which I have touched. I believe the field is spacious and ample; and I trust those whose health and talents surpass mine, will not neglect them, but will do them full justice. Let it not be understood, that I am governed in this hope only from feelings adverse to particular men, and the deprivation of office; yet I acknowledge the influence of those feelings. I trust, however, I am also actuated from the following more weighty considerations.

It has been properly said, that "*rational* liberty consists in the power of acting according to a will *conveniently* circumscribed." That "man has angry passions, and a *disposition to appropriate the industry of others to his own use and pleasure.*" To set a "proper restraint upon his passions and dispositions, so as to make them subserve the general good, and *the rights of each individual*, is the proper object of government." That "our government acknowledges an *equality of rights* and distributes the powers of government in such manner as they shall consult the peace, safety and happiness of the people." That "it is wisely planned, and to attempt to mend it, there would be *much* to lose, and but *little* to gain." That "under this form of government much depends upon yourselves."—That "the constitution is on *paper*, and *men* are the *agents* by whom its action on the people is to be given and regulated. These agents are to be chosen by you either directly or indirectly." "What would it avail, to have a good government in *form* but a bad one in *fact*; a good constitution, but a bad administration?" "That the wisest plans will fail of success when fools and knaves shall be allotted to execute them." "What benefit would result from wholesome laws if those laws be not administered?" "The laws of themselves are but dead letters; to give them life and activity, you must have *proper men* to make them known, to hear and determine all transgressions of the law and to punish the offenders." "Upon a *faithful energetic* administration of the laws, your liberty depends." "That the office of judge is a high trust and considered most intimately connected with personal liberty, and the rights of property." "Judges should be learned in theory and in practice, in abstract principles and in matters of fact—in books of letters and in the book of human nature—in *morality* and in the ways of men and their modes of transacting business. They should be of an *independent cast of mind, and of solid integrity.* Not swayed by party nor governed by interest. They should have salaries adequate to a comfortable and independent subsistence, and prohibited from commerce, traffic or speculation. They should be studious, patient, diligent, and know no person or matter *dehors* the record of the case before them; to which they should do strict justice, to the best of their skill and abilities."

I will now proceed to speak of Mr Barry and his two associates. William T. Barry commenced his political career a federalist, and started a paper in Lexington of that description, in the names of Watson and Overton, his pupil and brother-in-law, under his immediate patronage; so it is said, and to the people of Lexington I refer for the truth of the fact. But finding he had mistaken the popular side, he bethought himself how he should sneak out of this difficulty. The war in the mean time broke out, and John Pope, his former friend and patron, having voted against the declaration of war, and the people of Kentucky being in favor of it, Mr Barry seized the opportunity, at the expense of his friend, to wriggle himself into public favor, by abusing federalists and federalism.

The war being over, the next hobby he mounted was the new election question. He was for putting down Gabriel Slaughter, and filling his place, some say, with Capt. John Fowler; be that as it may, he used it as a hobby to ride into the senate of the state legislature over another venerable friend and patron, Edmund Bullock. It appears that Mr Bullock was not only his personal friend, but Mr Barry had grown into notice under his particular care and attentions. It would be useless to speak of the amiableness of Mr Bullock's character as a man, and the correctness of his course as a legislator; his own county-men, as well as others, know him too well to need any eulogy from me. It is true I have known that gentleman for twenty-nine years, and am proud to have known him. But Mr Barry, regardless of circumstances, with the assistance of his coadjutors, so misled for awhile the people as to ride into office upon the downfall of his friend and patron.

Elated with his great success, and fired by ambition, Mr Barry became sensible that he should cut a greater figure in the political world and get more money and power by going to congress. Accordingly Mr Barry leaves the state government,

and her dear state rights for a seat in congress.

The question as to rechartering the United States' Bank was voted out with his assistance—why?—because it wielded British capital. To touch British gold was at that time, like eating the parson's grass—it was sacrilege. Some however say, that he would not re-charter that bank because all its funds were loaned out, and there were no snacks left for him to borrow. Be that as it may, he would not vote for the rechartering the bank. There was, however, another measure proposed which pleased his fancy better—a *compensation bill* was introduced by the conqueror of Tecumseh. So small a sum as $1500 per year for a member of congress, when asked for by so great a patriot could not, ought not to be refused. Mr Barry voted for the bill, and pocketed the cash. Afterwards, a bill was introduced to establish a United States' Bank of 35,000,000 dollars of capital, in which there is no provision against foreigners taking stock; and no fears of British influence from British gold now are entertained by Mr Barry; no, this is the people's bank—the government has an interest in it. Its large capital will enable it to send its branches to all sections of the country; we can have branches in Kentucky, and Mr Barry may be a director thereof, borrow as much money as he pleases, and lend to as many as he can make friends of. During his being in congress he had heard what Cæsar had said while in his ambitious career—"Give me money and I will get men; give me men and I will get money." By this bank Mr Barry saw he could do both, get money and men. The measure was therefore not only constitutional and wise, but the exigencies of the nation required such a bank. He voted for the establishment thereof. The train is laid, the bank goes into operation.

James Prentiss, of Insurance memory, was despatched with letters and recommendations from Lexington, to negociate with the mother bank for a branch at that place. He succeeds in getting a branch; himself, Wm. T. Barry, John T. Mason, John H. Morton, James Taylor, of Newport, and others appointed directors—and it commenced its operations in Lexington about the 27th January, 1817—and before the 15th of May 1819, (a few individuals of the party had drawn 231,732 dollars, and the same individuals were security for 225,873 dollars.)

[We omit the particular sums and the reference to the names of private individuals which Mr Sneed has thought proper, unnecessarily we think, to introduce in this address to the public. The peculiar situation of Mr S. smarting under the severe injury inflicted upon him by the New Court, has induced him to go farther than a strict sense of justice would justify. He is entitled to the benefit of all the rules which authorise an investigation of the transactions of public men; the course pursued toward the Old Judges, and the cruel warfare through the press against the friends of the Constitution, taken as precedents, sanction a wider range in retaliation than we could wish to see pursued, but in respect to private individuals, and their private affairs, there is a limit which the press ought not to transcend.]—*Ed. Rep.*

Mr Barry, we have said, voted for the establishment of the United States' bank while in congress; assisted in getting a branch placed at Lexington, became a diretor thereof, and as we may justly infer, a strong friend to it; for on the 2d of February 1818, a motion was made by Mr Welch to lay the bill on the table from the house of representatives entitled "an act to tax banks in this commonwealth," an act aimed exclusively to the branches of the United States' bank, until the end of the session, we find that Mr Barry voted in the affirmative. But the bill was passed. Suit was then brought in the general court under a law of the legislature, against the directors of said branches who refused to pay the tax: and Mr Barry was one of the directors. Now, be it remembered, that this very act for taxing banks, had passed the legislature of Kentucky by a *large majority*; yet Mr Barry refused to abide by it, because, as he said, it was unconstitutional. Yet he could fix on me a fine for disobeying his authority under an act of the legislature, notwithstanding my objections to the constitutionality of it.—The suits thus brought progressed for trial in the general court, then sitting on the lower floor of the state house, while Mr Barry, the now shield of State rights, was in the senate above. In addition to the great interest which Mr. Barry took in these banks from the circumstances aforementioned, he had taken a fee of $500 (in specie) to appear for said branches in the general court. The suits are called, and Mr Barry, with $2 of paper in one hand, as pay of a senator of the state of Kentucky, and $500 specie in the other, as a fee from the United States bank, marches into court. Here he not only undertook to satisfy the general court of the unconstitutionality of the tax law, but on the 19th of February 1819, when arguing the propriety of the federal court's granting an injunction which he had applied to them for against the proceedings of the officer under said tax law, he derided the legislature for attempting unconstitutional and lawless

violence in passing the act imposing the tax upon the bank of the United States.—This he did in a set speech of considerable length, which he afterwards caused to be published in the papers in Lexington. If these facts be denied by Mr Barry or his friends, they can be proven by many witnesses. Yet this great friend to state rights and state sovereignty, and enemy to the United States' bank, has the barefaced effrontery to call other men "*bank judges*" and "*bank courts.*" Where is the man in Kentucky that has done more to fasten these branch banks upon us than this same man *W. T. Barry*!—I ask the question in vain.

Mr Barry may have gotten sick of banks. But we find that on the 21st January 1818, he voted for the passing of the independent bank bill, which created 43 banks. On the 19th of December 1817, he voted for the passing of a bill entitled "an act to amend an act to incorporate the Kentucky Insurance Company;" and at the same session he voted for the passage of "an act to incorporate Sanders' manufacturing company," and a bill supplemental thereto; which last bills had banking powers without money to bank on, *which he well knew at the time he voted for them.*

Mr Barry was no Shylock. He was always ready to vote for an increase of the circulating medium, even at the expense of creating banks for that purpose; but you will find by tracing his proceedings in the journals, if I am not mistaken in the perusal I have given them, that until he was turned out of the directory of the United States' branch bank at Lexington, he neither voted for an occupying claimant law nor a replevy law; and the first endorsement law he did vote for, was on the 9th day of February 1820, when, no doubt to avenge himself on the United States' bank as well as to protect himself, he voted for the passage of a bill requiring endorsements on executions that notes on the bank of Kentucky or its branches will be accepted in discharge of the execution.

From this time out, Mr Barry became devoted to the people. It was for the good of the people only, if you believe him, that he lived, moved, and had being. But I think not: and I will tell you my reasons.

Mr Barry had not only been associated with James Prentiss as a director, but had, by endorsing his bills and notes, and by other means, aided him in obtaining enormous credits in Kentucky and elsewhere, (see deed of trust from Prentiss to Pearson and others to secure Barry &c. recorded in Fayette office) to the amount of $40,000. Whether by these means, or for himself alone, still remains a matter of conjecture, he, Prentiss, became enabled, and did buy, in his own name, seven-tenths of the shares of the Insurance Company bank stock; whereby he was enabled, about the 1st of January 1817, to take the controul of the bank. He commenced his operations by turning out the old president and directors, who had faithfully managed it, and placing over it a directory of his and Barry's particular friends and associates. It was well known, that when Prentiss took the control of this institution, that there was a large amount of specie on hand, and that its stock was worth from 30 to 40 per cent above prr. Prentiss availing himself of the good credit in which he found the institution, caused a large amount in notes to be issued, with which, it is said, he and his associates bought lands and other property, instead of making provision to wind up the bank as they should have done, by taking in their notes, that being the last year of its charter. The notes then issued were received in payment for government lands, to banks and individuals, without alarm, till about Dec. 1817, when the notes began to return back upon them in numbers. To obviate this inconvenience, and to stave off for a time the storm which commenced, (no doubt sooner than they wished, but not sooner than they might have expected,) Mr Barry, on the 9th of December 1817, moved for leave to bring in a bill prolonging in effect the charter of that institution two years. This bill passed, as I have stated, on the 19th of the same month. But suspicion was aroused, by the flowing in of the notes, till all hopes of saving longer the credit of the bank ceased; and about 1st February 1818, it exploded, without even leaving the books and papers to shew that which had been done by Prentiss and his associates, and not a cent to satisfy the flood of notes then hovering around the bank door for payment, the unfortunate holders of which had given full value for.

On the 6th of December 1817, James Prentiss made to J. E. Pearson & als. a deed of trust to secure the payment of two notes of $20,000 each; one given to James Morrison and als. endorsed by T. G. Prentiss, Wm. T. Barry and James Johnson; and the other given by said James and T. G. Prentiss, jointly, to said Morrison and als. one payable the 1st day of April, and the other the 1st day of May, 1818.

While these things were going on in Kentucky, very considerable sums of money were by some means, drawn by Prentiss and his associates from banks in Ohio and at St. Louis. The explosion of the Lexington Insurance Company bank, it is presumed, very justly gave rise to some fears on the part of the St. Louis bank; and accordingly, its

agent, (Mr Smith perhaps) arrived in Lexington about the 12th of March 1818, for the purpose of seeing Mr Prentiss and adjusting the accounts of that bank with him. A few days were spent in fruitless negotiation.—The agent determined to bring suits. Prentiss aware he was to be held to bail, and unable to give the bail, determined to fly the country; and the evening preceding his elopement, as it is said, a meeting was held at Mr Barry's house, and a deed of trust was then, on the 16th of March 1818, executed by James Prentiss to said Barry, for every species of property he (Prentiss) possessed, to an immense amount, in Kentucky, Illinois, Indiana, Missouri, and elsewhere; negroes, Merino sheep, ships at sea, credits, and claims throughout the continent nearly; the whole value not less than $200,000, as it is said by one who states he had made inquiry into its value. This deed is said to have been executed about midnight, and the next morning early Mr Prentiss was in Paris; and having tired his nag, he produced James Johnson's order, which he had procured for that purpose, to the keeper of his stage horses; he got a fresh horse, which he again renewed as often as he had occasion, till he bid defiance to his pursuers;—and while he is making tracks towards the land of notions, let us return to Mr Barry. He is said to be a lawyer; and had, no doubt, the advice of other lawyers much abler than himself, that the deed of trust so made to him by Prentiss, was both in law and in fact, *fraudulent* and void as to creditors and purchasers; and that the whole or any part of it, in his hands, would be liable to execution. To avoid this state of things, he seems to have determined to sell the whole property, which he shortly thereafter did, and his friends the Messrs. Johnsons became the purchasers of all the real estate in Kentucky and the stock in the Insurance Company bank. The real estate to a great amount was struck off to the Messrs. Johnsons for a very trifling amount, who it is supposed, paid nothing for it. The deeds from Prentiss to Barry and from Barry to the Johnsons are recorded in Fayette county court clerk's office, to which reference is made.

Having shewn great intercourse between William T. Barry and James Prentiss; that they were concerned together in large transactions, and for whom he, Barry, had incurred heavy responsibilities (for what reasons the public will judge) and having farther shewn that Mr Barry became the trustee of said Prentiss, who from the deed of trust must have left under his care, and at his disposal, an immense property, which Mr Barry has not yet accounted for, *and consequently has become liable to answer therefor to the creditors of said Prentiss;* I shall leave him for the present, and introduce to your notice his right-hand man Jas. Haggin, the second judge of the *second* court of appeals of Kentucky.

I forbear noticing the first acts of Mr Haggin's life after rising into manhood, in Mercer county, which probably occasioned him to leave there for Kaskaskia, where he is said to have remained some time, and to have thence returned to Mercer, without adding much weight of character to himself. It appears, that he was not without some *need of relief* while at Kaskaskia, as an unsatisfied judgment obtained against him by one Squires, followed him on his return to Mercer; and an action of debt being brought against him on said judgment, he pleaded in bar thereof, first, nil debit, and, secondly, nul tiel record: but the jury found against Mr Haggin. See 2d Bibb, 334.

Mr Haggin left Mercer and settled in Lexington perhaps about the years 1810 or '11, where he became acquainted with a certain David Williamson, who till after the late war had been one of the most extensive manufacturers, merchants, land jobbers and house builders in the town of Lexington. It is said this man had by his great talent for trade, and industry and arrangement, risen from obscurity, and was worthy of a better fate than befell him.

The great vicissitudes in trade occasioned by the breaking out and continuance of the war much embarrassed him, for he was largely indebted; yet held an immense property, which he conceived far more than adequate to the payment of all his debts, and would leave him a handsome residue, if not unfortunately sacrificed. It is believed that Williamson had no wish to defraud his creditors of the payment of their demands, but only wanted time to bring his property into market on the best terms, and to dispose of it to the best advantage. To quiet some of his creditors, and to put his property out of the immediate grasp of others, whose forbearance he feared to trust to, he bethought himself of the too common expedient of the day, to convey in trust his property. No doubt but Mr Williamson had consulted with Mr Haggin on the subject, who it appears, with Thomas January, John W. Hunt and William Worsley, became his trustees.—The deed was executed the 27th Dec. 1814 acknowledged and recorded in the county court clerk's office of Fayette, the 5th of January 1815; and purports on its face to be for the purpose of securing the payments of the following demands, to wit.

1 note due Samuel and George Trotter of	$1,606 00
6 notes due by said Williamson to the Insurance Co Bank, and endorsed by George Norton, to am't of	12,003 49
3 bills due Trotter, Tilford and Scott, am't besides damages	3,500 00
1 bill of exchange drawn in favour of said bank, and endorsed by said Norton	2,000 00
1 note due In. Co. endorsed by T. Pindell and Jas. Coleman	4,000 00
1 do. do. endorsed by J. H. Morton and A. Legrand	3,000 00
1 do. do. endorsed by R. Higgins and others	5,000 00
3 do. Lex. Br. B. Ky. endorsed by Geo. Norton	4,252 18
1 bill transferred to Br. B. Ky. under protest, and endorsed by said Norton	3,000,00
1 note in the hands of Ellis and als. endorsed by G. Norton	3,000 00
1 note in favour of W. Robards, endorsed by G. Norton	1,600 30
1 do. do. W. McBean, endorsed by G. Norton	230 00
1 do. do. John Crozier, negotiable in Br. B. Ky. endorsed by T. Pindell, D. Todd, R. McGowan and M. Fishel.	2,632 00
1 note due Br. B. Ky. endorsed by J. H. Morton, said Norton and others	5,000 00
1 note of John Pollard, endorsed by M. Fishel &c.	4,000 00
1 do. Pollard Keen	4,400 00
1 do. John Lewis	3,300 00
1 do. Thomas Pindell	5,478 72
1 note due George Norton, for money lent	2,160 00
1 do. John Tilford of $179 12, and one due Rt. Dudley & Co. of $75,	254 12
1 note due same and Taylor of $150, and one due J. Todd of $80,	230 00
Amount,	$69,646 51

The articles of property conveyed in trust are as follows, and it is considered that in 1814 and '15 would have sold for the annexed prices:

100 acres of land near Lexington, on the Limestone road, at $30 per acre	$3,000 00
186 acres of land do. do. $30 per acre	5,580 00
6 1-2 do. in two lots near Hy's mill road	250 00
1 lot on McBean's street, in Lexington	200 00
2 lots on Limestone and Bradford's st's. each 1 1-2 acres	1,600 00
1 house and lot in Poplar Row, where U. S. B. B. is kept	8,000 00
1 do. do. on Main st. where W. Worsley occupies	12,000 00
1 lot opposite the Seminary	160 00
1 acre lot in Fowler's Orchard	60 00
21 acres in the town of Nicholasville	630 00
1 lot do. do. do.	50 00
All the personal estate of Williamson on his farm, consisting of horses, cows, sheep, hogs &c.	1,000 00
All his the said Williamson's interest in the firm of Williamson and McKinney	
Also a sideboard, bureau, mantle clock, looking glasses, paintings, prints and books, bedding	2,000 00
Negro boy, Henry, 16 years old, $450; girl, Docia, $400	850 00
Also 74822 1-2 yds. bagging, at 34 cts. per yard	24,707 34
40229 wt. bale rope, 10 cts. per lb.	4,022 90
23709 wt. spun yarn, 8 cts. per lb.	1,896 72
1025 barrels of flour, at $4 50 per bbl.	4,612 50
82820 gal. whiskey, 50 cts, (it commanded in N. O. 75 cts.)	41,410 00
6900 lbs. gunpowder, at 62 1-2 cts. per lb.	4,315 00
815 gals. cider oil, at 50 cts.	407 50
130 yds. tow linen, at 25 cts.	32 50
Likewise 10,040 yds cotton bagging, at 34 cts.	3,340 66
9000 lb. bale rope, at Natchez at 10cts.	900 00
And 300 pieces of bagging, making 15000 yards, consigned to Alex. McKinzie of Augusta, at 62 1-2 cts.	10,250 00
Amounting to	$130,270 92
The amount of debts secured to be paid	69,646 51
Leaving a balance of	$60,624 41

Whether these prices are too high or not, it is for those more conversant in the sales of such articles to say. I have had some knowledge from experience of this kind, and believe I have under instead of over rated them. The article of whiskey was well known to be higher then, on account of the duties on distillation and the little quantity made in consequence thereof.

It will also be seen that I have not extended any sum for the value of Williamson's interest in the firm of Williamson and Mc-

Kinney, having no data to be governed by. Although there were others associated with Mr Haggin in this deed of trust from Williamson, Haggin was considered the principal, perhaps the only actor—the other associates merely affording their weight of character, as old citizens of Lexington, to inspire confidence in his creditors. Mr Haggin was a lawyer, he was to attend to that department of the business as well as to superintend the trust. The others were mere merchants. The deed is said to have been written also by Mr Haggin, and caused to be acknowledged and duly recorded. It is also said to have been the understanding on the part of Williamson, that although he executed the deed aforesaid, yet he was to remain in the possession of the property, and to manage it. Under this view of the subject, Williamson is said to have descended the river to New-Orleans, with powers to act for the trustees; and for some cause not now known, after he had been there sometime, he was recalled and his powers revoked. He is said then to have come out with the scheme of a lottery; by which he proposed to dispose of by way of a lottery his real estate, being the same conveyed to Mr Haggin and others, his trustees. Haggin permitted Williamson to draw up a plan for a lottery of the property; to publicly advertise it in most of the newspapers of the state; to sell with his knowledge and connivance, a large amount of tickets, (by some it is said to the amount of $70,000 or 80,000.) What became of the proceeds of sale of the tickets I know not, and presume the public will never know. When Mr Samuel Trotter, a respectable merchant of Lexington, was about to make known in a public manner, that Williamson's property was incumbered by the deed of trust to Haggin and others, and that he, Trotter, held a lien on a part of it, Mr Haggin induced him to desist, upon assurances that if he would do so, that he, Haggin, would see his, Trotter's, demand paid. Mr Trotter being thus silenced, Mr Williamson was permitted to progress with his lottery, until it was found, that in this way all was drawn that could be drawn, from a credulous community. That lottery is at length drawn; and Mr Haggin has not the presence of mind about him, to caution the deluded votaries of fortune, that he as trustee with others, held a deed for all the prize property. The surrounding country was agitated with the good and bad fortunes of the adventurers in Williamson's lottery. But Mr Haggin—yes, Mr Haggin, knew that Williamson's lottery was forbidden by law. At *a convenient time* he caused to be sold under his authority, as *trustee*, the whole of Williamson's real estate, over the heads of the fortunate ticket holders, and had it bid off by Thomas G. Prentiss, the brother of the aforesaid James Prentiss, and the *last* President of the rifled Insurance Company bank. The Insurance Company bank was one among a number of creditors of Williamson: Prentiss had nothing to pay for the property, as purchaser, and it is believed in fact, paid not a farthing.

In order that this real estate might be bought for the least price, the *convenient time* pitched on was about the 6th and 8th of January 1818, when the credit of the Insurance Company was breathing its last and its paper not estimated at ten cents in the dollar—which Mr Haggin knew could be passed off in discharge of the debt due that bank at par. But this is not all. The speculation was to be increased, by giving notice to the purchasers, and bidders, that they must risk the claim of others, to the property. In consequence of this notice other bidders were deterred. And between the influence of the claim under the deed of trust, and those of the lottery ticket holders, the real estate, which according to the estimate here exhibited was worth $30,850, was sold for $10,125.

Although this property is returned in a report drawn up in Mr Haggin's own hand writing, as the trustee who superintended the sale, and shewing that Thomas G. Prentiss was the person who bid it off; yet somehow or other, but not told, he became the owner of said property; having by some means obtained the concurrence of his other trustees, to join in giving evidence of the purchase by Prentiss. But it is believed and hoped, that the other trustees were wholly ignorant of the designs of Haggin, in causing in this way, such a sacrifice of Williamson's estate.

Col. Philip White, late of Franklin county, but now deceased, was the purchaser of a ticket in said Williamson's lottery, which drew a prize rated at $16,000. It consisted of the farm of 186 acres of land aforementioned and the improvements thereon. The title to this tract, it appears had not passed from Lewis Saunders, of whom Williamson had purchased, when the lottery was drawn. Williamson or White, however, paid a small balance due Saunders thereafter, and procured a deed immediately from Saunders, to said White. After Haggin had procured a title to be made to T. G. Prentiss, as purchaser of the real estate aforementioned, it seems he, Prentiss, like his brother James, also escaped from the State. To get the property which White had drawn as his prize, a suit in chancery was commen-

ced in the name of said Prentiss, in the Fayette Circuit Court, and carried on by Mr Haggin; but, it is said, without the knowledge of Prentiss. And what is more this suit presented the singular circumstance of James Haggin as attorney for Thomas G. Prentiss suing James Haggin as trustee & als; in which Mr James Haggin writes the complainant's bill, and draws his and his co-trustees' answers. But Col. White did not choose that Mr Haggin should act as his lawyer also, but gets his lawyer to file a cross bill, with some hard questions for Mr Haggin to answer; in doing which, Mr Haggin discloses the fact, that he is the real owner, and not T. G. Prentits, of the claim to the property sued for. Mr Haggin now claimed all Williamson's real estate whatever, except a splendid mansion, which in the turn of affairs was then, somehow, in the possession of, and claimed by his particular friend and now associate, in the 2d court of appeals, *Chief Justice Barry*. These precious facts I have said were extorted from the mouth of Haggin himself, by a cross bill filed in said suit with White, and exceptions to Haggin's answers. I say answers, for it appears to have taken Mr Haggin several efforts to answer this cross bill; and he seems very cautiously to have written with his own hand the answers of his co-trustees. It was alleged that Mr Haggin had paid nothing for the property; and he confessed, that he had paid nothing but some Insurance Company bank notes. But to whom he paid them, and at what time he paid them he took care to keep to himself.

On this state of the case the cause was tried before Judge Bledsoe. He decreed that Mr Haggin should recover the property in contest, and that White should account for rents, waste &c. to Mr Haggin. From this decree White's heirs appealed. At the May term 1824, at the particular instance of Mr Humphreys, the attorney and brother-in-law of Haggin, and perhaps also of the counsel on the other side, the suit wts taken up out of its ordinary term, argued, and decided by the court against Mr Haggin.

In this decision the court decided that Mr Haggin had conducted himself in such a manner, as to deprive him of a claim to the property, even against a defendant who had drawn it in a lottery forbidden by law; and upon the principle that he who comes into a court of equity must come with clean hands, that Mr Haggin had dirtied his fingers with the trust estate, contrary to every principle of law and justice.

The court did more. They pronounced the law to be—"*that the trustees were the agents of the creditors, and the latter are bound by their acts: and if the creditors have lost this fund by the improper acts of the trustees, the trustees are responsible to them for the loss.* It may be said, that Prentiss in this case is first a creditor, and also a purchaser from the trustees, and as such he cannot be affected by their acts. We answer, that Prentiss by his purchase could only acquire an equity under the trustees, and claims through and under them; and he cannot possess a better title than they held, which was an equity only. And if that equity was previously violated or destroyed by the improper acts of the trustees, he must abide by it. At the time of his purchase, he or rather his representatives, can have their appropriate redress. Indeed in this case, it does not appear that he has yet paid to the creditors the amount of his purchase. But if he has, and he was innocent of the imposition on the public, he is not remediless."

These principles shook to the foundation the hopes of Mr Haggin, Mr Barry and others, who were not only jointly or severally in possession of splendid estates covered by mortgages and deeds of trust, or otherwise secured from creditors, but it directly opened the door for Prentiss's and Williamson's creditors, to pursue Mr Barry and Haggin, as trustees, and to inquire into the tenure by which Mr Mason and the Messrs. Johnsons held, or claimed the greater part of the Prentiss's estate. Mr Haggin, with his speculations in Williamson's estate, was rich: without it, his prospects to pay his debts it is believed, were hopeless. If the affair of Prentiss's deed of trust were examined into and settled by the rules of the decision of Prentiss's heirs vs. White, Mr Barry might be placed also in a desparing, if not hopeless condition.

What is to be done? Where is the remedy for them? No hopes of the court's changing their opinion, because they had only pronounced that to be law, which had for ages been so pronounced. What then is to be done to be saved? The judges must go out of office, by some means—and to prevent this decision of the court becoming final, the services of Mr Clay were engaged, who filed a petition for rehearing, on the part of Mr Haggin, on the last day of the term, on which the court ordered that the opinion it had delivered should be suspended, and the case to be re-argued at the next term.

If any one doubts what I have stated, let him apply for the record of Prentiss &c. vs. White's heirs, now depending before their honors Barry and Haggin. It is under their controul I presume, although it could not some days past, as I am informed, be

found by their clerk. This among other precious records, were violently and forcibly torn from me, by the hand of combined usurped power. If, however, this record should be wisely out of view, the originals may be seen in Fayette Circuit Court office, where I have lately read them, And unless my judgment be incapable of comprehending the subject, it will be found that I have not misstated facts. As to the decision of the court of appeals in May 1824, I have been so fortunate as to preserve a copy. In this record, the reader will find other matters highly worthy his examination, detailed in the cause.

It is said that Mr Haggin has sold, or enjoys the whole of the unfortunate Williamson's property, except the mansion allowed to Mr Barry. This house and lot was stricken off to Thos. G. Prentiss, as I have before stated, at a sacrifice, for $600; how Mr Barry got it and what he gave for it, he best knows; but he parted with it to the bank of the United States, at the price of $6000. For the farm claimed by White's heirs, and a large brick house claimed by Trotter, Mr Haggin brought suits. One of which you see is depending before their honours, and the other before Judge Bledsoe, now in the Fayette circuit court.

There is another branch of Mr Haggin's conduct towards the unfortunate Williamson's family, not yet detailed. After Williamson's property had been disposed of by his trustee, Mr Haggin, finding himself ruined, Williamson became addicted to intemperance, and thereby destroyed himself; but was heard to express himself (when speaking of the abuse of his misplaced confidence, and the tears of distress trickling down his furrowed cheeks,) "I am stript of my property, robbed of my reputation, and cast out upon the world a beggar."

He left a wife of very delicate health, who can neither read nor write, as it is said, with a family of helpless children, without a house and almost destitute of food and clothing. There was still however a property, which the laws of her country had preserved for Mrs. Williamson. Her husband had been vested, in the course of his business, with large and valuable real estates, the dower in which she had never relinquished; the proceeds of which might have been to her and her children a competent support, and furnished the means of educating her children.—Mr Haggin knew the extent of this dower property; he knew its value, for who could know it better? Mr Haggin knew also, her distresses and her ignorance of the value of her dower. He applies to and buys it from her. And on the 24th of Sept. 1820, covenants by a singular instrument drawn by himself, to purchase for Mrs. Williamson, a house and lot in Versailles, of the value of $1000, and says, "until I shall make such purchase, *in which I am not to be hastened*, I covenant to furnish her a dwelling in that town, about that value at my own costs and charges. And I do moreover covenant if I shall finally succeed in recovering the two tracts of land on the head waters of Cane Run, near the town of Lexington, containing about 280 acres, being the same embraced by a deed of trust from David Williamson, dec'd. to John W. Hunt, Thos. January, Wm. W. Worsley and *myself*, as trustees, I will in six months thereafter pay to said Susannah (Mrs. Williamson,) the sum of $1000, in personal property. The estate in each case to be estimated at its common trading rates."

Mrs. Williamson, once enjoying affluence, inhabiting stately and costly buildings, with well furnished apartments, is now found houseless and overwhelmed with distress. To get a shelter for herself and helpless family, and the support she might draw from the $1000 of personal property, agrees to part with her dower; but, little did she suppose, that in doing so, she was to be paid with such an instrument, as recited above; she did not know that the words "in which I am not to be hastened," gave to Mr Haggin his life time to fulfil his covenant; but Mr Haggin was more of the lawyer; he did so understand it.—He neither builds the house nor pays the personal property. After a lapse of two and a half years, Mrs. Williamson sues Mr Haggin, in the Woodford circuit court, gets a judgment for $1020 damages, besides costs. Mr Haggin moves for a new trial, it is granted, and at the next court another jury finds a verdict in her favor for $1030 damages, besides costs. Mr Haggin is not willing yet, to abide by the verdict of the jury; but takes out a copy of the record and proceedings of said suit, applies and obtains a supersedeas from the appellate court; and now has this cause also before him and his brethren. Reader, if you doubt these facts read the record referred to, and see this unfortunate female herself. I am told she is now living upon the charity of her brother-in-law, Robert Kincaid, the jailor of Woodford county; who, no doubt, extends, with cheerful liberality, his little pittance towards her support; but he himself is poor, and has a large family to support. In this situation, she is dragged by Mr Haggin, before himself and his associates, an humble needy individual, without influential friends or connections, and without money to pay lawyers who may stand as porters

to the gates of justice aforesaid, or the clerk for his increased fees. And, after all, her cause, under this Barry court law may never be tried; for in this extraordinary law, (see sect. 14, p. 48,) there is a provision that two judges cannot act without the consent of the parties. This provision was probably not inserted without its intended purposes. It will be remembered, that this bill was not drawn by a member of the legislature, but by Mr Bibb an experienced lawyer. It was a piece of machinery, complicated in its nature, consisting of many parts, and best understood by the master workman, by whom it is cut out and put together, not to be touched by the hand of the junior apprentices. Hence, the necessity of caucussing on this bill, and of binding the junior apprentices to "go the *hog*" with them in preventing *any amendment* whatever to said bill. To have altered any part of this wonderful piece of mechanism, might have so deranged the views of its builders as to render it useless to them, or some one of them; and if all could not be provided for, the disappointed might frustrate the whole design. It may therefore have been, that Mr Barry, Mr Haggin and others intended by this provision, to prevent decisions from being rendered in cases of their own, arising out of the deeds of trust aforesaid, unless they choose to declare that one or both were not interested. Where Mr Haggin is the nominal party, Mr Barry may say, he has no direct interest; and so, where Mr Barry is such: but when these gentlemen are sued, may not delicacy to sit, in every case prevent a trial? The same section has other provisions well calculated, with the aid of a dexterous judge, to procrastinate, if not entirely to prevent the trial of all cases he may choose to operate on. But to follow this law through, and point out its effect, would lead me beyond my present design. One thing I am well assured of, that no one yet has considered its full bearing; and that the oftener it is read, with an eye to the circumstances which gave rise to it, and which may hereafter transpire, the more he will think with me, that it is *one grand design* to frustrate justice and shield the guilty.

That Mr Barry and Mr Haggin had other motives, beyond the influence of the $2000 salary, and that of patriotism, ought not to be doubted. We, who know the habits of those men, know that they set a high value upon their labour, and tax full well for what time they spend in the service of others. The labor of the profession was irksome to them: and they charged well, it is believed, the client that employed them. They were as little attached to labor as any men should be to live by it; although it is probable, their receipts for professional services per year, exceeded $2000. It is thought by some that had it not been for protecting themselves, from the decisions of the constitutional court, against deeds of *trust*, *trustees*, and *mortgages* without consideration, these gentlemen would never have sought the intense labours that devolve upon a judge of the court of appeals. Indeed, it is believed, that as soon as they can have put those causes, as well as others, in which they have large contingencies depending, and to depend, before themselves, in a state of safety, that they intend resigning and going back to the bar.

There is one more transaction relating to the Insurance Co. bank, in which Mr Haggin and Mr Barry have been concerned. I will state facts, and let the public draw its conclusions.

On the 4th of April 1818, James Haggin filed his declaration in an action of debt; and a writ issued against the President Directors & Co. of the Lexington Insurance Company. The action was founded, as specified, on thirty notes of $100 each, issued by that bank, and some as late as April 1817. The writ was executed in part, and a distringas was then issued and levied on the banking house; and there being no appearance entered on the part of the bank, the suit was continued over till Sept. 1819, when Mr Barry entered his appearance, and filed the plea of nil debit. The issue being made up, the suit was tried, and judgment rendered in favor of Mr Haggin for $3000; the debt in declaration mentioned, and $410, in damages. On which execution issued October 1819, and was levied on the banking house and furniture; which was sold for $2045 91, and bought in by Mr Haggin, if I recollect right. Is it not mysterious, in the conduct of Mr Haggin, that he, living in Lexington, where the Insurance Company bank was, and not ignorant of its labouring and expiring condition from Dec. 1817, to Feb. 1818, when it exploded; that he, [Mr Haggin,] should have had $3000, of its paper, and all in $100 notes too, be still with them in his pocket till April 1818, and then sue the company without applying for the payment of the notes at the bank? It seems equally strange, how Mr Haggin, who about that time built a palace in Lexington and complained of the want of money, was able to lay by such a sum. But perhaps, the following extract of a letter from Col. R. M. Johnson to Gen. Green Clay, dated 21st of Sep. 1819, will throw more light upon the subject:

"You can have the Insurance Office at

$10,000, (which is cheap at that price,) the title to be undoubted, and any collateral security that you may demand. Haggin will join in the deed. As to the payment of the overplus, I have no objection to any time you might require: but Haggin is concerned to amount of one fourth; but I hope we will have no difficulty as to that point."

Thus went the last remnant of the Insurance campany bank; and the holders of the three tenths of the shares thereof were left without any thing. On the 1st of Jan. 1817, this bank is worth from 130 to 140 dollars per share, with about 50,000 dollars of specie on hand, and in good credit. On the 1st Feb. 1818, it is bursted, and not only stript of its cash, its bills receivable, but every book that would explain the transactions of the Prentiss' administration, leaving an immense amount of unpaid notes, due by the bank, not of any value. In March, Prentiss decamps; shortly afterwards Mr Barry, under his deed of trust and power of attorney which accompanied it, parts with the real, estate, and, it is said, the seven tenths of the shares of the Insurance Company bank, to Messrs. Johnsons. In April, Mr Haggin brings his suit against the bank which nobody thinks proper to defend till Sept. 1819, when Mr Barry files the plea aforesaid; the judgment is obtained, and the last vestige of property belonging to the company is sold. And who can tell how the cash, the bills receivable, the stock and property of the Insurance Company bank, were disposed of, better than Mr Barry and Mr Haggin? But who will satisfy the unpaid notes which were so unjustly palmed upon a credulous public, without an intention of paying them when they were issued?

Of Mr John Trimble, the third judge of the second court of appeals, I mean to say but little. He is the Judge whom his excellency *would* have on the bench, as I was informed and believe, no matter who else went without a judgeship. And the man with the big cane, must be kept in a good humour, or the fat would all have been spilt in the fire. But for these reasons, Mr Trimble would have probably been left to ride his circuit. Mr Trimble has been either improvident or unfortunate, for it is very certain he has mortgaged all his property, not omitting his *carpets*, two cows, and a sow and pigs, to secure the payment of some of his debts, and, probably to keep from the payment of others; as may be seen by reference to the county court clerk's office of Harrison county, where two mortgages are recorded. Both mortgages bear date the 24th of May 1824, and cover in part the same property. One of them was executed and recorded without the knowledge of the mortgagees, three in number. To one he owed 12 dollars, and to another 30 dollars, in commonwealth's paper, to the third, Mr Kendall, he owed the balance of about 74 dollars, of a note given for 110 dollars in specie. On this note Mr Kendall has brought suit in the Harrison circuit court, and his honour has filed a plea of payment, notwithstanding he had executed said mortgage to secure the payment of said debt, a balance whereof is acknowledged in said mortgage to be due. Yet he now comes into court, and by his plea denies that any thing is due to said Kendall, although no payment is alleged by him to have been made since the date of said mortgage. It seems to me, that his honour has in his business gotten a kink in his head, and that it may require the aid of his brethren of the bench to get it out for him. Mr Trimble tried the practice of the law with but poor success, and always stood at the tail end of the bar, in every court, county or circuit, he attempted to practice in. Yet, he was appointed a circuit judge, like others because he could not get along by the practice. When he was in nomination before the senate for a judge of the circuit court, the senate rejected him upon the ground of his supposed insanity. But, upon a motion to reconsider his nomination, and upon proof that his apparant derangement might have arisen from fever or intemperance, they finally passed his nomination; but met with great opposition.—And it is still remains a doubt with many who practice before him, whether he was or was not subject to partial derangement. Perhaps this idea may have been strengthened from the singularity of the man, in keeping his head constantly shaved. It is said Mr Trimble turned speculator some time past, and has involved himself so much in debt, as to be afraid to leave uncovered any property he owns. I was present in the Bank of Kentucky, when a check of that gentleman of 6 1-4 cents was produced, and the cashier examined, but no funds were there of his, to meet the check. I have also to lament his honour's shortness of memory; for in 182— he was good enough to promise me to take with him to Harrison county, my fees of the preceding year, and to procure the sheriff's receipt for them for me. The bills to the amount of —— dollars were given him, but what his honour did with them he cannot recollect. One of the persons against whom one of the bills were issued, has since informed me that he paid the bill against him to a Mr Samuel Hall, a constable of said county; but I have nothing to show how Hall got them.

Of the 4th judge I shall say nothing farther than that I am sorry to see him in such unfortunate company, and enlisted in so bad a cause. It is with him, and those who know him better than I do, to settle the propriety of his conduct, and his fitness, for the station he fills.

And, before I speak further of the means by which Mr Barry has obtained the station he fills, may I not appeal to you, fellow citizens, of every class and grade of talent, of all parties, who have the good of your country at heart, to pause and ponder upon the court the last legislature has given us. It has been the object of all wise legislatures, both in England and America, to put a stop to those deeds of trust and fraudulent conveyances, by which men cover their estates from their creditors. We have statute upon statute against the practice; and yet, to render these statutes dead letters, to countenance, nay, to encourage this practice, men who have not only covered their own estates, but who cover immense estates for others, are made the judges in your court of the last resort.

I do not mean to insult the unfortunate debtors. I am one myself. I admit that there are many good men who are in debt, and unable to pay their debts. I do not mean to revile speculators, for a man may be honourable and be a speculator. But I appeal to all honest upright men, to say, whether our court of the last resort should be composed of broken speculators, or men who have their estates wrapt in mortgages, and placed beyond the reach of law when administered by themselves? Give us men for this court, out of debt, whose characters, as honest men, stand fair, no matter who they be if they be legally qualified for the duties of the office. In the decisions of such men, we would confide, for they having property and character to lose, as well as the compensation and honour of office; would find it their interest as well as their inclination to do right. They would render justice to the weak as well as strong; to the ignorant as well as wise; to the poor and humble, as well as to the rich and exalted; they would regard, with an even eye of justice, the case of all, without respect to the counsel concerned, and appreciate the value of the arguments of the counsel for each side. There would be no seeking for lawyers who have the EAR of the court, or favourite minions of their honours, in preference to other counsel.—Merit, and not trick and intrigue, would prevail.

But to return to Mr Barry. That gentleman, and his friend Mr Rowan, did not think that it was constitutional in 1814, when we were in the midst of an arduous war, to pass a law giving the defendant twelve months replevin, if the plaintiff would not take Kentucky bank notes, or treasury bills. Nor could Mr Barry swallow the constitution in 1817, although the paper was nearly equal to gold and silver. But in 1819, after he had been *dismissed* from the directory of the branch bank of the United States, then circumstances altered cases with this gentleman. He has now no qualms of conscience; but, with his compeer John Rowan, comes out the champion of *relief*, and votes for a two years replevin, &c. In 1817 it was presumption, daring presumption, in Kentucky to attempt to tax the bank; in 1814 and 1817 she could not aid the poor nor the distressed after the war; but, in 1819, when Mr Barry's precious self, and his associates, had been bid to quit the bank of the United States, loaded with mountains of debts, created for high living, extravagance and speculation, all things then become changed, and this gentleman becomes the *champion of state rights*, and assists in bringing infamy on the characters of men, by connecting their names with the odium which is now heaped upon that bank. Yes, by attempting to render odious men who never had dealings with these banks, in any shape, while he, "good easy man," had sipped so freely of their honey, till his wings were unable to bear him off safely.

If Mr Barry and his associates, be dissatisfied with this expose, let them take it as the consequence of their own acts.—Even worms will turn when trodden on.—But can Mr Barry complain? he who to gain a seat on the bench of the court of appeals, trampled the constitution under foot, deceived the people by erroneous publications, then intrigued and caucused with the legislature until he effected his object! The time was when a man would be disgraced who would solicit the office of judge, much less resort to the means Mr Barry has done to obtain a seat in your court of appeals. Delicacy ought, under the circumstances, to have excluded him. But no; after aiding in persecuting the old judges from office, after persuading the legislature to violate the constitution, he, with astonishing boldness, proclaims himself your chief justice with $2000 a year; and now all the means in his power are employed to *deceive* and *mislead* the people into a belief, that the change of judges has been effected by no violation of your constitution! Letters are written by himself and his associates, as well as the man of the big cane so skilled to rule over the state, praising former legislators, advising and directing the bringing out of men on their

side. These letters from the chief justice, and chief magistrate, are shewn as make weights in the electioneering campaign, to such persons who think that a chief justice and a chief magistrate are mere than men. The *supreme* executive, and his *supreme* judicial power, are busily engaged to make the people believe impossibilities; that the salaries of the old judges were too high at $1500 per annum, and that they deserved nothing; but that the new judges are cheap at $2000, because they will do as the legislature shall direct them, so long as their pay is agreeable! and all who write or speak against these humble servants of the supreme judiciary and executive will, are denounced as enemies to the people, and threatened with executive and judicial proscription; while on the other side of the question, the constitution breakers are beating up for volunteers, and may have the promise of the spoils of the treasury, executive patronage, and judicial favours. To all who may accept the bounty, office and honours may await; but to those who love constitutional government more than executive smiles or judicial favours, pains and penalties are pronounced against them. If there be any among you who would be a bondsman, let him court the rewards and receive the offered bounty; him have I offended. But if there be among you, as I am confident there are, men who would scorn to sell their birth-rights for such meagre pottage, they will consider of these things, and do their duty at the polls in August next.

I fear I tire the patience of the reader; but he will please to bear with me a little longer, while I relate some more of the conduct of these judges of the 2d court of appeals.

We have seen Mr Barry, while acting as a senator of the state of Kentucky, and placed by his constituents as protector of their and the state's rights, leaving his senatorial seat above and descending to the lower department of the capitol, to plead the cause of the United States' bank, for a fee of $500 in specie; and, at the same time, drawing from the treasury of the state, which he as senator was bound to defend the rights of, two dollars for his daily pay, to set aside a law *which a large majority of the legislature of the state had passed.* We shall now exhibit him on another theatre, equally, if not more degrading to the character he would assume. It is this. Since he has been nominated, approved and commissioned as a chief justice of the court of appeals, he has been seen the hired advocate of the executive to defend his son, on a charge for highway robbery and murder. Instead of holding his court according to his own appointment; instead of administering justice in the high tribunal he aspired to, behold him! the dexterous lawyer, playing off all his fantastic acts of chicanery, with his compeer, Mr Rowan, to arrest the arm of violated justice!

The plea this gentleman makes, is, that he had taken his commission, but had not sworn to it. But did he not intend to take the oath? Had he not agreeably to his construction of things, divested the state of a chief justice, ousting Judge Boyle, and ejecting the rest of the judges? His next plea was, that he had agreed to appear for the Governor's son, before he was made judge: but was he not in expectation of receiving that appointment? It is well recollected with what vigour he joined in the censure upon Judge Mills, for entering the court house, to instruct another lawyer how to manage suits he had been employed in, prior to his appointment as a judge in 1819. Yet, after all his ranting and foaming in the Senate, against Judge Mills, for the above named offence, Mr Barry very deliberately and boldly parades to Cynthiana, with his commission in his pocket, and stoops from the lofty height of Chief Justice, to that of a Newgate Solicitor, in favour of one charged with, and believed by many to be guilty of, the most horrid murder. It has been detailed to you how this matter progressed and terminated, by those better acquainted with the facts than myself, on which my countrymen will judge for themselves. The trial being over, and Mr Barry having returned to Frankfort, we next behold him mounted on the seat of his power, (but after wading through much uncleanness to arrive at it) with justice Haggin on the right and justice Trimble on the left. They appoint F. P. Blair their clerk. He is their partizan: and I am ordered to render up to him the books, papers, &c. under my care as the constitutional clerk of the court of appeals. I return for answer, that I am the rightful clerk of the true court of appeals; that by the constitution I hold my office during good behaviour—a summons under date of 1824, is then issued, to command my attendance on their *worships.* I do not go. An attachment is then sent, and my body arrested and carried to court. On my not consenting to give up my books and papers, a parol order is issued directing *my house* to be broken open and to bring away the books and papers under my charge. The order is obeyed: my windows are broken down; my locks broken off; my drawers cut to pieces; my private papers ransacked; many of my private papers with the public records, &c. are carried off; and my private letters o-

pened, and scattered about the room; while I am retained under arrest to answer for a contempt alleged to be shewn by me in disobeying the arbitrary mandate of lawless power. In vain did I plead what the constitution of my country guaranteed, that there "shall be one supreme court," and that styled "the court of appeals;" that that court was of constitutional creation—that the judges held their offices during good behaviour, and could not be legislated out by a bare majority of the legislature: that the judges could only be constitutionally displaced by impeachment or an address of two-thirds of the legislature; that whether Messrs Boyle, Owsley and Mills, were in or out of office, the court of appeals still existed; that I had been appointed clerk to that court during good behaviour; that I could not be removed from office but by the judges of the court of appeals only; that I had not been removed by them; that the exercise and profits of the clerkship to said court, was my constitutional right; that it was a liberty I was entitled to, as long as I lived and the constitution was respected; that I could not be compelled to give evidence against myself; and, that I ought not to be fined or or punished for exercising my rights and liberties, and performing my official duties. In what did the replication to my pleading consist? Not in matters of avoidance founded in sound argument or reason and common sense; but in the hand of power, which after directing me to be insulted with sixteen questions, degrading even to the pitiful attorney general that drew them, I am fined 10 pounds. And why? because I had in the exercise of official duties, resisted their lawless proceedings, and would not yield to them my just rights. Fellow-citizens, let me lay before you some specimen of these insulting questions: "Are you actuated by any other motive than the desire to have the office of clerk of the court of appeals, and to no question of *principle* in your mind in relation to what is your duty?" "Who removed the records, &c. or any part thereof; who were concerned in it; who procured their removal; who abetted, counseled, advised, and aided you in it?" And may I not, in return ask, whether they were actuated by any other motive to remove the old judges, and myself from office, in order to shun the effects of the decision of those judges, in the case of White, &c. and Prentiss, heretofore noticed; and to no question of *principle*, in their own minds in relation to what were their duties as good citizens! Who were their aiders, abettors, counsellors and advisers? Will they "disclose fully and distinctly," to a deceived community, all they know in relation to the plans, combinations and secret *caucus* proceedings of last session; and state fully and freely, who composed those caucuses? Whether the executive department, was not often guilty of using the influence of its powers, over part of the legislative department, and endeavouring to produce a combination of the powers of both these departments, to the destruction of the judiciary department?

In vain has the 9th section of the bill of rights declared, "that the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause, *supported by oath or affirmation.*"

This same Mr Barry, and his associate judges, in the presence of the governor, and in defiance of this constitutional provision, do not deign to write a warrant, to describe what place is to be searched for papers, nor what papers are to be searched for; but direct the officer and his attending power to break open my house—yes, the house of a free born American, and who has never yet forfeited his rights and privileges as such—to rifle and bring away such papers, &c. as he deems proper. It is done. The outrage is committed, in this once proud land of freedom. But where is the remedy? The outrage is from the *usurper* himself, who first trampled your constitution under foot, and now puts his foot, as it were, upon the neck of a citizen.

My situation was one which demanded at the hands of any but cruel monsters, better treatment. It is well known that my whole life had been devoted to labour—by saving and economising my little earnings, I had reaped together something like a competency for old age. But from other's losses, and from securityships, I had sustained immense injury, and with the utmost difficulty had been able to keep from sacrifice my little property, and at the time of these transactions was well known to labour under heavy executions for security alone—one of which debts, Mr Bibb, who drew this monstrous bill, and Mr Blair, the clerk, were also securities with me.—Great friends of relief! they aided in taking from me my office, and thereby relieved me of the means of paying the debt, without a sacrifice of my property; while they acknowledge that their "mountains of debt," will preclude the probability of their ever paying any of it. My health had been much impaired by severe spells of the fever. I had long been deprived of the partner of my cares, who had left me a nume-

rous and helpless offspring, to cherish and to raise; among whom were two little boys, my only sons. affectionate and beloved.—Of these dear boys, the hope and stay of my declining life, I was deprived of in one day; the day preceding the governor's triumphant entry into Frankfort after his election. The state of my health, the fatigues and anxiety occasioned by the ill health of nearly all my family, together with my losses, had made a deep impression on my spirits; and although I had endeavoured to suppress its effects, it was too visible to be unnoticed. But these circumstances weighed nothing against the hand of power. My person is seized; my rights violated; and my feelings trampled on, as if I had been the vilest reptile. My grey hairs are made the subject of sport; new presses must be gotten for the new clerk, lest I should haunt him in the old ones in the shape of a "grey rat." And to demonstrate farther their savage joy to inflict a further laceration on my feelings, and to mock my distresses, they cause a proclamation to be drawn up, announcing the "surrender and capitulation of General Sneed." We read with horror of the Pirates, who rob, and then, in hellish mirth, make their victims walk the plank; and yet, we see these pirates on your constitution, violating private rights—stripping an individual of his just claims and private papers—and then impudently proclaiming the foul fact in ridicule and scoff; *when they know* that if ever the constitution is again the law of the land, before any honest tribunal upon earth, the only question can be—what can the perpetrators of the outrage pay?

ACHILLES SNEED.

Frankfort, Ky. June 1825.