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"The good and bad qualities of men are so blended, that it cannot be exactly known, where one ends and the other begins. This creates a source of uneasiness and jealousy among the people, and makes them extremely at a loss how to manage the distribution of praise and blame."

There is no situation in which men can be placed, where it is more difficult to ascertain their real motives of conduct, than when they are speaking of public affairs. However diversified may be the tempers of men, however opposite may be their pursuits, they seem generally to be agreed in this one point; that the concerns of the government might be managed better than they are.

Every man supposes he possesses a good share of public spirit. While patriotism is the pretence, it is a very plausible cover for ignorance, ill-nature and self-interest. There are so many mischiefs resulting from the deception which is imposed on the world, by the false colors which the passions and characters of men assume, that I could wish my readers would call their attention to a little self-examination. Several persons of my acquaintance often meet in a club to discuss political subjects; and whenever I fall in their company I have observed, they are fond of shewing their patriotism by pointing out some of the errors of the government, and suggesting hints of improvement. I should be wanting in candor if I imagined all their observations were dictated by sinister views. Men, who support an unblemished reputation in the private walks of life, are entitled to some degree of indulgence, when we are construing the motives of their conduct relative to public transactions. Under this persuasion, I will mark the outlines of some characters, who I perceive have some influence in forming and controuling the popular opinions and wishes. The result will prove that men without any bad intentions often mistake the public good, and excite clamour and uneasiness when no cause exists.

INFELIX is a man who, in many respects, possesses real worth and excellence. He is only bad in appearance. Any one, who passes an hour with him, will go away dissatisfied; but upon a more intimate acquaintance many good qualities may be discovered. It is to be regretted, that so worthy a man often makes himself and others unhappy, by the irritability of his temper. From a natural restlessness of spirit he is so habituated to murmur and fret, that no character or event escapes the strokes of his peevishness. When he is speaking of public men and measures, one would imagine, he is the inveterate enemy of both. But there is not any man, whom it would be more difficult to draw into any deliberate act of sedition; and there are few men, from whom the community derives more substantial benefit. With an incessant spirit of complaint, he pays his taxes and performs other duties required of him, in better season than any of his neighbors, and with as little captiousness as he eats his dinner. This cast of temper may rather be called ill-humour than malice, and keeps a man habitually uneasy without provocation or design. It strikes at no determinate object, but rails indiscriminately at the times. Such a man is always discontented with present objects, without giving any reason why he is so; and wishes alterations, without being able to tell what they should be.

If I remonstrate with my friend INFELIX and urge him to check his fretfulness, he will scarce allow that he has a complaining spirit. When he has been, for several hours, throwing censure on public affairs, if he is told of it, he recollects little or nothing of the matter. He means no harm and really feels no enmity. Still, however, he is a dangerous associate. Many of his acquaintance believe he is a zealous patriot. They do not consider that he is constitutionally prone to murmur; and are apt to ascribe to a cool reflection, those remarks, which involuntarily flow from a habit of impatience and disgust.

I have another friend called BENEVOLUS, from whom it would be imagined, the public tranquillity had nothing to fear. He never speaks with any degree of spleen and resentment; and has such an habitual serenity of mind as to be the favorite companion of all his acquaintance. But strange as it may appear, BENEVOLUS sometimes shakes the confidence of his friends, in the public proceedings. From a strong desire to see the affairs of the community prosper, he beholds with too lively sensibility every occurrence that counteracts so benevolent a wish. The truth is, he thinks too favorably of mankind, and is led to expect more than events will authorize. As he has no just ideas of human nature, when he perceives instances of imperfection in any indi-

viduals, he is apt to suppose other men are less liable to frailty. In short, he never suspects any errors in any person until he actually discovers them. BENEVOLUS, though a well disposed man, is a very weak one. His knowledge is not so extensive as his motives are pure. He has so defective a discernment, that he cannot distinguish between public misfortunes and public errors. His want of sagacity prevents his tracing disorders to their proper source: and makes him charge upon individuals those evils which result from the inherent nature of society. He will not complain with bitterness, but mildly expresses the pain he feels that public officers have so little patriotism and integrity. BENEVOLUS is perfectly honest in his principles and confines all his assertions within the limits of truth. The defect of his understanding exposes him to mistakes; and makes him inadvertently the dupe of men worse than himself. This good man, while he fervently wishes well, often does ill to the government.

(To be continued.)

NEW-YORK, SEPTEMBER 5, 1789.

SKETCH OF PROCEEDINGS OF CONGRESS.

In the HOUSE of REPRESENTATIVES of the UNITED STATES,

SATURDAY, AUGUST 29.

IN committee of the whole—Mr. BOUDINOT in the chair.—

DEBATE on the JUDICIAL BILL—continued.

On motion to strike out the third section.

MR. MADISON. It will not be doubted that some judiciary system is necessary to accomplish the objects of the government; and that it ought to be commensurate with the other branches of the government. Under the late confederation it could scarcely be said that there was any real legislative power. There was no executive branch; and the judicial was so confined as to be of little consequence. In the new Constitution, a regular system is provided. The legislative power is made effective for its objects; the executive is co-extensive with the legislative, and it is equally proper that this should be the case with the judiciary. If the latter be concurrent with the state jurisdictions, it does not follow that it will for that reason be impracticable. It is admitted that a concurrence exists in some cases between the legislative authorities of the federal and State governments; and it may be safely affirmed that there is more both of novelty and difficulty in that arrangement than there will be in the other.

To make the state courts federal courts is liable to insuperable objections. Not to repeat that the moment that is done, they will from the highest down to the county courts, hold their tenures during good behaviour, by virtue of the Constitution. It may be remarked that in another point of view it would violate the Constitution, by usurping a prerogative of the Supreme Executive of the United States. It would be making appointments which are expressly vested in that department, not indeed by nomination but by description, which would amount to the same thing. But laying these difficulties aside, a review of the constitution of the courts in many States will satisfy us that they cannot be trusted with the execution of the federal laws. In some of the States, it is true they might, and would be safe and proper organs of such a jurisdiction: But in others, they are so dependent on the State legislatures, that to make the federal laws dependent on them, would throw us back into all the embarrassments which characterized our former situation. In Connecticut the judges are appointed annually by the legislature, and the legislature is itself the dernier resort in civil cases. In Rhode-Island, which we hope soon to see united with the other States, the case is at least as bad. In Georgia even under their former Constitution, the judges are triennially appointed, and in a manner by no means unexceptionable. In Pennsylvania they hold their places for seven years only. Their tenures leave a dependence, particularly for the last year or two of the terms, which forbid a reliance on judges who feel it. With respect to their salaries, there are few States if any, in which the judges stand on independent ground. On the whole, Sir, I do not see how it can be made compatible with the Constitution, or safe to the federal interests to make a transfer of the federal jurisdiction to the State courts, as contended for by the gentlemen who oppose the clause in question.

Mr. JACKSON.—Sir, the importance of the question induces me to trouble the committee so far as to answer one of the arguments made use of in the opposition, and which I think necessary (to do away the impressions they may have made) should be answered. The gentleman from Mas-

sachusetts, (Mr. Sedgwick) has carried the nation to the highest pinnacle of glory, and in a moment hurled it down to its lowest pitch; and has laid the loss of national faith, credit, and honor to the want of an energetic judiciary.—Every good citizen will with him deplore the abject state we have been brought to; but, Sir, do his arguments hold good here? I am of opinion and it is evident they do not.—Under our old form of government Congress had no compelling judiciary—no power of reversing the decrees of the State Judges; but it is contended that they have or ought to have none under the present system? It is allowed, Sir, that Congress shall have the power in its fullest extent to correct, reverse or affirm any decree of a State court; and assuredly the supreme court will exercise this power. How then can our national faith or honor be injured by striking out the clause in future? It must be obvious to the gentleman himself that his fears are groundless: For the supreme court will interfere and keep the State judiciaries within their bounds. That authority will tell them, thus far shall ye go, and no farther, and will bring them back when they exceed their bounds to the principles of their institution.

Another gentleman from Massachusetts, (Mr. Ames) has advanced a position I cannot agree with; he has said that the State courts will, nor cannot take cognizance of laws of the Union, as it would be taking up matters without the bounds of their jurisdiction, and interfering with what was not left to them. Sir, I answer that gentleman with the words of the Constitution, "This Constitution and the laws of the United States made in pursuance thereof, and all treaties, &c. shall be the supreme law of the land"—this surpasses in power any State laws:—The judges are bound to notice them as the supreme law, and I call on the gentleman to know, as a professional man, if a criminal was tried for a capital offence under a State law and could justify himself under the laws of the Union, if the State judges could condemn him? Sir, they would forfeit their oaths if he was not acquitted;—this however he has admitted in his argument in some measure. If there was no jurisdiction, neither could they notice the law. I acknowledge that the gentleman has used many specious arguments; but as they rest chiefly on this ground, I think they are done away.

The gentleman (Mr. Madison) from Virginia, has advanced that by leaving this power in the hands of the State judiciaries, or by joining their concurrent authority, you establish them as inferior jurisdictions. If the gentleman will turn to the 11th and 25th sections, he will find both those positions established, and what fell from the gentleman from Massachusetts concerning jurisdiction is likewise answered. The State courts by the former are acknowledged to have concurrent jurisdiction in a large extent, where the United States or an alien are a party, or between citizens of one State and those of another. And if the jurisdiction is acknowledged in some points, it must be supposed to be so in the fullest extent. By the 25th, Sir, they are again fully established, and therefore they are now by the present system in every light as fully, agreeably to the gentleman's argument inferior jurisdictions, as they possibly could be by the principles of the gentleman from New-Hampshire. And here Sir, I will advert to the general arguments, used by the gentlemen in opposition, of the necessity of power to enforce the laws of the Union and support the national existence and honor. Sir, I am opposed in some degree to this clause. For the extent of its power, even supposing the district and circuit courts abolished, swallows up every shadow of a State judiciary. Gentlemen have therefore no reason to complain of the want of federal judiciary power, for the clause declares, "That a final judgment or decree in any suit in the highest court of law, or equity, of a State in which a decision of the suit could be had, where is drawn in question the validity of a treaty, or statute of, or an authority exercised under the United States; and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity; or where is drawn in question the construction of any clause of the constitution, or of a treaty or statute of, or of a commission held under the United States, and the decision is against the title, right, privilege or exemption specially set up, or claimed by either party under such clause, of the said constitution, treaty, statute or commission; may be re-examined and reversed or affirmed in the supreme court of the United States." Sir, in my