

paper money. Can he be required to relinquish that security in order that he may become entitled to the benefit of this new created right, to have execution?—By such inventions every constitutional right may, in succession, be bartered away. Constitutional rights are vested, unexchangeable and unalterable. They belong to posterity as well as to the present generation. We may use and enjoy, but not transfer them: and every such condition is utterly void. If execution can be suspended on any condition, then the legislature has an absolute power to suspend it forever. How easy is it to invent a thousand conditions, with which no man in his senses would comply? If the right is newly created and the condition void, it must vest without the performance of the condition, and the result is, that, if the right be antecedent, suspension is an unconstitutional penalty; if it be newly created, the condition is unconstitutional and the right vests absolutely—In either alternative, the endorsement need not be made.

This conclusion follows upon a correct interpretation of the clause prohibiting tender laws. It equally follows a just interpretation of the sentence prohibiting laws to impair the obligation of contracts contained in art. 1st, sec. 10, of the constitution of the U. States, and in art. 11 sec. 20, of our bill of rights. A grant made by the state, being an executed contract cannot be revoked by the legislature if pursuant to a law made by them selves; this point is so decided in *Fletcher vs. Peck*. With respect to executory contracts, it will be admitted, without controversy, that the terms and conditions of them, cannot be in any respect, altered or interfered with by the legislature.

The time, place, person, or thing to be done cannot be changed by act of assembly. Covenants sometimes by ex post facto circumstances, become unreasonably burdensome. He that covenants to pay rents for premises he never enjoys, by the accidental bursting of them must, nevertheless, pay the rent. A man agrees to perform a voyage by sea under a penalty, by way of stated damages for non-compliance, and he is hindered from an exact compliance by adverse winds, still he must pay the penalty. In these, and all other cases of contract the legislature cannot interfere to make them more just or reasonable than the parties have made them. For thus no contract could be made, that the parties might depend on, for fear of the new modelling interposition of the legislature. Thus far is plain: but still the question remains, is the suspension of execution within the prohibition? Does an act to suspend execution impair the obligation of contracts made before it? What the obligation of a contract is, may be discerned by considering what it is that makes the obligation. The contract alone has not any legal obligation, and why? Because there is no law to enforce it. The contract is made by the parties, and, if sanctioned by law, it promises to enforce performance should the party decline performance himself. The law is the source of the obligation, and the extent of the obligation is defined by the law in use at the time the contract is made. If this law direct a specific execution, and a subsequent act declare that there shall not be a specific execution, the obligation of the contract is lessened and impaired. If the law in being at the date of the contract give an equivalent in money, and a subsequent law say the equivalent should not be money, such act would impair the obligation of the contract. If the law in being at the date of the contract give immediate execution, on the rendition of judgment a subsequent act, declaring that the execution should not issue for two years, would lessen or impair the contract equally as much in principle, as if it suspended it forever; in which latter case, legal obligation of the contract would be wholly extinguished. The legislature may alter remedies; but they must not, so far as regards antecedent contracts, be rendered less efficacious or more dilatory than those ordained by the law in being, when the contract was made, if such alteration be the direct and special object of the legislature, apparent in an act made for the purpose. Though possibly, if such alteration were the consequence of a general law, and merely incidental to it, which law had not the alteration for its object, it might not be subject to the imputation of constitutional repugnance. The legislature may regulate contracts of all sorts, but the regulation must be before and not after, the time when the contracts are made.

Our state constitution, art. 11, sec. 7 ordains, 'That all courts shall be open, and every man for an injury done him in his lands, goods, person, or reputation, shall have remedy by course of law and right and justice administered without

sale, denial or delay.' This clause refers to every possible injury which a man may sustain, and which affects him in respect to his real or personal property, or in respect to his person or reputation, and includes the right, which is vested in him, to demand the execution of a contract; which, being a personal right to a chattel, is when performance is denied or withheld, an injury to him in his goods or chattels. And with respect to it, right and justice is to be done, without sale, denial or delay. In magna charta, this restriction is upon royal power; in our country it is upon legislative, and all other power. We must understand the meaning to be, that, notwithstanding any act of the legislature of our country, every man shall have "right and justice" in all cases without sale, denial or delay."

In 1796 when the constitution was formed it could not have been apprehended that any other department of government, except that of the legislature would ever have weight enough to offer any obstruction. Experience from 1777, had fully demonstrated the imbecility of every executive office in the U. States. From the executive no such offer could be anticipated. In 2d institute 55, my lord Coke says, the king is the speaker, and in contemplation of law, is constantly present in all his courts pronouncing the words of magna charta, ' *Nulli v. ndimus, nulli negabimus, aut differemus justitiam vel rectum.*' In Tennessee, every legislature is in contemplation of law during the whole session, and the judge of every court during the whole term, in the constant repetition of the words "right & justice" must be "administered without sale, denial or delay." In 2d institute 56, justice is said to be the end and right the mean, whereby we may attain the end, and that is the law. What that mean consists in, is more specially explained in Sullivan 523, where it is stated to be *original and judicial process*. Original process, he says, must issue without price, except that which the law fixes, and without denial, though the defendant be a favorite of the king or government who interferes in his behalf, and must be proceeded on by the judges after suit instituted upon it, without delay, themselves, or by order of the king, or, as we say, act of the legislature. And the judges where the causes depend, must issue the proper judicial process, without fee or reward, except that fixed by law. In other words where judgment is rendered, the judges shall cause execution to issue, notwithstanding any order or act of assembly, or other pretended authority whatsoever.

This is the long fixed, well known meaning and legal construction of the words, right and justice, without sale, denial or delay. They clearly comprehend the case of executions suspended by act of the legislature in every instance, where justice requires that it should immediately issue; as it manifestly does, where the law, operating upon the contract when first made, held out to the creditor the promise of immediate execution on after judgment.

There is yet another part of our constitution which some suppose takes from the legislature the power to suspend execution. By our bill of rights, sec. 20, no retrospective law, &c. This clause, taken in its common and unrestrained sense, extends to all prior times, persons and transactions, whether civil or criminal; yet, certainly there are some cases coming within its general scope, to which it does not extend. It does not extend to ex post facto laws, for they are prohibited by bill of rights, sec. 11. It does not extend to a law for extenuation or mitigation of offences, the remission of penalties or forfeitures. A present law may repeal a former one, or may enforce a contract heretofore made; or may make evidence a paper authenticated according to its directions, which was not evidence before, may suspend computation under the act of limitations for a certain time past, during which a war existed, or no courts were in being; nor are laws void, which give further time for the registration of deeds; nor for the disallowance of land warrants unfairly issued; nor divorce laws; nor laws making allowances to members of assembly, their clerks and doorkeepers, after the service is performed. That the term retrospective, has a very restrained meaning is abundantly testified by the conduct of subsequent legislatures and of the judicial tribunals of the country. In February, 1796, the legislature gave further time for the registration of deeds, and made registrations under it as good and valid to all intents and purposes, as if such deeds had been registered in proper time. Similar laws have been made in 1801, 1803, 1805 and almost at the expiration of every two years. These acts have been frequently held valid by judicial determinations.—The acts of 1796, chaps. 14 and 43, sec.

4, ch. 45. 1799, ch. 35, sec. 2, ch. 30. 1798, ch. 47. 1801, ch. 19. 1807, ch. 35, are all of them retrospective, in the most general sense of that term, but they are all of unquestionable validity—And what are the laws of 1801, ch. 24, 803, ch. 25, 1805, ch. 4 for confirming administrations granted & marriages solemnized under the Franklin government, and for giving old verdicts the force and effects of judgments entered upon them? In short, so many are the past transactions, upon which the public good requires posterior legislation, that no government can preserve order, suppress wrong, and promote the public welfare, without the power to do so. It is not withheld from any of the state governments, unless the present clause be an exception. Nor does the genius of free government demand that it should not be exercised; as it does that the legislature should not have power to pass an ex post facto law; because, with that engine, a dominant faction might spread destruction through the ranks of its political adversaries.

(To be continued.)

A. S. CAMPBELL & Co.

HAVE just received, and now opened and for sale in the house formerly occupied by Wm. E. Breading.

A GENERAL ASSORTMENT OF

Dry Goods and Groceries,

AMONG WHICH ARE

CLOTHS & SATINETTS,

CALICOES, assorted

BOMBASETTS, assorted

Cotton SHIRTING & SHEETING,

Cotton PLAD & STRIPES

WHITE,

RED, &

YELLOW } FLANNEL

Steam Loom SHIRTING

IRISH LINNEN

A General assortment of

QUEENSWARE.

DRAWING KNIVES & X CUT SAWS

NAILS, assorted

IRON and CASTINGS

TEA, COFFEE, & SUGAR

POWDER & LEAD

CANDLES

BED CORDS & PLOW LINES

And a very general assortment of Ladies, Gentlemen's and Children's

SHOES & BOOTS

SALT, WHISKEY, FLOUR, by the barrel

LOGWOOD, FEATHERS

And a number of other articles, all of which will be sold low for cash or Beeswax.

374 Vincennes, Oct. 20, 1821.

40 Dollars Reward.

STRAYED or stolen from the subscriber two SORREL MARES—one a large likely mare, 16 hands high, six years old, a small star in her forehead, right eye looks muddy, a small scar on her right fore leg, large feet, has never been shod, had on a small bell fastened with a rope.—The other a two year old colt of the former, about 14 hands high, very short mane, the hair has been rubbed off her tail, a snip down her forehead. The above will be given for the creatures if they are stolen on the conviction of the thief, or \$20 for the creatures alone and all reasonable expenses paid if brought home.

THOMAS GOODE.

Wayne county, II. Nov 2, 1821.

STATE BANK NOTICE.

THE board of Directors of the Branch Bank will meet in Palmyra, on Monday the 12th day of November next, for the purpose of receiving applications for Loans, from such of the citizens of Edward, Wayne, Lawrence, Crawford, and Stark counties, as may apply.

Applicants will be required to govern themselves by the rules of said Bank as published in the Western Sun, at Vincennes, on the 18th of August last.

By order of the Board of Directors,

EDWARD H. PIPER, Pres.

Palmyra, Aug. 23, 1821.

AS some of the papers above referred to may be misplaced, and as applicants generally apply for sums not exceeding one hundred dollars, I will here give the form of the note or notes required.

"Twelve months after date, we jointly and severally, promise to pay the President and Directors of the State Bank of Illinois, or order (for the use of the people of said State) — dollars, payable without defalcation, at their Branch Bank at Palmyra, for value received. Witness our hands and seals this —.

EDWARD H. PIPER.

BEEES WAX WANTED

THE subscriber will pay the highest market price in cash for Bees-wax.

DENNIE SAYRE.

Vincennes 11th Aug. 1821.—28-6m.

A few copies of the CONSTITUTION of Indiana, for sale at the Sub office.

BAR-IRON & CASTINGS.

JAMES & Mc ARTHUR.

Manufacturers of Bar & Cast-Iron

AVE opened a STORE on Market street, Vincennes, where they intend keeping a constant supply of the above articles.—They have just received from their Iron works.

20 Tons BAR-IRON of superior quality.—including

PLough MOULDS,
WAGGON TIRE,
MILL SPINDLES,
AX, & HOE Iron, &c &c.

ALSO,

20 Tons Castings,

AMONG WHICH ARE

700—10 & 12 Gallon Kettles,

100—15 do. do.

50—20 do. do.

And a general assortment of

Hollow-Ware,

Very light and handsome.

All which they offer for sale by the mal or large quantity, at reduced prices. MERCHANTS in the country will have an opportunity of purchasing upon good terms, and selecting from the best assortment in the western country.

26-tf Vincennes, July 1821.

To Benjamin Olney,
TAKE NOTICE,

THAT I have this day deposited in the hands of the County Treasurer of Knox county, the sum of \$141 97 cents, in specie, being the amount of tax on my lots Nos 58 62, 77, 74, 99 100, 103, 106 113, 126, 137, 140, 142, 145, and 152, in the Donation, Knox county, for the year 1820, & the premium thereon, agreeably to law; having been purchased by you on the 4th of Nov 1820.

JAMES ABBOTT.

Knox county, Ia. Oct. 18, 1821.

G. R. C. SULLIVAN,

(ATTORNEY & COUNSELLOR AT LAW)

WILL practice in the first Judicial Circuit, of the state of Indiana and in the counties of Crawford and Edwards in the state of Illinois.—He may always be found at his office in Vincennes unless when absent on professional business—he has made an agreement, for business forwarded to him, in his absence, to be attended to.

51-tf

AUCTION.

TRUSTEES SALE.

ON Monday the 5th day of November next, at the house adjoining the store of Samuel Tomlinson, all the remaining

STOCK OF GOODS

assigned for the benefit of the creditors of Owen Reiley, will be sold to the highest bidder for cash.

SAMUEL TOMLINSON,

ARTHUR PATTERSON,

Trustees.

October 26, 1821.

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\$50 REWARD.

RANAWAY from Shelby county, Plumb creek, Ky. on the 12th inst. a bright mulatto man by the name of

NED,

about 32 years of age, about 5 feet 9 or 10 inches high, very straight made, and rather raw boned, one of his fingers next to his little one is disfigured and a little twisted towards the end, he has also a small sore on the back of his head, and a mole between his eyes on the nose; he carried off with him a blue ground check factory coat, and a white pair of pantaloons, and yellow nankeen pants; it may be well to recollect that this man is very fair, and at a short distance might not be known from a white man, but when his hat is off it shows him more particularly; he has fierce, keen, black eyes, and very little beard or whiskers—He stole from me at the same time a dark bay horse, about 14 hands high, 8 or 9 years old, has a small star and snip, and on his withers two small scars where he was burnt for the fistelow, the tip end of his left ear is off, and is a very good work horse. This fellow was seen in the neighbourhood of Peola, Ind.—I will give forty dollars to any person who will secure the fellow in any jail so that I get him, or fifty dollars for the fellow and horse.

STILWELL HEADY.

August 20th, 1821.—36-8m.