



TUESDAY,

MARCH 25, 1800.

St. JOHN: PRINTED and PUBLISHED by JOHN RYAN, Printer to the KING'S MOST EXCELLENT MAJESTY, at his Office, No. 58 PRINCE-WILLIAM Street, where ESSAYS, ADVERTISEMENTS, &c. will be thankfully received.

[VOL. XIV.]

[NUMB. 723.]

## Great Bargains for CASH.

JOHN L. VENNER,

Now offers for Sale, at Prime Cost and Charges,

THE whole of his remaining STOCK, containing among many others, the following valuable Articles:—

PRINTED Linens, Cottons, Calicoes and ell-wide Chintzes, 4-4, 5-4 and 6-4 fashionable Shawls—all colors, Plain, corded and figured Dimities and Mullinets, Marseilles Quilting for waistcoating and ladies' wear, Striped, figured & checked Gingham, Common and super Diaper Cloths from 5-4 to 12-4, Ditto and do. do. Cloutings of all prices, 7-8, 4-4 and 6-4 Linen and Cotton Checks, 4-4, 5-4 and 6-4 plain, striped, checked and sprigged book and jaconet Mullins, Elegant painted, laced and satin japan Mullins for dresses, 9-8, 5-4 and 6-4 Cambric Mullins—fashionable and much worn, Cotton Cambrics all prices, and a few pieces real French Cambric, superior quality, Black, white and colored Satins, Pealings, Lustings, and Sarsenets, Black Silk Florentine, and superfine Princes Stuff, Black and colored Silk Handkerchiefs, all sorts and sizes, An elegant Assortment of fashionable Ribbons, all widths and prices, Black and colored Sewing Silks and Twists, White and colored Threads, Tapes and Quality Bindings,

Mens, Womens, and Childrens Silk Cotton and Worsted Hose, Mens and Womens long and short Silk and Leather Gloves—a great variety, Superfine and common Cloths, Baizes and Flannels, Fashionable plain, figured and striped Kerseymeres, An elegant assortment of fashionable Waistcoating, Corduroys, Thicksets, Velveteens, Jeans and Fustians, Camblets, Calamancos, Shalloons, Moreens and Wildbores, Mens, Womens and Childrens Boots and Shoes, all sorts and sizes, Elegant figured and embroidered Ladies Sandals, Fashionable Hats & Bonnets for Ladies, with Plumes and Feathers, Gentlemens drab Hats and a few Patent Silk ditto, so much admired, Seine, Salmon and Herring Twine, Soap, Candles, Starch, Hair-Powder, and Fig Blue, Powder and Shot, Leaf and twist Tobacco, Black Pepper, Ground Ginger, and Spices of all kinds, Stationary and Perfumery, an assortment of each, 6 by 8, 7 by 9, 8 by 10, London Crown Glass, in Boxes of 50 feet each, Hardware and Cutlery, a pretty general assortment;—with a number of patent Articles in that line.

MR. VENNER having determined on closing his Business here, and intending for England the ensuing Summer, has adopted this public method of accommodating his Friends.—He requests those inclining to become Purchasers, will make speedy application—and acquaints them that such of the Articles as remain on Hand, after the last of April, will be Sold at Public Auction, by Mr. Andrew Crookshank, without reserve, on MONDAY the 5th MAY next, and the succeeding days, till the whole are struck off.

MR. VENNER requests those Indebted to him by Bond, Note or Book Debt, will bear in mind this timely Notice, and settle their respective Balances by the 1st JULY at farthest.—And those having any Demands against him are desired to present them for Payment.

N.B. CASH and the Highest Prices paid as usual for all kinds of SKINS and FURS:—And every Article of COUNTRY PRODUCE will be received in Payment at FAIR PRICES. SAINT JOHN, 4TH MARCH, 1800.

### THE PARTNERSHIP OF William & John Melick,

Being Dissolved by mutual consent, request all those who have any Demands on them to call for payment;—and those who are indebted to the Partnership are desired to make payment by the 1st day of May next, so that they can settle their Accounts. St. John, 1st March, 1800.

### WILLIAM MELICK

RETURNS thanks to his Customers and the Public in general for their past favors, and solicits their continuance. He has removed from the Lower Cove to King-street, where he carries on his business in all its branches.

### BENAJAH BURTIS,

HATTER, RESPECTFULLY informs his Friends and the Public in general, that he has removed his Shop to York-Point, where he purposes to carry on his business extensively.—He flatters himself that he will be able to give satisfaction to all those who may please to favor him with a trial.

Ready made Hats may be had shortly after notice, and old ones neatly dressed. Saint John, York-Point, Nov. 5.

### TO BE SOLD,

And immediate possession given, THE CITY WIND-MILL and Lot of Ground it stands on, with all its Apparatus, consisting of part of two sets of Running Gears, single and double, with a pair of excellent Burr Stones, a Bolt, Reel and Chest, with almost every article necessary for either a Wind or Water-Mill. It will be sold either with or without its Gear as may best suit the Purchaser.—For particulars enquire of WILLIAM MELICK, Tanner, King-street, or ASA BLAKSLER, Tallow Chandler, Duke-street.

Should it not be sold before the 1st day of May, it will then be set up at Auction and struck off to the highest bidder. St. John, 1st March, 1800.

ALL Persons having any demands against the Estate of JAMES EVERIT, late of Digby, mariner, deceased, are requested to exhibit the same within Eighteen Calendar Months, for adjustment—and all those indebted to said Estate are desired to make immediate payment to either of the Subscribers. CATHARINE EVERIT, Administratrix.

JAMES REID, Administra. Digby, May 6, 1799.

### FOR THE ROYAL GAZETTE.

MR. RYAN, AS there seems at present to be a dearth of news, I send you Judge BENSON'S argument, taken from the American papers, upon a motion in arrest of judgment, in a cause tried before the Supreme Court in the State of New-York a few years ago, which is so replete with good sense, legal knowledge and sound reasoning, that I think it cannot fail to be read with satisfaction by the numerous Patrons of the Royal Gazette, as well as every admirer of the wisdom and simplicity of the English Constitution and Laws, and their superiority to every other political system hitherto adopted among mankind. Your's, A CONSTANT READER.

Argument of Mr. JUSTICE BENSON, in a late Case tried before the Supreme Court in the State of New-York.

THE PEOPLE of the State of N. York,

vs. JOSEPH WEBB, otherwise called Josiah Stiles. BY a statute of this State, passed the 7th of Feb. 1788, it is among other things enacted, "that if any person shall utter or publish as true a forged promissory note for the payment of money, knowing the same to be forged, every such person being thereof convicted according to the due course of law, shall be deemed guilty of felony, and shall suffer death as a felon."—The defendant was in April term, 1794, convicted on an indictment for a felony, on the clause of the statute here cited: but the forgery being a forgery of a note made by the President, directors and company of the bank of the United States, a corporation created by a statute of the United States, and thereby enabled to make promissory notes for the payment of money, the following questions have thereupon occurred. 1st. Is not the fact charged against the defendant "an offence against the United States," as it is expressed in the Constitution of the United States, Art. 2, Sect. 3, or doth it not constitute "a case to which the judicial power of the United States doth extend, as arising under their laws," as is expressed Art. 3, Sect. 2? If so, then secondly, hath a State Court jurisdiction in the case?—On these questions judgment against the defendant hath been stayed hitherto.

These questions when examined will discover themselves to be very important, and as there will therefore be a proportionable responsibility for the judicial opinions respecting them, I have from that consideration been induced to commit the reasons or principles of that opinion, which I shall give to writing, in the form of an argument.

Although the questions as stated are supposed to be distinct and independent, they however appear to me to be inseparable, and that the affirmative of either of them, necessarily involves the negative of the other; and so I shall consider them, and I shall endeavour to be as concise as perspicuity and conclusiveness will permit.

By the Constitution of the United States, in reference to the present questions, it is implied, 1st, that every act, punishable as a public offence, however complex it may be, is to constitute a case not partible, in respect to jurisdiction, between the United States and the State within which such act may have taken place. Supposing A. kills B. supposing further that he burns the house of B. if A. when he killed B. was in open rebellion against the United States, and if he killed him by resisting him when lawfully attempting to suppress the rebellion, and if he burnt the house with intent thereby to deter others from attempting to suppress the rebellion, the killing and burning would then be adjudged malicious, and consequently be

respectively murder and arson; but being combined with the act of rebellion, they do, together with it, become a complex act, constituting a case of the offence of treason, "in levying war against the United States."—It is not easy, perhaps not possible, to conceive an instance, as it were in the converse, exemplifying a simple act a less offence, and existing as such an offence against the United States, but being combined with another act, a greater offence, becoming thereby an inseparable part of a complex act constituting an offence against the State—the reason, as I perceive the subject, is, that every simple act, in itself criminal, so as to be punishable by law, will be considered an offence against the State of course, and will become an offence against the United States in consequence only of a circumstance which may happen to be attached to it; and although a simple act may, by reason of a circumstance, be an offence against the United States, yet it may, by being further combined with another act, then become an inseparable part of a complex act, constituting a case of an offence of a greater degree, and as such an offence against the State.—The circumstance by which an act, otherwise existing as an offence against the State, may become an offence against the United States, may, or may not, so affect the act as to render it more offensive.—To explain what I here mean.—If A. assaults B. it is an offence against the State; but if B. when assaulted, was an officer of the United States, and in the execution of his office, this is a mere circumstance, and in this instance a circumstance of aggravation, and the assault, so circumstanced, is an offence against the United States.—If A. not only assaults B. so being in the execution of his office, but if further he murders him, then the assault by such further combination becomes an inseparable part of a greater offence, and an offence against the State. The act charged against the defendant, in the case now before the court, is, as will be more particularly stated, a cheat; the artful device, or the mean used, was a forgery of a note of a Corporation created by the United States; this is a mere circumstance, and not of aggravation; the act would have been equally aggravated, if the mean used had been a forgery or a note of a Corporation created by the State, or even of a note of an individual natural person; but by this circumstance, the simple act of the cheat becomes an offence against the United States.

2dly. That the same simple act cannot be an offence against the United States, and also an offence against the State, so as to be punishable by both.

3dly. That the acts of State Officers, in the cognizance of cases of offences against the United States, are to be deemed coram non judice, and therefore void as nullities, and so vice versa as to the acts of the United States Officers in cases of offences against the State.—What the consequences of such acts may be, if any are to ensue, to the agents, in cases of conviction and punishment, it not being necessary for me on the present occasion, I therefore forbear here to examine, much less to decide, and I only mention, that it doth not appear to me certain, that the rule, that where the Court hath general criminal jurisdiction, the mere error of the judge will not subject him or any other of the agents to be questioned, either criminally at the suit of the public, or civilly at the suit of the party aggrieved by the error, will avail them for their indemnity.—A United States Court and a State Court may, each of them, have general criminal jurisdiction; it will notwithstanding be found difficult, not to suppose, that they are respectively to be limited, the former to offences against the United States, and the latter to offences against the State.

These three several matters are necessarily implied in the Constitution of