November 1806.

4th

The Governor sent a message to the House of Representatives in writing by the Secretary as followeth to wit

Gentlemen of the House of Representatives

The Bill entitled "an act to Amend an act entitled an act to reduce into one the several Acts preventing vexatious suits and regulating proceedings in Civil cases" was presented to me on the 23rd day of December last, but the adjournment of the Legislature taking place on the 26th of the same Month and my ill state of health put it out of my power in so short a time to give the Bill that consideration which it merited. During your recess I have minutely considered it, and now return it to the House of Representatives wherein it originated, pursuant to the 25th section of the 3rd Article of the Constitution with my Objection.

By the act of the Virginia Legislature entitled "an act for establishing a Land Office and ascertaining the terms and manner of granting waste and unappropriated lands" it is enacted that "The person entering any Caveat shall take from the Register "a certified copy thereof which within three days thereafter he shall "deliver to the Clerk of the General Court, or such Caveat shall become "void; the said Clerk on receiving the same shall enter it in a book and thereupon issue a summons reciting the cause for which such Caveat is entered and requiring the Defendant to appear on the seventh day of the succeeding Court, and defend his right, and on such "process being returned executed, the Court shall proceed to determine the right of the cause in a summary way without pleadings in writing empannelling and swearing a Jury for the finding of such facts as are material to the cause, and are not agreed by the parties, and

shall

4th

"shall thereupon give Judgment, on which no Appeall or "writ of error shall be allowed"- those parts of the above recited clause which relates to the time allowed for returning a copy of the Caveat to the clerk of the General Court and for the appearance of the Defendant were altered by a Subsequent act of that State, so far as respected the then ~~State~~ district now State of Kentucky, but the residue continued in force at the time of the Separation of this State from Virginia. By another act of the Virginia Legislature entitled "an act concerning the erection of the Dis "trict of Kentucky into an independant State" and by the third article of the Compact therein contained it is declared "that "all private rights and interests of lands within the said Dis "trict derived from the laws of Virginia prior to such Seperation "shall remain valid and secure under the laws of the proposed "State, and shall be determined by the laws now existing in this State". and it is further provided in the sixth section of the said Act, that if the Convention of the proposed State should approve of the terms and Conditions therein Contained "the said "Articles should become a solemn Compact mutually binding on "the parties and unalterable by either without the Consent of the "other". and lastly by the 6th Article and 9th section of the present Constitution it is expressed that "the compact with the State of Virginia subject to such alterations as may be made therein Agreably to the mode prescribed by the said Compact shall be considered a part of this Constitution". It appears to me that no alteration can be made by the Legislature of this State to the then existing land law for determining disputes to the title of Lands which Originated under the laws of Virginia - without the Consent of that State. The 5th Section of the Bill now

returned expresses "that either party upon the trial of a Caveat be-
"fore any inferior Court may take an Appeal from the Judgment
"of such Court to the Court of Appeals, and the inferior Court is
"hereby directed to grant such Appeal either party praying the same
"entering into bond with good security in the time limited by law in
"other cases, conditioned to prosecute the said Appeal with effect to
"pay all cost and charges in case the Judgment of the inferior Court
"shall be affirmed, and the proceedings on an Appeal on a Caveat
"shall in all other respects be governed by the same laws and regu
-lated by the same rules as is practised in other cases of Appeals".

From what has been before recited, this section must appear in direct opposition to the law of Virginia in force at the time of the separation, which prohibited all Appeals on the trial of Caveats, and therefore to be considered as unconstitutional when applied to trials of title to lands originating under the said law: so far as the clause of the bill now returned applies to any title derived from the laws of this state, it will be perfectly Constitutional, the Legislature having the uncontrolable power of regulating all proceedings therein, but although the Bill contains many valuable regulations; yet as it makes no discriminations between claims originating under the laws of Virginia and this state, it is returned believing it incompatible with the Compact and consequently Contrary to the Constitution.

5th

This day at one O'Clock the Governor met the Senate and House of Representatives in the Chamber of the House of Representatives, and delivered his Communication as followeth.

Gentlemen of the Senate and
Gentlemen of the House of Representatives

November 1806.

The period of your annual meeting has arrived, and I am pleased to be able to say that since your last session, no political occurrence of a singular or extraordinary kind has transpired: Happily with us, the lapse of a year is marked only by the roll of seasons and the resulting avocations of man— Instead of mingling condolence on the ravages of war or deploring the convulsions of intrigue or faction we have to facilitate ourselves and we ought to feel a gratitude to the ruler of events, that the Government of America has as yet been permitted to escape those worst of evils— that she enjoys peace and that all is tranquil— We ought not however to forget that from foreign war, or domestic inquietude no Government whatever has escaped— that appearances at present are rather inauspicious— and that our reliance in either event under a benign providence, may be well placed in the attachment of our citizens to their Government; in their unanimity and co-operation so signally displayed in the Revolution, and in a redeeming energy in the texture of the General Government, upon which as upon the political rock of our political salvation let us entirely repose.

In viewing the aspect of things at home— We find that the roll of the last season has not been the most kindly; the alarm excited by the long and severe drought was felt by all, and forebodings of the most unpleasant kind indulged; but thanks to an indulgent providence such is our enviable situation in point of soil and climate that the most forbidding season has no other influence upon our

harvests, than to reduce habitual profusion down to temporary economy, without imposing distress or inflicting want upon any grade of society — Such only I feel a pleasure in saying has been the effect of the last season on this favoured land — — Agriculture commerce and manufactures, seem to be shaping their own course and to be in a state of silent but perceivable progression — Ease and contentment appear to be the most prominent traits of the general complexion and yours Gentlemen is the pleasing task by Legislative vigilence and scrutiny still further to promote this happy state of things — The adaptation of a well matured and highly perfected system of Jurisprudence to this end is a point upon which none will dissent but one upon which I shall not at this time detain you — my former communications were at some length upon that subject — I cannot help remarking that the crouded docket and the frequent reversals in the Court of Appeals seem to indicate that the several statutes of Jeofails require revision and amendment — It is certainly not the interest of the Community that the rights of the individuals should be embarrassed by delay encumbered with expence and ultimately hang upon a point of technicality.

The finances of the Government for several years past have been low — Its creditors have been paid with paper which they have been constrained to pass off at a discount, both injurious to themselves and disreputable to the Government — It will no doubt have its merited attention with you.

November 1806.

It is with pleasure I inform you that the Penitentiary establishment owing to the industry vigilence and capacity of the present Keeper and Agent, bids fair to meets the most ardent anticipations of its humane projectors and advocates — It will not only answer its corrective purposes; but if arrangements be made for the constant supply of materials, it will by the labour of the Convicts, in addition to the defrayment of its own expences furnish a small annual revenue to the State. Attempts on the part of the Convicts to escape, and particularly an attempt made by some of them in the course of the last summer to set fire to the buildings seem strongly to invite Legislative attention to Penitentiary regulations, and to suggest the utility if not the necessity of providing an Engine for the extinction of fire. When the quantity and value of Public buildings at this place are considered and their liability to fire, the provision of an Engine would seem indispensible; but these subjects I submit to your Consideration.

Gentlemen the unhappy and very perplexing Confliction of titles to lands in this Country under the laws of Virginia has been felt by almost every individual in the state — It has been universally regretted and justly considered as the greatest and feared as the most interminable evil to which we are incident — It was with pleasure I saw it occupy the attention of the Legislature at their last session, I hoped that their wisdom would have devised a cure for this inveterate malady — for

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think it not incurable— but they rose without coming to any conclusion on the subject— they seemed to be deterred by the fractional provision against any alterations in the land laws— but when it is considered, that by the pation between this state and Virginia upon that subject it is provided that those laws or any of them may be altered by Consent of the contracting states, would it not be well to pass a law limiting this kind of dispute to a reasonable time accompanied with Legislative provisions to obtain the consent of Virginia? — The attempt is surely worth making.

Gentlemen let me solicit your very special attention to the several laws on the subject of the militia of this state— If the militia be as we boast it is, the reliance of a republic in every case of exigency, whether at home or from abroad— It is surely our soundest policy to have the laws upon the subject of its discipline and the duty of its Officers of every grade as clear and explicit as possible— It cannot be known at what moment over the continuance of a Government like ours may be made to hang upon the efficiency of its Militia— Therefore the importance of its being well regulated must be obvious.

Conformably to the act of the last session of the General Assembly entitled "an act to amend the act incorporating the Ohio Canal Company" I subscribed on behalf of the state the number of shares directed by the tenth section of that act: what progress or to what extent subscriptions have been obtained—

November 1806.

I am not informed, copies of the act with the report of the managers appointed by a former law, with the map and notes have been transmitted to the several states, and to Congress as directed by the resolution of the 21st of December last, as has also the memorial on that subject which was submitted to the House of Representatives of the United States on the 10th day of February last, but no decision had thereon.

The Origional Vouchers and other documents filed in the Auditors Office, for military services paid by this state, have been transmitted to the City of Washington and put into a train for examination.

I conclude Gentlemen with assuring you that my gratitude for restored health is heightened by the pleasure I feel in being able to make to you in person the declaration of my ready and sincere co-operation in every measure of public utility.

7th

The Governor remitted a fine of seven hundred dollars assessed on William Wood, and James Dillingham his security, by the Circuit Court of Christian County, on a forfeited recognizance, It appearing that the offence was very trivial and the fine enormous and unreasonable.

November 1806.

8th

The Governor remitted a fine of twenty pounds on James Chilcoat and John Chilcoat & Richard Wells his securities so far only as respected the said John Chilcoat and Richard Wells, it being imposed on them by the Clarke Circuit Court at their last October term upon a forfeited recognizance, It appearing that they had made all reasonable endeavours to prevent the forfeiture thereof. The Governor also remitted a fine on William S Richards for the sum of one hundred dollars assessed on him by the General Court at their last May term 1804 as commissioner of the tax for Scott County for the year 1803

10th

The Governor sent a Message in writing to the Senate and House of Representatives by the Secretary as followeth to wit,

Gentlemen of the Senate and of the House of Representatives.

In the course of the last summer, some affidavits were lodged with me stating several irregularities and impositions practiced by the keepers and other persons concerned at the Turnpike gate erected on the east side of the Cumberland gap under the authority of the State of Virginia, thereupon affidavits I forwarded to the Executive of Virginia requesting, that if the complaint could be removed by the power vested in the Executive, that it should be immediately enquired into otherwise the same to be laid before the Virginia Legislature. since forwarding those affidavits I have received information

that a new gate has been erected within a few feet of the Kentucky line in the gap of Cumberland Mountain, where they compel all travellers passing thro' that gap from this State or the State of Tennessee to pay Toll although they travel but about two or three hundred yards within the state of Virginia. I have thought proper to communicate this, for the consideration of the Legislature, together with a copy of the act forerecting the said turnpike.

11th — The Governor commissioned Alexander Woodrow James Guthrie, Samuel Stenning, Andrew Steele, Peavens Lawrence, Samuel Welch, John Evans and John Jones, Justices of the peace in the County of Jefferson during good behaviour, they having been recommended agreeably to the Constitution.

12th — The Governor commissioned David Irvine a Justice of the peace in the County of Madison during good behaviour, in the place of Richard Callaway resigned, the recommendation having been made agreeably to the Constitution

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14th & 15th — The Governor sent a Message in writing to both Houses of the Legislature, the one to the Senate on the 14th by Mr. Rowan and the one to the House of Representatives on the 15th by Mr. Wm. Greenup, & followeth (to wit,

Gentlemen of the Senate and of the House of Representatives

November 1806.

I lay before you sundry communications received from the Executives of the several States communicating the same as follows

No. 1. and 2. are Resolutions of States of Maryland and Tennessee, proposing an amendment to the Constitution of the United States.

No. 3. Is a Resolution of the State of Georgia approving of the Resolution of this State of Dec.r 19th 1804 proposing an amendment to the Constitution of the United States, and rejecting the amendments proposed by the States of North-Carolina and Massachusetts.

No. 4. 5 and 6. Contain Resolutions of the States of New-Hampshire, Rhode Island, and North Carolina disapproving of the amendment proposed by this State of Dec.r 19th 1804

15th. The Governor granted a pardon to Gerardus Lock who was sentenced by the Shelby Circuit Court at their February Term 1804 to Confinement in the Jail and Penetentiary House for four years for horse stealing, he having during the time of confinement behaved himself in a peaceable orderly and industrious manner and having paid off by his labour all charges of Prosecutions &c. and was therefore an object of mercy-

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19th. The Governor sent a message in writing to the Senate and House of Representatives by Mr. Wm. C. Greenup as followeth (viz.)

November 1806.

Gentlemen of the Senate and of the House of Representatives

John Adair Esqr having handed me his resignation as a Senator in Congress from this State, you will therefore see the necessity of having the vacancy filled in as short a time as convenience will permit-

11 The Governor granted a respite to a negro man slave named Caleb the property of Johnson Bain who was convicted at a Court of Oyer and Terminer at the Court house in the County of Shelby on the 16th day of October last, for Felony and sentenced to be hanged on the 20th day of this instant, the sentence was prolonged by the said respite until the first day of December next on which day the Sheriff of the said County was directed to proceed to execute the said sentence in the manner directed in the Judgment of the said Court

19th The Governor Commissioned David Hudspeth Sheriff of Warren County and John McFerran Sheriff of Barren County during the term prescribed by the Constitution they having been recommended agreably thereto.

30th The Governor granted a pardon to a Negro man-Slave named Caleb, in the following words and figures to wit,

Christopher Greenup Governor of the Commonwealth of Kentucky To all who shall see these presents or-

November 1806.

hear them read. Whereas at a Court of Oyer and Termi-
=ner held at the Court house in the Town of Shelbyville for-
the Circuit of Shelby on the 16th day of October in the year
of our Lord 1806. a certain Negro man slave named Caleb
the property of Johnson Bain was convicted of Burglary
and by the Judgment of that Court was sentenced to be hang-
=ed by the neck until he should be dead: which sentence has
been respited by me until Monday the first day of December
next. And whereas sundry Petitions and other applications
have been made to me on behalf of the said Negro Caleb
and assurances given that he shall be removed without the
limits of this State with all convenient speed. Now know
ye that by virtue of the powers vested in me by the Constitution
=on, I do by these presents Grant unto the said Negro man slave
a full and absolute Pardon for the Offence aforesaid, and that
he be discharged from all pains and penalties adjudged to be
inflicted on him by virtue of the sentence aforesaid and Con-
=demnation aforesaid.

In testimony whereof I have hereunto set
my hand and caused the seal of the Com-
=monwealth to be hereto affixed

L. S.

Given under my hand at Frankfort this
30th day of November in the year of our Lord one
thousand eight hundred and six and of the
Commonwealth the XV.