

But it is equally clear that this high exercise of power on the part of the judiciary should be exercised with great caution, and only when the act of the legislature is manifestly beyond the pale of its authority, for that department is the great depository of the power of the government.

The Chancellor is unable to perceive upon what principle this law is to be condemned. There is certainly no provision in the constitution and bill of rights of this state, which prohibits the passage of such a law, and it is impossible, it is thought, to bring it under the restraining authority of the constitution of the United States, which does not prohibit the states from passing retrospective laws generally, but only *ex post facto* laws, and laws impairing the obligation of contracts. *Charles River Bridge vs. Warren Bridge et al.*, 14 *Peters*, 339.

It is clearly settled by the high authority of the Supreme Court of the United States, that retrospective laws, and laws divesting vested rights, unless *ex post facto*, or impairing the obligation of contracts, do not fall within the provision in the constitution of the United States, however repugnant they may be to the principle of sound legislation. *Calder vs. Bull*, 3 *Dallas*, 386; *Slatterlee vs. Matthewson*, 2 *Peters*, 413; *Watson vs. Mercer*, 8 *Peters*, 88.

The law under consideration, is certainly not an *ex post facto* law, as laws of that character relate only to criminal proceedings; nor is it a law impairing the obligation of contracts, for so far from impairing the obligation of the contract, it gives it a force and efficacy which it did not possess before. That laws of this description are not prohibited by the constitution of the United States, was most clearly decided in the case of *Watson et al. vs. Mercer*, 8 *Peters*, 89, which affirmed the validity of a law of Pennsylvania, curing the defective acknowledgment of a deed made by a feme covert, passed after a recovery by the heirs of the wife, upon the ground of the defect, healed by the subsequent act.

But it is not only in courts of equity that the force of this moral obligation, which has the effect when it can be applied, of moderating the rigor of the laws against usury, has been felt,