

crime, which in the other is considered as innocent?

And the said Samuel Chase, for plea to the said second article of impeachment saith, that he is not guilty of any high crime or misdemeanor, as in and by the said second article is alleged against him; and this he prays may be enquired of by this honorable court, in such manner as law and justice shall seem to them to require.

The third article of impeachment alleges that this respondent "with intent to oppress and procure the conviction of the prisoner, did not permit the evidence of John Taylor, a material witness in behalf of the said Callender, to be given in, on pretence that the said witness could not prove the truth of the whole of one of the charges, contained in the indictment, although the said charge embraced more than one fact."

In answer to this charge, this respondent begs leave to submit the following facts and observations:

The indictment against James Thompson Callender, which has been already mentioned, and of which a copy is exhibited with this answer, consisted of two distinct and separate counts, each of which contained twenty distinct and independent charges, or sets of words. Each of those sets of words was charged as a libel against John Adams, as President of the United States—and the twelfth charge embraced the following words, "He (meaning president Adams) was a professed aristocrat; he proved faithful and serviceable to the British interest." The defence set up was confined to this charge, and was rested upon the truth of the words. To the other nineteen charges, no defence of any kind was attempted or spoken of, except such as might arise from the supposed unconstitutionality of the federal law; which if solid, applied to the twelfth charge, as well as to the other nineteen. It was to prove the truth of these words, that John Taylor, the person mentioned in the articles of impeachment now under consideration, was offered as a witness. It can hardly be necessary to remind this honorable court, that when an indictment for a libel contains several distinct charges, founded on distinct sets of words, the party accused, who in such cases is called the "traverser," must be convicted, unless he makes a sufficient defence against every charge. His innocence on one, does not prove him innocent on the others. If the federal law should be considered as unconstitutional, the whole indictment, including this twelfth charge, must fall to the ground, whether the words in question were proved to be true or not. If the law should be considered as constitutional, then the traverser, whether the words in the twelfth charge were proved to be true or not, must be convicted on the other nineteen charges, against which no defence was offered. This conviction on nineteen charges, would put the traverser as completely in the power of the court by which the amount of the fine and term of the imprisonment were to be fixed, as a conviction upon all the twenty charges. The imprisonment could not exceed two years, nor the fine be more than two thousand dollars. If then this respondent were defrauded of procuring the conviction of the traverser, he was sure of his object, without rejecting the testimony of John Taylor. If his temper towards the traverser were so vindictive, as to make him feel anxious to obtain an opportunity and excuse for inflicting on him the whole extent of punishment permitted by the law, still a conviction on nineteen charges afforded this opportunity and excuse, as fully as a conviction on twenty charges. One slander more or less, in such a publication as the "Prospect before Us," could surely be of no moment. To attain this object, therefore, it was not necessary to reject the testimony of John Taylor.

That the court did not feel this vindictive spirit, is clearly evinced by the moderation of the punishment, which actually was inflicted on the traverser, after he was convicted of the whole twenty charges. Instead of two thousand dollars, he was fined only two hundred, and was sentenced to only nine months imprisonment, instead of two years. And this respondent avers, that he never felt or expressed a wish to go further; but that in this decision, as well as in every other, even in the course of the trial, he fully and freely concurred with his colleague, Judge Griffin.

As a further proof that his rejection of this testimony did not proceed from any improper motive, but from a conviction in his mind that it was legally inadmissible & that it was, therefore his duty to reject it, he begs leave to state, that he interfered, in order to prevail on the district attorney to withdraw his objection to those questions, and consent to their being put; which that officer refused to do, on the ground "that he did not feel himself at liberty to consent to such a departure from legal principles."

Hence appears the utter futility of a charge, which attributes to this respondent a purpose as absurd as it was wicked; and without the slightest proof, imputes to the worst motives in him the same action, which in his colleague is considered as free from blame. But this respondent will not content himself with shewing, that his conduct in concurring with his colleague in the rejection of John Taylor's testimony, could not have proceeded from the motives ascribed to him; but he will shew that this rejection, if not strictly

legal and proper, as he believes and insists that it is, rests on legal reasons of sufficient force to satisfy every mind, that a judge might have sincerely considered it as correct.

The words stated as the ground of the twelfth charge above mentioned, are stated in the indictment as one entire and indivisible paragraph, constituting one entire offence. This respondent considered them at the trial, and still considers them, as constituting one entire charge, and one entire offence; and that they must be taken together in order to explain and support each other. It is clear that no words are indictable as libellous, except such as expressly, or by plain implication, charge the person against whom they are published, with some offence either legal or moral. To be an "aristocrat," is not in itself an offence, either legal or moral, even if it were a charge susceptible of proof; neither was it an offence either legal or moral, for Mr. Adams to be "faithful and serviceable to the British interest," unless he thereby betrayed or endangered the interests of his own country; which does not necessarily follow, and is not directly alleged in the publication. These two phrases, therefore, taken separately charge Mr. Adams with no offence of any kind; and, consequently, could not be indictable as libellous: but taken together, they convey the implication that Mr. Adams, being an "aristocrat," that is, an enemy to the republican government of his own country, had subverted the British interest, against the interest of his own country; which would, in his situation, have been an offence both moral & legal; to charge him with it was, therefore, libellous.

Admitting, therefore, these two phrases to constitute one distinct charge and one entire offence, this respondent considers and states it to be law, that no justification which went to part only of the offence, could be received. The plea of justification must always answer the whole charge, or it is bad on the demurrer; for this plain reason, that the object of the plea is to shew the party's innocence; and he cannot be innocent, if the accusation against him be supported in part. Where the matter of defence may be given in evidence, without being formally pleaded, the same rules prevail. The defence must be of the same nature, and equally complete, in one case as in the other. The only difference is in the manner of bringing it forward. Evidence, therefore, which goes only to justify the charge in part, cannot be received. It is not indeed necessary, that the whole of this evidence should be given by one witness. The justification may consist of several facts, some of which may be proved by one person, and some by another. But proof, in such cases, must be offered as to the whole, or it cannot be received.

In the case under consideration, no proof was offered as to the whole matter contained in the twelfth article. No witness except the above mentioned John Taylor, was produced or mentioned. When a witness is offered to a court and jury it is the right and duty of the court, to require a statement of the matters intended to be proved by him. This is the invariable practice of all our courts, and was done most properly by this respondent and his colleague, on the occasion in question. From the statement given by the traverser's counsel, of what they expected to prove by the said witness, it appeared that his testimony could have no possible application to any part of the indictment, except the twelfth charge above mentioned, and but a very weak and imperfect application even to that part. The court, therefore, as it was their right and duty, requested that the questions intended to be put to the witness, should be reduced to writing, and submitted to their inspection; so as to enable them to judge more accurately, how far those questions were proper and admissible. This being done, the questions were of the following tenor and effect:

1st. "Did you ever hear Mr. Adams express any sentiments favorable to monarchy, or 'aristocracy,' and what were they?"

2d. "Did you ever hear Mr. Adams, while vice-president, express his disapprobation of the funding system?"

3d. "Do you know whether Mr. Adams did not, in the year 1794, vote against the sequestration of British debts, and also against the bill for suspending intercourse with Great Britain?"

(To be continued.)

CHARLESTON, (S. C.) Jan. 21.

The post rider from the northward arrived on Saturday evening, without the mail, from the northward of Raleigh.

The following communication from the post master at Raleigh, N. C. dated the 13th instant, was received at the post office in this city, by Saturday evening's mail.

"No northern mail arrived owing to the bridges being carried away by the high water. We learn from a person arrived this day from Warrenton, N. C. that the mail could not get across Roanoke—and that all the bridges on the stage road, from that river to Raleigh, are swept away. One informant crossed the Neck by means of a canoe, and came here on foot."

American.

FRIDAY, FEBRUARY 15, 1805.

That portion of Judge Chase's "answer and pleas," contained in the "American" for a few days past, constitutes about one half [their whole length]. And, as we believe they will prove interesting to such of our readers as are desirous of having a "view of the whole ground" of the important proceedings on his impeachment, we have, therefore, deemed it proper to hasten their appearance; and we calculate, that our papers of to-morrow and Monday will complete the detail, unless something should transpire, which might claim more immediate attention. The late barren mails, have permitted us to progress thus far without excluding any thing else of consequence.

OF THE SPANISH WAR.

It appears, that instead of the official Declaration of War being contained in a Charleston paper, it was only a verbal declaration of the Captain from England, purporting that he had seen, in a London paper of December 22, this Official Document. Although this circumstance lessens the credibility of the statement, it does not destroy it. From the previous contents of English prints, as well as from the extracts given in this day's Gazette, it is apparent, that a state of things between the two countries had arrived, which could only terminate in an open rupture.

A note on the margin of a Liverpool paper states, that the English minister had left Madrid. (Phil. Gaz.)

On the 31st November, Mr. Livington, late minister, took leave of the French government, and on the same day Gen. Armstrong was presented to Bonaparte, and delivered his credentials as minister plenipotentiary of the United States.

We understand (says the New-York Commercial Advertiser) that Dr. James Smith, late candidate for member of congress, has issued a prosecution against the editor of the Citizen for publishing that he was not a citizen of the United States, and therefore was ineligible—by which artifice the Dr. conceives his election to have been greatly injured!!

At a meeting of the stockholders of the Philadelphia Bank, held on Monday, February 11th, 1805, the following gentlemen were chosen directors:

George Clymer, Elisha Kane, Samuel Meeker, John Bohlen, Jacob Sperry, Israel Isaac, Lewis D. Carpenter, Jacob Shoemaker, Augustine Bousquet, Matthew Lawler, William Guier, Abraham M. Garrigue, Joseph Clark, John Warder, John Walsh, Joseph D. Drinker.

ELECTED BY THE LEGISLATURE:
Senate: Samuel Carswell, Michael Bright, John Jackson, Lewis Rush, Henry Orth, Hugh Henry.

At a meeting of the directors held this morning, George Clymer, Esquire, was unanimously re-elected president; and, James Todd, Esquire, was unanimously re-elected cashier. [Aurora.]

From G. Dobbin's Check Book.

Cathedral Church Lottery.

Thirty-Second Day's Drawing. 400 tickets were drawn this day, among which were the following prizes:

Prize of 20 000 dollars: No. 17950*
Prize of 500 dollars: No. 6508
Prizes of 100 dollars: Nos. 9627 7465 14584 3892 17721
Prize of 50 dollars: No. 18650
Prizes of 25 dollars: Nos. 6077 8284 16017 17295 18534 6723.
Prizes of 20 dollars: Nos. 3760 9942 12563 4498 879 10 112 8370 12806 6585 662 14526 552 9807 6793 17929 20765 4981 2747 13004 7960 17887 14676 9376 2358 4435 1208 1715 5868 4892 10030 5482 16720 2834 14091 10225 15488 12912 20736 13922 14223 11970 9428 14854 16030 2435 19341 2097 12820 12262 16936 8622 2653 3242 6607 19111 19905 10007 8018.

The first drawn blank which will be drawn on Saturday morning, after 200 tickets, will be entitled to 500 dollars.

This ticket was, with some others, retained by the Right Rev. Bishop Carroll, at the risk of the scheme for the benefit of the church.

The following prizes are yet undrawn.
1 prize of 10,000
1 — 5,000
1 — 4,000
1 — 2,000
5 — 1,000
10 — 500
15 — 200
121 — 100
123 — 50
173 — 25
1525 — 20
2506 — 15

DIED, in Donegal township, Lancaster county on the last day of the last month, (January,) Alexander Lowery. Esq. Mr. Lowery was in his 79th or 80 year.

SHIP NEWS

Port of Baltimore.

FROM BRITISH MARINE LIST.

January 14.

The ship Erin, W. Stevesen, arrived at Annapolis on Tuesday, from Lisbon, via Porto Rico, and Barracoa in 54 days from Lisbon, and FOURTEEN from BARRACOA.

Left at Lisbon December 20 the Brig Eleanor, captain Alden, of Baltimore, unloading. The ship Montezuma, Isaacs, of Bolton, for India, in a few days; brig Ceres, of New York, put in in distress from Cadiz; the ship Four Friends, Hunt of Bolton, from Bordeaux, for the West-Indies, put in in distress, unloaded; a Rhode Island ship bound to India, and 2 or 3 others, names not recollected. No doubt was entertained at Lisbon, of a Spanish war, and the general belief was, that Portugal would be obliged to join it. Mr. Frere the English Charge-des-Affaires at Madrid, was to be in Lisbon, the day the Erin sailed, his servants and baggage arrived the day before—The latest accounts from Cadiz, reported the fever to have nearly disappeared.

The Erin lay at Barracoa 4 days, in which period, the brig Neptune of Alexandria, captain Caron, was brought in by a small privateer. The captain, mate and 3 of the crew came passengers in the Erin.

Such persons as may wish to send vessels to Barracoa, are cautioned not to clear them out for that port, as it renders them liable to seizure. Two Charleston ships have been seized, one four or five leagues from the land the other in the port; their cargoes have been sold on account of their clearance being for Barracoa.

Two or three privateers left Barracoa to cruise, while the Erin lay there, among them the famous schooner Regulator.

Was boarded on the passage by the British frigate Diana, treated politely—Spoke going out of the Capes, on Monday night, the pilot-boat Tucker, for Bermuda. Saw nothing in the bay bound up The Eliza lay on shore at Poplar Island.

The privateer brig Jacques, Matthew, commander, is taken into Jamaica.

The ship United States, of and from Alexandria, for Liverpool, was spoken December 12, 3 days from Cape Henry.

Charleston, January 29.

Arrived, brig Hiram, Cullum, Honduras, 31 days.

Cleared, schooner Edward & Edmund, Sherman, Africa.

A ship said to be the Nabby, captain Jackson, from Liverpool, anchored in the roads last evening; long passage.

Captain Collum left at Honduras, ship Concord, Davis, of Philadelphia; ship Morrison, of do. and brig Portland, of Portland, for Boston, to sail next day. In lat. 25 35, long. 74, was boarded by a French privateer schooner of 14 guns and 60 men a few days out from Havana, on a cruise for Americans bound to or from St. Domingo; the commander expressed a wish that he might fall in with some of our armed vessels.

The ship Diana, of Nantucket, captain Iris, from Jamaica for Honduras, was cast away on the Spanish Maine, near the latter place, about the 11th December. crew and part of the cargo saved, vessel lost.

The ship Ant-captain Mariner, December 17, clove in with Bassatterre, was boarded by the British sloop of war Imogen, and detained several hours. The papers of the Ant, though acknowledged to be clear, were not allowed to be sufficient—and one seaman from the Imogen was put on board of her, and an obligation for 8,000 dollars demanded from captain Mariner, that the ship should be carried into Antigua. This winds have prevented, and professed her safe into Charleston harbor.

To be Rented for one year,

THE second MILL on Jones's Falls, lately occupied by James Ogley, Said Mill is at present undergoing repairs, which may be completed in all the present month. Proposals for renting, in writing and sealed, will be received until the 19th inst. by the President of the Baltimore Water Company.

February 14 d19th

ROMAN Catholic Cathedral Church

LOTTERY TICKETS.

GEORGE DOBBIN respectfully informs the public, that TICKETS and SHARES in the above Lottery, may be had of him at No. 6, Baltimore-street, at the following Prices, viz:

WHOLE TICKETS 12 00 Dollars.
HALF Do. 6 50
QUARTER Do. 3 50

A Regular Numerical Check Book of each day's drawing is kept as above, where tickets are examined and registered, and every information given on reasonable terms.

February 14 d

A Counting-Room,

With a Cellar underneath, a short distance from the Custom House, to Rent—Apply at this office.

Public Sale.

Will be sold on THURSDAY next, the 21st instant, on the premises, on terms that will then be made known,

THREE vacant LOTS of GROUND, fronting 22 feet each on Liberty-street, and running back 60 feet; one of these lots is on the corner of Liberty and Conawago-streets.

ALSO

One other Lot situated in Conawago-street, and fronting the same 21 feet, and running back 60 feet. On the lot there is a two-story frame house.

HENRY WAIST, executor of John Reister, deceased.

A number of lots, belonging to the above estate, will be sold in Meisters town, on the 19th February.

February 15 d5t

Notice is hereby given,

THAT Baltimore County Court will meet at the court house of said county on Monday, the 18th inst. at 10 o'clock, A. M. to hear and determine on the petition of James Morgan, now in custody.

The court will then proceed agreeably to the provision of the act for the relief of sundry insolvent debtors, passed at the last session of the general assembly to discharge the person of said prisoner without requiring bond for his personal appearance at the final hearing, unless cause be shewn to the contrary, of which the creditors are hereby warned.

Signed by order,

February 15 WM. GIBSON, clerk. d3t

Notice.

THE partnership of Turner & Dowson is this day dissolved by mutual consent—Alexander Turner is duly authorized to settle the business of the concern.

ALEXANDER TURNER, JOSEPH DOWSON.

February 15

Alexander Turner

Begs leave to offer his services, particularly as Commission Merchant, and means generally to prosecute the line of business heretofore carried on by Turner and Dowson

February 15

BROKER.

THE subscriber respectfully informs his friends and the public, that he has obtained licence for the office of BROKER and given the necessary securities required by law for the faithful performance of all business which may be entrusted to his management.

His office is at present in Bank-street, No. 18; one door from Light-street, and lately occupied by Mr. Robert H. Richardson—he has also appropriated a Warehouse, for the reception of goods on storage, on which money will be advanced—also, on good notes, debentures, &c. at the shortest notice and on reasonable terms.

The public's obedient servant,

BENJAMIN CHASTELLER.

FOR SALE—156 hds. Tobacco

Union Bank Stock wanted

February 15

Imperial Tea.

The subscribers have for sale,

12 chests Imperial Tea, of superior quality for retailing.

Also, 10 chests hyson tea, 10 chests souchong tea, 30 caddies high flavored shulan tea, 120 each; 50 cases sallah oil, 30 Basks each a few hampers best quality sweet oil, in black bottles; 30 boxes excellent quality spermaceti candles, 5000 double sealed bottle powder; 30 boxes 4 lb warranted chocolate, 20 barrels white 15 lbs sugar, 2000 lbs Goshen cheese, 500 lbs fresh onion, 1000 lbs numergs, 10 bales cassia, 13 pipes 4th proof Cognac brandy, choice Cabiness tobacco, in whole and half kegs; pickled salmon in kegs; winter-strained spermaceti oil, by retail; London mustard, writing and wrapping paper, 50 boxes brown soap, old Port and Madeira wine, in bottles.

J. & W. NORRIS, 64, Market-street.

February 15

District of Maryland, to wit.

BE it remembered, that on the ninth day of February, in the 29th year of the independence of the United States of America, Samuel Butler of the one part, and Messrs. Fechin & Frailley of the other part, of the said district, have deposited in this office, the title of a book, the right whereof they claim as proprietors. In the words following, to wit: "History of the Civil War in Ireland, containing an impartial account of the proceedings of the Irish revolutionists, from the year 1782, until the suppression of the Intended Revolution, to which is prefixed, a Geographical and Historical account of Ireland, by the Rev. James Gordon; with copious additions and corrections, from various authors upon this subject, particularly prepared for this first American edition." In conformity to the act of the Congress of the United States, entitled, "An act for the encouragement of learning, by securing the copies of maps, charts and books, to the authors or proprietors of such copies, during the times therein mentioned."

PHILIP MOORE, clk. dist. in c.

February 15

Doctor Coulter

THINKS it expedient respectfully to notify all those who have accounts standing on his books, that payments are to be made to himself only, or to his order from the date hereof.

F. Point, February 14 (15) d5t

Valuable Property for Sale

IN pursuance of an order from the Harford county court, at August term 1800, by me, directed will be sold, on FRIDAY, the 18th March, 1805

All the real Estate of William Luckie, late of said county, deceased—consisting of the following tracts of land, to wit—

Culver's Entrance, containing 160 acres, more or less;

Ann's Purchase, containing 23 and a half acres, more or less;

Stoney Ridge, containing 204 acres, more or less;

The above described lands are 30 miles from Baltimore, 6 from the head of Swan Creek, 2 from the head of Bush River, and also from the town of Havre de Grace, and are a half mile from the Lower Cross Roads. There are on said tracts a commodious dwelling house, barn, orchards, and about 24 or 30 acres of cleared meadow—also, a saw mill, and a sufficient quantity of woodland. The terms of sale will be as follows—one third of the purchase money must be paid on the day of sale; another third at the expiration of one year, and the balance at the expiration of two years—Bonds, with approved security, on interest, must be given for the part credited. Any person wishing to view the above lands, will be shown them, by applying to John B. Luckie, on the premises.

SAMUEL SMITH, Esq. (serving)

JOHN COOLEY, Esq. (commissioner)

JOHN MOORE, Esq. (attorney)

Harford county, February 8 (15) d5t