DOCUMENTS,

Accompanying the Report of the committee appointed to enquire into the official conduct of SAMUEL CHASE and RICHARD PETERS.

Interrogatories on the part of the House of Representatives, to William Rawle, Esquire, upon the enquiry into the official conduct of Samuel Chase and Richard Peters, or either of them.

1. Were you present at the trials of John Fries, for high treason, in the circuit court of Pennsylvania, in the years 1799 & 1800?

2. Who presided on these trials?

3. What were the circumstances generally which attended them?

4. Were the counsel for the prisoner, at the first trial, permitted to argue the point, whether the offence charged amounted to high treason?

5. Were they prevented by the court from arguing the point on the second trial?

6. Was the prisoner condemned without counsel being heard in his defence?

7. Did any correspondence pass between you and the executive of the United States on that occasion—If any, of what nature?

8. Is the correspondence now in your possession?

9. Relate every thing within your knowledge that happened at the last trial?

10. Are you acquainted with the circumstances which attended the trial of Thomas Cooper for sedition?

11. Relate these circumstances.

12. Was a subpœna to summon any witness in behalf of the accused, refused? how? and by whom?

The answers of WILLIAM RAWLE to the interrogatories exhibited by directions of the committee appointed to enquire into the official conduct of Samuel Chase and Richard Peters, or either of them.

1st. I was present at both the trials mentioned in this interrogatory.

2d. James Iredell, Esq. one of the judges of the supreme court of the United States, and Richard Peters, Esq. judge of the district court of the United States for the district court of Pennsylvania, presided at the trial of John Fries, in the year one thousand seven hundred and ninety nine—Samuel Chase, Esq. one of the judges of the said supreme court, and the said Richard Peters, presided at the trial which took place in eighteen hundred.

3d. To relate all the circumstances which attended these trials would be a very long narrative—I will state those which appear the most material, holding myself ready to give any further information in my power, when so required

At the first trial of John Fries, I had applied for and obtained the assistance of Samuel Sitgreaves, Esq. in conducting the prosecution. William Lewis, Alexander James Dallas, and William Ewing, Esquires, undertook the prisoner's defence.

The counsel for the prosecution relied on the principles of law laid down by the circuit court, in the case of the United States against Mitchell, (2 Dallas's Reports, 348) relative to the crime of treason.

The prisoner's counsel disputed that doctrine—contended that the offence, if Fries had been guilty of any, fell short of treason, and amounted to no more than a misdemeanor. They relied much on the act passed on the fourteenth of July, one thousand seven hundred and ninety eight, entitled, "An act in addition to the act intituled an act for the punishment of certain crimes against the United States."

Twenty one witnesses were examined on the part of the United States; three on the part of the prisoner. I thought their testimony was not useful to him.

On the ninth day of the trial the charge of the court was given to the jury. Both the judges addressed them—both held, that to assemble in numbers and to endeavor by force or intimidation to prevent the execution of a law of the United States, such assembling and attempts being for general purposes and not of a private, personal or peculiar nature, was a levying war against the United States, and amounted to treason; and that the act of congress before mentioned could not, if it was intended to, controul the constitutional description of treason, but that it was not intended to and did not apply to the case

The jury at ten o'clock in the afternoon of the same day, brought in a verdict of guilty.

A new trial was moved for on the ground of one of the jury having subsequently to his being summoned, and previously to the trial, expressed his opinion on the merits of the case: & also on a supposed incorrectness in returning a greater number of jurors than the venire called for.

This part of the case is correctly stated in the 3d vol. of Mr. Dallas's Reports, page 515 which is only inaccurate in stating that the trial lasted *fifteen* days.

A new trial was ordered, and the prisoner remanded.

The prevalence of a malignant fever in Philadelphia rendered it necessary to remove the prisoners, and to hold the October session of the circuit court elsewhere.

In execution of the powers vested in the judge of the district court, by the act of the twenty fifth of February, one thousand seven hundred and ninety nine, Judge Peters therefore issued an order to William Nichols, then supposed to be the marshal of the Pensylvania district, to remove the prisoners, and adjourn the court to Norristown, a county town about seventeen miles from Philadelphia.

This measure took place, and the court was opened on the eleventh of October, 1799.

But after the court had sat some days, and before the trial of John Fries could be brought on, it was discovered that the commission of William Nichols as marshal, had expired about four months before, and had not been renewed.

The session of the court was of course at an end, as the adjournment to another then the stated place of meeting could only be made by the marshal, under orders from the district judge, and no marshal then existed

An act for reviving and continuing suits and proceedings in the circuit court for the district of Pensylvania, having been passed on the 24th of December, 1799, the court met at Philadelphia on the 11th of April, 1800.

New indictments were sent to the grand jury against all the prisoners.

It is not within my recollection whether Messrs Lewis and Dallas were again assigned as counsel for John Fries, or whether they were expected to act in pursuance of their former appointment, nor have I any recollection that Mr. Ewing appearing any longer in his behalf.

On the 16th of April the grand jury returned the indictment against John Fries a true bill.

Copies of the indictment, of the lists of jurors, and witnesses were furnished to him as directed by the act of April the 13th, 1760, and as had been done on the former trial.

It was intended that his trial should come on the 22d of April.

In the intermediate time, besides a great deal of civil business, Thomas Cooper was tried for a libel on the President, and three French sailors were tried and convicted of murder.

I regret that my recollection of the circumstances which took place on the 22d, in relation to John Fries, is not so distinct as I could wish, and that I have not the benefit of notes to refresh it, similar to those which I took on the succeeding day; but to the best of my recollection the following is the substance of what then happened:

Judge Chase handed down to the table round which the gentlemen of the bar were seated, several papers which he said the court had thought proper to draw up in order that their sentiments on the law, likely to arise in the case of treason, might be perfectly understood, which would tend to save time; that the the counsel on each side were to have one, and the jury to take one out with them.

I am not sure whether Mr Lewis and Mr. Dallas were in court at the time, or came in shortly after, but I noticed that Mr. Lewis, with an air of dissatisfaction, hastily looked over the paper and laid it down. Some of the gentlemen present began to copy the papers. It does not occur to my recollection that any thing more was publicly said about it that day—though it possibly may have been. I do not recollect that Fries was in the court that day, nor can I at present say why the trial was not brought on that day—but to the best of my recollection, it was not postponed on account of any difficulty arising from the delivery of those papers.

Twenty one persons charged with seditious combinations submitted to the court that day—and the court rose.

Shortly after the court rose, the two judges came round to my house—Mr. Peters expressed his uneasiness at what had passed—his apprehension that the counsel for Fries would not go on, and his wish that the papers could be recalled, and the thing done away. Mr. Chase expressed a doubt whether the counsel would refuse to act on that account. I confirmed Mr. Peter's suggestions, stating my opinion of the independent sentiments and characters of the Philadelphia bar, and added that I concurred in thinking it would be best to recall the papers. Mr. Chase asked me if I could get them back. I said I believed I could, and would try. They then both requested me to do so. And after they had gone, I went out and obtained from the gentleman who had them, two or three of the papers, which I gave to Mr. Caldwell, the clerk of the court.

On the 23d John Fries was brought up, and I am now enabled to state from my notes, the conversation which took place. I do not say that it is the whole that fell from either bench or bar, but so far as it goes I believe it to be accurate.

When Fries was asked if he was ready for his trial, Mr. Lewis addressed the court, as follows:—If employed by the prisoner at the bar, I should think myself bound to proceed; but having been assigned—Judge Chase interrupted him—you are not bound by the opinion delivered yesterday, but may contest it on both sides. Mr. Lewis proceeded—I understood that the court had made up their minds, and as the prisoner's counsel have a right to make full defence, and address the jury upon the law and the fact, it would place me in too degrading a situation, and therefore I cannot go on.

Judge Chase—You are at liberty to proceed as fully as you think proper—address the jury, and lay down the law as you think proper. Mr. Lewis, I will never address the court in a criminal case on a question of law. He then stated his ideas of the propriety of going into cases before the revolution, (in England) and if precluded from shewing what those cases were, & also from shewing that English judges since the revolution, thought themselves bound by cases before the revolution, which in this country ought not to be, he must decline being concerned as counsel.

Judge Chase—you must do as you please. Mr. Dallas then stated his reasons for also declining to act as counsel for Fries. I have not a particular note of what he said, but he pursued the same course of argument as Mr. Lewis.

Judge Chase then observed—No opinion has been given as to facts in this case. I would not let the witnesses be examined in the combination cases that have been submitted, because I would not let the jury hear them before the trial of Fries came on.

As to the law, I knew the trial before took nine days. Common law cases were cited; that of wiping a stag's horns in the king's belly. A man's saying his son would be heir to the crown. Such cases ought not, shall not go to the jury. No cases can come before us on which I have not an opinion as to the law, otherwise I should not be fit to preside here.

I have always conducted myself with candor, and I meant to save you trouble.

It is not respectful to the court, nor the duty of counsel to say they have a right to offer any thing they please. What! decisions in Rome, France, Turkey!

No lawyer will say that common law cases are law under the statute of Edward the 3d; nor justify those judges who overset the statute of William, overruled the necessity of having two witnesses to the same overt act, admitted hearsay, and other things of that kind.

It is the duty of counsel to lay down the law; not read cases which are not law.

Having thus explained the meaning of the court, you will stand acquitted or condemned to your own consciences, as you think proper to act Do as you please.

The course will be, the attorney will open the law, state his case, produce his witnesses.

You are now informed that you will be at full liberty to controvert the law of the prosecutors; but the manner in which you shall do it, must be regulated by the court.

Judge Peters—You are to suppose that any thing done yesterday, is withdrawn.

Mr. Lewis—The paper is withdrawn; but the sentiments remain; I therefore, shall not act.

Mr. Dallas expressed the same opinion.

A short pause ensued.

Judge Chase then said—You cannot put the court into a difficulty by this conduct, gentlemen. You do not know me if you think so.

Then desiring the avenue to the prisoner's bar to be cleared, he addressed the prisoner thus:

John Fries; do you wish other counsel, or are you desirous of going on to trial? The prisoner answered, that he did not know what was best for him; but he believed he would leave it to the court and jury.

I then informed the court that I did not think it proper in a capital case where an accident so new and singular had occurred, to proceed without allowing the prisoner time to consider what was the best course for him to pursue, & therefore would postpone the trial till the next day

In this the court readily acquiesced—the prisoner was remanded, & other business taken up

On the next day, April the 24th, John Fries was again put to the bar—he told the court he relied on them for his counsel—to which Judge Chase answered—Then by the blessing of God we will be your counsel, and will do you as much justice as those who were assigned to you

The jury were called—the prisoner challenged thirty four—the court directed those whom the prisoner passed, to be severally asked whether they had ever formed and delivered an opinion concerning the guilt or innocence of the prisoner.

Three of them who answered affirmatively were set aside.

A jury was sworn, and the trial went on.

It was conducted with the utmost fairness and regularity. The conduct of the court was marked with tenderness and humanity towards the prisoner. On the evening of the second day the evidence was closed.

I have no notes of the charge given by the court. To the best of my recollection, it agreed in substance with that given by Judges Iredell and Peters on the former trial.

After retiring for two hours, the jury brought in a verdict of guilty.

After the verdict was given in, the court informed the prisoner that if he, or any person for him could point out any sufficient matter to arrest the judgment they would be heard.

On the second day of May (the last day of the session) he was brought again to the bar with Frederick Haney and John German, who had also been convicted of treason, and being severally asked if they had any thing to say why sentence of death should not be passed on them and no cause being shewn, sentence was passed on them.

They were all afterwards pardoned by the President of the United States.

4th. The counsel for the prisoner at the first trial were permitted to argue the point stated in this interrogatory.

5th. They were not prevented by the court from arguing that point on the second trial, unless the facts I have stated amounted to a prevention.

6th The prisoner Fries, was on the second trial condemned in the manner I have already stated, without counsel being heard in his defence.

7th. and 8th. No correspondence passed between the Executive of the United States and me upon that occasion.

9th. This interrogatory is answered in my answer to the third.

10th. I am acquainted with the circumstances which attended the trial of Thomas Cooper for sedition.

11. Referring to my introduction to the answer given to the third interrogatory, I will state the material facts to the best of my recollection.

Thomas Cooper was indicted under the act of Congress already mentioned passed on the 14th of July, 1798, for a libel on the President of the United States.

He pleaded not guilty.

I intended to have brought on the trial on the 16th of April.

Mr. Cooper being called on, said that he was ready to proceed, but at the same time asked Mr. Caldwell, the clerk, if he had issued the subpœna he had ordered for the President of the United States; Mr. Caldwell answered that he had not—by order of the court.

Mr. Cooper then observed to the court, that the constitution gave no privilege to the President to exempt him from the service of a Subpœna, or the necessity of attending as a witness.

A conversation took place between the court and defendant, relative to the privileges of members of the legislature while in session, and of the President of the United States—Judge Peters appeared to differ from Judge Chase as to the former: He was of opinion that a subpœna could not regularly be served on a member of the legislature in session; because if he refused to attend while the session continued, he would not be liable to an attachment, and it was improper for a court to award process which they could not enforce. He stated the practice of the courts of Pennsylvania to write a letter to the speaker of the house, requesting the attendance of the member.—I do not recollect that Mr. Peters made any observations on the President being liable to be subpœnaed.

The defendant again urged that the attendance of the President was necessary for his defence, and spoke at some length. Judge Chase observed to the defendant, that every person has a right to compel the attendance of any other person in a court of justice—this was as binding by the constitution of the United States as the exemption from arrest in the cases mentioned in it—A citizen has a right to a subpœna against every member of the community. If they cannot be attached, the trial may be put off; but the President cannot be subpœnaed by you in the present trial, because his testimony cannot be of service to you—you cannot call on him to prove that he has acted wrong. I relate this conversation from my notes. The trial was, to accommodate the defendant, postponed 'till Saturday the 19th.

On the 19th the trial came on.

Several members of Congress, who I understood had been subpœnaed by the defendant, were in court, but they were not examined as witnesses.

Mr. Cooper conducted his own defence.—Every possible latitude was given to him. The court allowed him to read and say whatever he thought proper. He was convicted and sentenced to pay a fine of four hundred dollars, & be imprisoned for six months.

12th. I know nothing further of the circumstance stated in this interrogatory than I have already mentioned. W. RAWLE.

CONGRESS.

HOUSE of REPRESENTATIVES.

Thursday, March 22.

A message was received from the President of the United States, laying before the House the last returns of the militia of the several states.

A bill to repeal part of the act supplementary to the act respecting consuls and vice consuls, and for the further protection of the seamen of the United States was read the third time and passed.

An act to ascertain the boundary of the lands reserved by Virginia North West of the Ohio, for the satisfaction of her officers and soldiers, &c. was read the third time, and passed.

The house went into committee of the whole, Mr. Varnum in the Chair.—on the bill further to protect the commerce and seamen of the United States against the Barbary powers

The first section of the bill was read. It imposes a duty of two and a half per cent. upon goods at present subject to ad valorem duties, and ten per cent. additional on such duties imported in foreign vessels.

Mr. R. Griswold moved to strike out the first section.

The question was taken by yeas and nays & decided in the negative—Yeas 27—Nays 77.

When the bill was ordered to a third reading to-day.

The house went into committee of the whole, Mr. Tenney in the chair—on the bill regulating the compensation of officers engaged in the collection of the customs.

The committee having gone through the bill reported it to the House, who ordered it to a third reading.

An engrossed bill further to protect the commerce and seamen of the United States, against the Barbary powers was read the third time.

Mr. Huger asked for the call of the Yeas and and Nays; to shew, by recording his vote, that although he was unequivocally hostile to the mode of taxation proposed by the bill, yet he should vote in favor of the bill for the purpose of maintaining the character and interests of the nation.

Mr. J. C. Smith made a few remarks to the same effect.

When the question was taken by Yeas and Nays on the passage of the bill, and carried by an *unanimous* vote—Yeas 98—Noes, NONE.

Friday, March 23.

Mr. Nicholson from the Managers appointed to confer with the Managers of the Senate on the disagreeing votes of the two Houses on the Louisiana bill made a report, recommending that the House should recede from their amendment, proposing a substitute for the fourth section of the bill as it came from the Senate.