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Ours are the plans of fair delightful peace,
Unwarp'd by party rage, to live like brothers.

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IMPEACHMENT.

Interrogatories exhibited on the part of the House of Representatives to William Lewis and Alexander James Dallas, 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 and 1800.

2. Who presided at those 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 that point on the second trial?

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

7. Did any correspondence ever pass between you and the Executive of the United States on that occasion? and if any, of what nature?

8. Is that correspondence now in your possession?

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

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

11. Relate those circumstances?

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

The answers of William Lewis to the above interrogatories.

I, William Lewis, of the city of Philadelphia, being one of those people called Quakers, and conscientiously scrupulous of taking an oath, on my solemn affirmation declare and affirm as follows:

That I was present at the trial of John Fries, for treason in the circuit court of Pennsylvania, in the year 1799, and assisted him as his counsel, at his request, and I believe under an assignment for that purpose by the court, but I have no recollection of being present at any part of his trial for treason in 1800.

That the first trial was before the honourable James Iredell, one of the associate justices of the supreme court of the United States, and the honourable Richard Peters, judge of the district court of Pennsylvania.

That Mr. Dallas, Mr. W. Ewing and I were council for the prisoner, and were permitted freely to produce every authority, and to urge every argument which we thought proper and relevant, on the law as well as the facts, to prove that the offence did not amount to treason, that the trial was conducted, to the best of my judgment and belief, with moderation, patience and indulgence, and I do not recollect any thing to have taken place during the trial, that seems to me to merit particular notice, except that, after the prisoner had been convicted, a new trial was granted, on the motion of Mr. Dallas and myself; principally, I believe, on the ground, that one of the jurors, after he had been summoned, and before he was sworn, had made declarations manifesting a prejudication of the case against the prisoners in general, and more particularly so against John Fries.

It is with great regret that I find myself called on at this distance of time, when I fear that my recollection may in some degree fail me, to answer the fifth interrogatory, and I feel it a duty to add, that although my memory is, I believe, a remarkably accurate one for a short time, it is far from being so after a considerable lapse of time; and it is therefore possible that my answers to this interrogatory may not be so correct as I wish them to be, but they shall be as much so as it is in my power to make them.

To the best, then, of my recollection and belief, the following circumstances took place on the two days next preceding the trial of John Fries for treason before the honourable Samuel Chase, one of the associate judges of the supreme court of the United States, and the honourable Richard Peters, judge of the district court of Pennsylvania, in the latter end of April or early in May, 1800.

Mr. Dallas and I were the counsel of the prisoner, at his request, and I believe by the appointment of the court. On the first of these days, when I entered the court-room, the judges were on the bench, the jury were soon after called and many of them appeared, I am unable to say whether John Fries was at this time in the bar assigned for criminals or not; but if he was not then, I feel sure that he was placed there in a few minutes after. Mr. Dallas was not at this time in court, and before he came, judge Chase handed, or threw down to Mr. Caldwell, the clerk of the court, one or more papers, and at the same time delivered himself, in substance, and as nearly as can be recollected, to the following effect: That he understood, or had been informed, that on the former trial or trials, there had been great waste of time, by council-making long speeches to the jury on the law as well as on the facts, and on matters which had nothing to do with the business before the court; and he particularly noticed in strong and pointed terms of disapprobation, their having read, and I think having been permitted to read, certain parts of certain statutes of the United States, relating to crimes less than treason, in order to shew that the prisoner's case came within them, and which, he said, he or the court (I do not recollect which) would not suffer to be read again, as they had nothing to do with the question. He added, that we are judges of the law and understand it, or we are not fit to sit here; that cases at the common law, or under the statute law of England previous to the English revolution, had nothing to do with the question, and that they would not suffer them to be read; that they had made up their mind on the law, and had reduced it to writing, and that the counsel might conduct themselves accordingly (or conformably to it); he or they had ordered copies of it to be made, and one of them to be delivered to the counsel in support of the prosecution, and another to the prisoner's counsel, and that as soon as the case was opened or gone through (I am not sure which was the expression) on the part of the prosecution, he or they (I am not certain which) should order one to be delivered to the jury. He also added, that if we had any fault to find with the opinion of the court, or had any thing to say on the law, to shew that they were wrong or had mistaken it, we must address ourselves to the court, and not to the jury. About the time when judge Chase began to speak, the clerk handed me one of the papers. If I looked at it, it has escaped my recollection, but if I did, I am confident that I read but a very small part of it, as my attention was immediately engaged by the declarations made by judge Chase, and I very soon threw it from me, declaring in court, but whether addressing myself to it or not I cannot recollect, that my hand should never be tainted by receiving a prejudged opinion in any case, much less in a capital one. The novelty, as well as the nature of the proceeding, agitated me considerably, and I replied with that warmth which I thought the occasion demanded, as nearly as I can recollect, as follows: That in civil cases I deemed it proper that the consideration of the law and the facts should be kept as separate as possible, and that the former should be determined by the court, and the latter by the jury; but that in criminal cases, and especially in capital ones, it was the constitutional right of the jury to determine the law as well as the facts; that it was the right of the prisoner for the jury to pass between him and his country on both of them; that it was the right of his counsel to address the jury on the law as well as the facts; that I deemed this right a sacred and great constitutional one, which should never be sacrificed by me; and I added that I never had, and never would address the court on the law in any criminal prosecution whatever.

That although the constitution and statute of the United States might not perhaps be materially different from the English statute of treason, as to levying of war, and although the judges in England, since their situation was rendered independent, had been able and upright, it did not follow that the law of treason, as settled in that country, was applicable here, because the judges there had, since the revolution, and since their independence, held themselves in many particulars bound by former decisions, but that our judges were not bound by them in the construction of a new statute of our own, and that I therefore could not submit to the doctrine, that whatever was the present law of treason in England, as to the levying of war, was the law of treason in this country. That it was important to guard at the beginning against a latitude of construction of our own constitution and law, by shewing the extravagant lengths which courts in England had gone under the statute of Edward the IIId. before the judges were independent, and when many of the constructions which prevail at this day were established; that I deemed it the right of counsel to shew this, and if I was deprived of it, and if the court had made up their mind on the law before the jury were sworn, before any evidence was given, and before the prisoner's counsel had been heard, and if the counsel were now to be restricted in the manner declared by judge Chase, I despaired of being able to render the prisoner any service, as there was but little, if any dispute, as to the facts, and his case depended in a great measure, if not altogether, on the law. It is impossible for me at this distance of time to repeat the precise words that were made use of, in so sudden and unexpected an altercation; but I feel confident that I have stated the substance, and most material parts, and although I am not conscious of it, it is possible that some parts of what I have mentioned, as being said by me, passed on the second and not on the first day.

Judge Chase apparently heard me with impatience (I mean on the first day) and most certainly without seeming to pay much regard to what had been said by me.

In an early stage of the business I was struck with the idea, that if judge Chase had made up his mind on the law, it was not likely that any thing which Mr. Dallas or I could say would alter it; and that if we withdrew from the prisoner's defence under the circumstance which took place, and left him without counsel, and if he should be condemned, it was not likely that he would be executed; and I therefore concluded in my own mind that it would be best for us to do so, more especially as we had been assigned by the court, and I thought we might do it without dishonour to ourselves.

As soon as I saw Mr. Dallas coming into court, I met him, and gave him a brief (I believe not a full) account of what had taken place, and of my determination if he concurred in it. He did concur, and we went to the bar together, where he repeated, in part, the sentiments which had been delivered by me, with some additional ones. The trial did not come on that day. I am not sure of the cause which prevented it, nor have I the least recollection of having heard judge Peters on that day say a single word on the subject which has been mentioned.

Mr. Dallas and I informed John Fries of our determination to withdraw ourselves from his defence, if he would agree to it; and we strongly recommended to him to do so, as we did not think it likely, after what had passed, that we could render him any service in court; and as our withdrawing ourselves might, and probably would, be of material use to him with the President, if he should be convicted. He seemed greatly alarmed at his situation, and perplexed to know what to do. We told him that if he insisted on it, we would go on in his defence, and render him all the service in our power; but that, after what had passed, we feared it would be little, if any.

He at length said, that his dependence was on us, that he was sure we would advise him to the best, and that he would do as we thought proper. It was then agreed that we should withdraw ourselves, as had been proposed. I believe it was not at this time, but certainly before he was called on in court the next day, it struck me, that perhaps the court might offer to assign him other counsel; and as I supposed that the reason which influenced the conduct of Mr. Dallas and me, should equally apply to them, I advised him not to accept of it, and he agreed to follow my advice.

When I have said that Mr. Dallas and I told the prisoner, that if he insisted on it we would go on in his defence, I am not to be understood, that we would have done it under the restriction which had been attempted by judge Chase, but that we would have gone on in the usual manner, and in the exercise and enjoyment of all our professional rights, until we were stopped by the court; and so far as concerns myself, I solemnly declare, that if I know my own mind, I would have gone on in this way, or not at all; that I would not have tamely surrendered any one of the rights for which I contended; that I held them, and still hold them so sacred, that I should have persisted in them, until I was stopped by an actual exercise of the authority of the court; and that if this had taken place, nothing could have induced me to have proceeded further, whatever the consequence might have been.

Having, as I believed, with Mr. Dallas, faithfully done our duty on the first day, and satisfied John Fries of the propriety of our conduct, and prevailed on him to follow our advice, I went to court the next day with a mind somewhat indifferent as to what might take place, and I believe intending to neither say nor do any thing more than to inform the court, that neither Mr. Dallas nor I was any longer the counsel for the prisoner, and that we should take no part in his defence. Soon after the opening of the court, judge Chase addressing himself to Mr. Dallas and me, asked if we were ready to proceed; on which I answered, that we were no longer the prisoner's counsel, and I began to state in a few words our reasons for our withdrawing ourselves from his defence, when I was interrupted by his telling me, that we might go on in our own way, as we pleased, and that the court would hear us; and to the best of my recollection he expressed himself in terms which evidently shewed a willingness that we might go on without the previous restrictions which had been insisted on the day before. We refused, on account of what had passed, and of the determination which we had taken. The court endeavoured to prevail on us to proceed, but it was in vain, for we were positive and determined not to do it. Judge Peters said that we might take as large a range as we pleased, and asked if an error had been committed, if we would not suffer it to be corrected? or words to this effect. He added, that the papers which had given so much offence had been all called in, and I think he said that they had been burned or destroyed. I observed that although that might be the case with respect to the papers, it was not so with respect to the predetermination on the minds of the judges, which still remained, and would have the same effect as if the papers were still in existence. I added, that many of the jurymen who had been present and heard what had passed, might be on the trial with all the prejudices which the declarations from the bench on the preceding day had created. The court appeared anxious to induce Mr. Dallas and me to undertake the prisoner's defence, and certainly offered to remove every previous restriction which had been insisted on the day before. We repeated and insisted on several of the grounds which we had taken on the preceding day, and absolutely refused to have any thing further to do with the prisoner's defence before the court. I then left it, and do not recollect to have been there again until I was informed of his trial and conviction; and I therefore cannot say what circumstances attended his second trial. It is proper to add, that when judge Chase desired Mr. Dallas and me on the second day to go on in our own way, and as we pleased, he said it would be at the risk or hazard of our characters, if we attempted to conduct ourselves improperly, and that it must be under the direction of the court, which would judge of what was right, or words to this effect.

That I have always understood and believed the prisoner was condemned without counsel being heard in his defence; but not having been present at the second trial, I cannot assert it of my own knowledge.

That soon after sentence of death had, as I understood, been pronounced on Fries, Mr. Thomas Adams, the son of the then President Adams, spoke to me in court, and said his father wished to know the points and authorities which Mr. Dallas and I had intended to rely on in favour of Fries, if we had defended him on his last trial; and asked if I had any objections to his seeing them? I said that I had not; but the President never sent to me for them, nor did I ever send them to him. Shortly after this, Charles Lee, Esq. the then Attorney General, made a similar request of me, and assigned as a reason for it, that he might perhaps be consulted by the President on the occasion, and wished to consider the case; but he did not tell me that the request came from the President, nor that he intended laying the statement, which he asked for, before him. I spoke to Mr. Dallas, and we agreed to comply with Mr. Lee's request. Mr. Dallas prepared a statement in the form of a letter, from him and me, to Mr. Lee, and sent it to me; I made some alterations in it, had it copied, and then sent to Mr. Dallas the original draft and alterations, together with the copy, signed by me. The letter was, as I understood, signed by Mr. Dallas, and sent to Mr. Lee. Mr. Dallas being in possession of the original draft and alterations, is more capable of proving the contents than I am. He has sent me a copy, which I suppose to be correct; but as I have not compared it with the original, I cannot prove it to be so. He is also in possession of a letter in answer to it, from Mr. Lee to him and me, and can better prove its contents than I can, although he has furnished me with a copy which I suppose to be correct.

I know of no other correspondence that ever passed between the Executive of the United States and me, on the occasion mentioned in the last interrogatory. W. LEWIS.

☞ Mr Dallas's answer to these interrogatories, being of similar import, is omitted.