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WEDNESDAY, December 12, 1804.

Congress
OF THE
United States of America.

HOUSE OF REPRESENTATIVES.

Debate in Committee of the whole,
ON THE
IMPEACHMENT
OF
JUDGE CHASE.

Continued from our last.

MONDAY, December 3, 1804.

Mr. Varnum in the chair.

The third article before the committee.

Mr. J. Randolph read the following testimony in support of this article, viz.

"When the trial commenced, Col. John Taylor, of Caroline, was introduced as a witness for the prisoner. I believe he was sworn. The counsel wished to interrogate him. This they were not permitted to do, until they had stated the points to which his evidence related. They were then obliged by Mr. Chase, to reduce the questions, which they wished to propound to Col. Taylor, to writing, and then to submit them to his inspection, that he might determine, whether they should be propounded or not.

"Col. Taylor's evidence was rejected.

"The ground of this opinion as stated by Mr. Chase was this, that col. Taylor could not prove the whole of one charge The charge was, the judge (Chase) said "that the President was a professed aristocrat—that he had proved faithful and serviceable to the British interest." Proving half he said, was doing nothing; both facts must be proved. I was contended, on the part of the prisoner, that if it was necessary to prove both facts by the same witness the charge in both points would be proved by the testimony of col. Taylor. He would prove that Mr. Adams had professed aristocratical opinions; and that he had proved faithful and serviceable to the British interests, in the way meant by "the Prospect," &c by voting against sequestration law, and the law suspending all intercourse with Great Britain The judge (Chase) repeated that the evidence was inadmissible, that the counsel knew it to be so, and that they only wanted to deceive and to mislead the populace."

And afterwards he added the following viz.

"*Interrogatory 4th.* Did Mr. Chase refuse to the prisoner the testimony of a witness, because he the said witness, could not prove the truth of all the facts set forth, and upon which the indictment was grounded?

"*Answer.* After the jury in Callender's case were sworn, col. Taylor, of Caroline who attended as a witness, in consequence of a subpœna served upon him on behalf of Callender, was called to the book and sworn in the usual form. Judge Chase at this moment asked, with considerable haste & eargerness of manner, what the counsel expected to prove by the witness? He was informed that they meant to ask him whether Mr. Adams had not avowed in his presence, sentiments inimical to a republican form of government, and whether he did not, whilst Vice-President, give the casting vote in the Senate against the sequestration of British debts, and against the suspension of intercourse with Great Britain. Judge Chase demanded that the counsel should state in writing the questions meant to be asked. The counsel for the defendant opposed this, because, although a number of witnesses had been examined on the part of the United States no similar requisition had been made with respect to them, because it was contrary to the practice in the state courts, and because also it was unreasonable in itself, and calculated to subject every question of fact to the controul of the court. Judge Chase, however; insisted that the questions should be submitted to his previous decision. They were accordingly put in writing, and were as follow, to wit:

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

2. Did you ever hear Mr. Adams, whilst Vice-President, express his disapprobation of the funding system?

"3 Do you know whether Mr. Adams did, in the year 1794, vote against the sequestration of British debts, and for stopping all intercourse with Great Britain?

"After having examined the questions, judge Chase declared that Col. Taylor's evidence was inadmissible. He declared that no evidence could be received that did not justify the whole charge. The charge, said he, is, that the traverser said of the President, he is a professed aristocrat and he has proved faithful to the British interest;—now you must prove both points, or you prove nothing; and as your evidence relates to one only, it cannot be received—you must prove all or none. This was in substance, and it is believed the precise words in which judge Chase stated his objection to Col. Taylor's evidence. The council asked the judge whether they could not be allowed to prove part of a charge by one witness and part by another? To this judge Chase replied, that if the counsel could prove the whole of any one charge by Col Taylor, they might do it, otherwise, they should not examine him. The counsel contended that Col. Taylor's evidence applied to the whole of the charge which the judge had stated in his opinion.—That they meant to prove by him, that the President had professed anti-republican sentiments, and had proved faithful and serviceable to the British interest, in the sense in which those expressions were used in the Prospect. The judge, however, adhered to his determination to exclude the evidence; and col. Taylor retired from the court with evident marks of astonishment."

The question was taken upon the third article without a division, and carried.

The fourth article being before the committee, it was considered by paragraphs.

Mr. J. Randolph. The testimony in support of the first paragraph has been read on the preceding article; it is that part of Mr. Nicholas's testimony stating the demand of judge Chase that the counsel should state in writing the questions meant to be asked.

The chairman proceeded to read the second paragraph, and

Mr. J. Randolph read in its support, the following affidavit:

City of Richmond, to wit:

This day James Thompson Callender, made oath before me a magistrate for the said city, that William Gardner, Tench Coxe Judge Bee, Timothy Pickering, William B. Giles, Stevens Thompson Mason, and General Blackburn, he believes to be material witnesses in his defence, against an indictment found against him during the present term of the circuit court of the United States for the middle circuit, Virginia district;—That William Gardner, aforesaid, resides, he believes, in *Portsmouth*, in the state of New Hampshire;—That Tench Coxe, aforesaid, resides in Philadelphia, in the state of Pennsylvania;—That judge Bee resides, the deponent hath understood, in South Carolina, but in what part of the state he knows not;—That Timothy Pickering, aforesaid, resided of late in Philadelphia in the state of Pennsylvania, but where he resides at this time the deponent doth not know;—That William B Giles, aforesaid, he hath understood since he hath been furnished with a copy of the indictment, and since the said Giles hath left to..., resides in the county of Amelia, and that General Blackburn resides in the county of Bath.

"The said James Thompson Callender further deposes, that he expects to prove by the said Wm. Gardner, and that he verily believes that he shall prove by the said William Gardner, that the said William Gardener was commissioner of loans for the state of New-Hamdshire, under the government of the United States, and that he was turned out of the said office of commissioner of loans, because he the said Gardner refused to subscribe an address circulated in the town of Portsmouth, in New Hampshire, and presented to the President of the United States, in the year 1798, at the instance of several inhabitants of the said town; in which address unequivocal approbation of the conduct of the said President in the administration of the United States is expressed.

"2d, The said James Thompson Callender also declares on oath;—That he verily believes that he shall prove by the evidence of Tench Coxe aforesaid, that he, the said Tench Coxe, in the year 1798, held an important office under the government of the United States, to wit, commissioner of the revenue, from which office the said Coxe was ejected by the present President of the United States; because he did not approve the measures of his, the said President's administration, or the principles on which it was conducted.

"That he verily believes he shall be able to prove by the evidence of Judge Bee that he did receive from the President of the United States in the year 1799, a letter, in which he the said President did advise and request the said Judge Bee, then acting in his judicial character, to deliver to the Consul of the British nation in Charleston, Jonathan Robbins alias Thomas Nash, who had been apprehended and carried before the said Judge on a charge of murder committed on the high seas on board the British frigate Hermione.

"He farther deposes on oath, that he verily believes that he shall be able to prove by the evidence of Timothy Pickering, that the President of the United States was in possession of dispatches from Mr. Vans Murray, American minister in Holland, containing assurances on the part of the French republic, that ambassadors from the United States would be received in a way satisfactory to the people and government of the United States, many weeks while Congress was in session, before he communicated the same to Congress.

"The deponent further saith, that he verily believes that he shall be able to prove by the evidence of Stevens Thomson Mason and William B. Giles, that John Adams, President of the United States, has unequivocally avowed in conversation with them, principles utterly incompatible with the principles of the present constitution of the United States, principles which could not be carried into operation under any political institution without the establishment of a direct, powerful and dangerous aristocracy; that he declared in express terms to the said Stevens Thompson Mason, that he had no more idea that the present federal constitution could for any length of time, control the people of the United States, than that it could control the motions of the planets that he also declared to the said Stevens Thomson Mason, that he had no more idea that a political society could exist without a distinction of ranks than that an army could exist without officers: And also that he can prove by the said William B Giles, that the President of the United States has avowed in conversation with him a sentiment to this effect, that he thought the executive department of the United States ought to be vested with power to direct and control the public will.

"That this deponent verily believes that he shall be able to prove by general Blackburn that he did on the day of in the year 1798, receive an address from John Adams, President of the United States, in answer to the field officers of Bath county, in which the said President does avow, that there was a party in Virginia which deserved to be humbled into dust and ashes before the indignant frowns of their injured, insulted and offended country.

"And this deponent farther saith, that he is advised and believes that it is material to his defence against the indictment aforesaid, that he should procure authentic copies of sundry answers made by the President of the United States to addresses from the inhabitants of the United States in various parts thereof, which authentic copies he cannot procure, so as to be in readiness for trial during the present term.

"He also saith, that he is advised and doth believe that a certain book entitled "An Essay on Canon and Feudal Law," or entitled in words to that purport, ascribed to the President of the United States, and of which he believes the President is the author, is material to his defence, and that he cannot procure a copy of the same, and evidence to prove that the said President is the author thereof, without being allowed seven weeks and perhaps months for the purpose

"He further saith, that he is told by the counsel who mean to appear for him, that they cannot possibly be prepared to investigate the evidence relating to the several charges in the indictment, even if all the persons and documents wanted were upon the spot

WM. DUVAL.

May 28th, 1800

District of Virginia, 5th Circuit, } to wit.

"I certify that the foregoing is truly copied from the original in my office.

WILL. MARSHALL,
Clk. Ct. of the United States 5th Circuit, Va. Dt."

The committee proceeded to consider the third paragraph of the 4th article.

Mr. J. Randolph Under another paragraph part of the testimony has been read, but the following mould be added:

Mr. Hay says.

"The counsel, who were associated with me in Callender's defence, attempted to address the jury on the unconstitutionality of the law, on which the indictment was founded. They were interrupted, and obliged by Mr. Chase, to sit down. I then addressed Mr. Chase himself, with a view to satisfy him, that I had a right to discuss this point before the jury. I told him that what I was then about to say was intended for the court alone. He interrupted me; he asked me some question which was answered: In a very short time, after I had resumed my argument, I was interrupted again, by Mr Chase How often I was interrupted I know not; but I was interrupted, rudely interrupted several times. Having seen in the course of this trial what I never seen before having felt what I never felt before, and what I certainly expect never to feel again, and being impressed with a belief that Mr. Chase was determined to silence me, if he could, my mind was overwhelmed by *conflicting sentiments*, and I quitted the bar, my client and the court"

When the question was about to be put on agreeing to the whole of the 4th article,

Mr. Mott rose and remarked that he was not here when the committee on this subject reported at the last session, and of course did not get a copy of the evidence, he had however seen a part thereof in the newspapers and examined so much of the subject as to have satisfied him, that it was proper to vote in favor of two of the articles, to wit; the first and third, but as he had not an opportunity since coming to this place of comparing the articles of impeachment with the testimony on which they were founded, and since he could not make up his mind in hearing the evidence partially read, and as the House have refused to put it off for a short time, and he was not allowed to make the examination for himself, he was obliged to inform the committee, that he was not satisfied to vote in favor of the 4th article, whereas had he been allowed time he might join in a vote with the majority.

Mr. Nicholson said all the evidence on the subject of this article had not been read, he would therefore read it himself as the clerk was indisposed with a hoarseness—He read the following:

"*The additional deposition of Philip Norbone Nicholas, taken before George Wythe and Joseph Scott Esquires, under authority of the House of Representatives of the United States.*

"The said Nicholas being asked by the said commissioners what was the general deportment and manner of Judge Chase during the trial of James Thompson Callender, answers—

"That the general deportment and manner of Mr. Chase during the said trial, appeared to the said Nicholas to be marked with great violence and precipitation; and that judge Chase manifested a solicitude for the conviction of the prisoner, which, in the estimation of said Nicholas, was improper in a judge sitting in a criminal prosecution—The said Nicholas further states, that the deportment of judge Chase to the counsel, who appeared for Callender was rude and overbearing, and calculated to prevent that full and free defence without which it was impossible for them to do justice to their client.

PHILIP N. NICHOLAS.

Richmond, February 7th, 1804.

"*The additional deposition of George Hay, who being asked, what were the manners and deportment of Samuel Chase during the trial of James Thompson Callender, deposeth and saith.*

"That it appeared to him at the time of the trial, and he yet believes that the manners of Mr. Chase were intentionally rude and insolent. The deponent thought and still thinks, that Mr. Chase was determined that Callender should, if possible, be convicted, and that to accomplish this purpose, he endeavored to intimidate to depress, and to silence his counsel. He interrupted them frequently, with wanton rudeness. He ordered one, if not more, of them to sit down. He charged them with advancing doctrines which they knew to be illegal, and which they advanced, he said, only to deceive and mislead the populace. The patience of the deponent was at length exhausted and he quitted the court and the cause under a belief that farther exertions in the defence would only tend to cover himself with still greater shame, to subject him to still greater humiliation

"The deponent believes that there did not escape from him during the trial, a word or gesture, that could have given offence to the Judge. The conduct of his associates was he believes, equally guarded he does not therefore ascribe the insolence of Mr. Chase to irritation occasioned by the conduct of the bar

"The deponent is under no apprehension, that his judgment has been much misled by the circumstances attending his own situation He knows, and can now name men, whose politics *then* differed from his own, who expressed their abhorrence of Mr. Chase's conduct in terms as strong as language affords.—In fact the public mind was very much excited, and apprehensions were entertained by many, that some serious disturbance might take place. Mr. Munroe, then governor of Virginia, was so completely convinced of the danger, that he not only earnestly recommended moderation and forbearance to those who were daily crowding about the, but kept his eye constantly on the capitol, that he might be ready to command the peace, at the first appearance of commotion—To him Mr. Chase is probably indebted for the safety of his person during his residence in Richmond.

"The solicitude of Mr. Munroe to preserve order, arose from causes totally unconnected with Mr. Chase The character of the state, he observed, had never been tarnished by any opposition to the laws, or any outrage on persons clothed with its authority. The preservation of this character at that period, (*May* 1800) was in his estimation a matter of infinite importance, he therefore urged and intreated those, who supposed might come into collision with the Judge, to be patient, under every courage."

GEORGE HAY.

Richmond Feb 7, 1804.

The question was taken on the 4th article and carried without a division.

The fifth article was then taken into consideration.

Mr. J. Randolph stated the circumstances upon which this article was grounded: by the 35th section of the act of congress establishing the judicial courts of the United States, it is provided that for any crime or offence against the United States, the offender shall be arrested, imprisoned or bailed, agreeably to the usual mode of process in the state where such offender may be found; and it is provided by the laws of Virginia, printed in a volume commonly called the Revised Code of 1794, that the manner of proceeding against persons charged with crimes shall be in one of these two modes, the first in capital cases such as treason or felony, the second in cases, not capital The Virginia laws authorise expressly the issuing of a capias on which the body of an offender may be taken and committed to close custody in the first species of offence. In the other case, that is of offences not capital, this process is not warranted by our laws which require a different process: viz. a summons, which the court may order the clerk to issue returnable to the next ensuing court. In the case of Callender, who was presented and indicted for a crime not capital, the circuit court did issue the process which is only warranted in capital cases. To convince the committee on these points, he read the 5th section of the law of Virginia, page 110, respecting the trial and punishment of crimes, and also section 28, page 112. From these regulations he said there could not remain a shadow of doubt that the process which was issued against Callender, by order of the circuit court, and which is annexed to the articles of impeachment, and which commands the marshal of the Virginia district, to arrest the body of J. T. Callender and bring him forthwith before the judges of the court, was illegal, being contrary to the laws of Virginia and of course contrary to the laws of the United States.

The question was taken on adopting the 5th article, and carried, 71 voting in the affirmative, and 30 in the negative.

The sixth article under consideration.

Mr. J. Randolph read the law of Virginia relative to this point having just been read. he would only point to the words which are repeated from that law by the article of impeachment, they evince that the authority of congress as well as the laws of the state of Virginia had been both disregarded and contemned.

On the question to agree to the sixth article the committee divided, there being 70 in its favor and 22 against it; it was carried.

[*To be continued.*]

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The 15th inst. at XI o'clock, at the Vendue Warehouse, at the corner of Second and Frederick-streets, will be sold without reserve,

A handsome collection of SILVER PLATE, PLATED WARE, &c.

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Also,

An invoice of rich black and white Lace, remaining from the sale of the 24th Nov.

Thos Chase, auct'r.

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