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Commercial Daily Advertiser.

Daily 7, and Gazette 5 dollars per annum.

MONDAY, FEBRUARY 18, 1805.

HIGH COURT OF IMPEACHMENT. JUDGE CHASE's PLEA.

(Conninued from our lasts) In concluding his defence against those charges contained in the fourth article of impeachment, he declares, that his whole conduct in that trial, was regulated by a strict regard to the principles of law, and by an honest d' sire to do just ce between the United States and the party accused. He felt a sincere wish, on the one hand, that the traverier might establish his innocence, by those fair and sufficient means which the law allows; and a determination on the other, that he should not, by sub terfuges and frivolous pretences, sport with the justice of the country, and evade that punishment of which, if guilty, he was so proper an object. These intentions, he is confident, were legal and laudable; and if, in any part of his conduct, he swerved from this line, it was an error of

And the faid respondent for plea to the said fourth article of imperchment, taith, that he is not guilty of any high crime and mitdemeanor as in and by the field fourth article is alleiged against him, and this he prays, may be enquired of by this honorable court, in tuch manner as law and justice shall seem to require.

his judgment and not of his heart.

The fifth article of impeachment charges this respondent with having awarded a capias against the body of the faid James Thompson tallender, indicted for an offence not capital, whereupon the faid Callender was arrested and committed to close custody, contrary to law in that cafe made and provided "

This charge is rested first, on the act of congress of September 24th, 1789, ent tled 'an act to establish the judicial courts of the United States." by which it is enacted "that for any crime or offence against the United tates, the offender mas be arrested imprisoned, or baltd, agreably to the usual mode of procets, in the state where such offender may be found." And 2dly on a law of the state of Virginia, which is laid to provide, " that upon presentment by any grand jury of an offence not capital, the court Hiall order the clerk to issue a summons against the person or persons so offending to appear and answer such prefentment at the next court " It is con tended, in Support of this charge, that the act of congrels above mentioned, m de the state law the rule of proceeding, and that the sate law was violated by iffuing a capias against Callender instead of a

The first observation to be made on this part of the case is, that the date of the law of Virginia is not mentioned in the article. A very material emission! For it cannot be contended, that by the act of congress i in question, which was passed for establishi g the laws of the United States, and regulating their proceedings it was intended to render these proceedings dependant on all future acts of the state legislatures. The intention certainly was, to adopt to a certain simited extent the regulations nia paffed after this act can have no operation on the proceedings under it But by referring to the law of Virginia. in question, it will be found to beir date! on November 13th, 1792, more than three years their this act of congress, by which it is fad to have been adopted. But he omission of the date of this law of Virginia, is not the most material oversight which has been made in citing it Its title is. 'An act directing the method of proceeding against free persons, charged with certain crimes," &c and it enacts lection 28 h " I hit upon presentment made by the grand jury, of an offence not capital the court shall order the clerk to iffue a fumn ons, or other proper process, against the perion or perions fo prefenced, to appear and answer at the next court." It will be observed that these words, "or other proper process," which leave it perfectly in the discretion of the court what procels shall issue provided it be such as is proper for bringing the offender to auswer to the presentment are omitted in this article of impeachment.

From these words it is perfectly manifest, that the law of Virginia -admitting it to apply, did not order a summons to be issued, but left it perfectly in the direction of the court to iffue a fummons, or fuch

other process as they should judge proper It is therefore, a sufficient answer to this article to fay, that this respondent considered a capias as the proper process, and therefore ordered it to issue; which he admits that he did immediately after the presentment w s found against the

said Callender, by the grand jury. The he is informed, and expects to that in all such cases, however notorious Callender till the next term. that as foon as their guilt was rendered extremely probable, by the presentment of a grand jury, they should recrive regular notice, to escape from punishment by flight or concealment.

will also appear, as this respondent believes, by a reference to the laws and practice of Virginia, into which he has made all the enquiries which circumstan. ces and the shortness of time allowed him for preparing his answer, would permit, that all the cases in which a summons is considered as the only proper process, are cases of petty offences, which on the presentment of a grand jury, are to be tried by the court in a summary way, without the intervention of a petit jury. Therefore, these provisions had no application to the case of Callender, which could be no otherwise proceeded on than by indictment, and trial on the indictment by a petit

It must be recollected that the act of Congress of September 24th, 1789, enacts, section 14, " that the courts of the United States, shall have power to islie writs of scire facias, habens corpus, and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usage. of laws." Consequently, the circuit of which he can have enjoyed but very court of the United States veld at Newcourt, where the proceedings in question | imperf. cf apportuble es of becoming ac- | Castle in the state of D. lawere, in June verned the case, and contained something | ve iences must frequently arise from | denies, that it contains any matter for to restrain the issuing of that writ in such | this source, and to obvious such difficult | which he is liable to impeaching it. reasons above stated; that this state law neither applied to the case, nor contained any thing to prevent the isluing of a capias, if it had applied.

Thus it appears that this respondent, in ordering a capias to issue against Callen. der, decided correctly, as it certainly was his intention to dor Bu he chins no othe merit than that of upright intention in this decision: for when he mide the decifion, he was utterly ignorant that fu h a la vexisted in Virginia; and declares that he never heard of it, till this article was reported by a committee of the House of Representatives, during the present sel. sion of Congress. This law was not mentioned on the trial either by the counsel or the traverser, or by judge Griffin, who certainly had much better opportunies of knowing it than this re pondent, and who, no doubt, would have ci ed it had they known it and confidered it as applicable to the case. This respondent well knows that in a criminal view, ignorance of the law excuses no man in offending against it -but this maxim applies of to the decision of a judge; in whom ignorance of the law in general would certainly be a disqualification for this office, though not a crime; but ignorance of a particular act of affembly, of a state where he was an utter stranger, must be considered as a very pardonable error; especially as the counsel for the pritoner to whose case that law is supposed to have applied, sorbore or omit. ted to cite it; and as a judge of the st te, aiways relident in it, and long conversant with its local laws, either forgot this law, or considered it as inapplicable.

Such is the arriver, which this respondent makes to the fifth article of impeachment. It he erred in this case, it was existing in the states at the time of palling | through ignorance of the law, and furely, the ect. Consequently, a law of Virgi | ignorance under such circumstances, cannot be a crime, much less a high crime and misdemeanor, for which he ought to be removed from his office. If a judge were impeachable for acting against law from ignorance only, it would follow, that he would be punished in the same manner for deciding against law wiltuly, and for deciding against it through mistake. In other words, there would be no distinction between ignorance and defign, between error and corruption.

> And the said respondent, for plea to the the said fisth article of impeachment, sai h, that he is not guilty of any high crime and miidemeanor, as in and by the faid fifth article is alledged 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 fixth article of impeachment alledges, that this respondent, "with intent to oppress and procure the conviction of the said James Thompson Callender, did, a at the court aforefaid, rule and adjudge the said Callender to trial, during the term at which he, the said Cailender was presented and indicted, contrary to the law in that case made and provided."

This charge also, is founded, 1st, on

the act of Co gress of Sept. 24th, 1789, above mentioned, which enacts, section 24, " that the laws of the several states, except where the constitution treaties, or statutes of the United States shall other wise provide, tha'l be regarded as the rules of decision, in trials at common lavo, in the courts of the United States, in cases where they apply;" and secondly, on a law of the state of Virginia, which is prove, has been the construction of this supposed to provide, "that in cases not law by the courts of Virginia, and their | capital, the offender shall not be held to | general practice. Indeed it would be the answer any presentment of a grand jury, most strange, if any other construction or until the court next preceding that, during shall be regarded as rules of decision in practice had been adopted. There are which such presentment shall have been trials at common taw, in the cours of the many offences not capi al, which are of a made." This law, it is contended, is U ited 5.2 e, in cases where they ap-

or profligate the offenders might be, the In answer to this charge this respondcourts should be obliged, after a present- ent declares, that he was at the time of ment by a grand jury to proceed against making the abovementioned decision, respondent apprehends, have any applithem by summons; would be to enact, wholly ignorant of any such law of Virginia as that in question, that no such law was adduced or mentioned by the motion for a continuance; neither when in his opinion, to civil rights acquired they first made it, before this respondent | under the state laws; which by virtue of after Judge Gr.ffin had taken his seat in | question in the cours of the United court; that no such law was ment oned | States, to be governed by the laws which by Judge Graffin; who concurred in over | they accould. ordering on the trial; which he could incorrect, it is an honest error: and he ble to the case; and that this respondent | ance of a local state low which he had no deration were reported, in the course of posed to have affected were equal y ignor the present session of Congress, by a | ant, can be considered as an offence liacommittee of the House of Representa- | be to impeachment, or to any sort of

proper a direasorable means of obtainparticular law, is at all times a very par- | honorable court in such manner as law denable error. It is much more so in and justice shall seem to them to rethe case of a judge of the supreme court | quire. of the United States, holding a circuit | The seventh article of impeachment court in a particular stite, with which relates to some conduct of this respond took place, had power to issue a capias a. | quainted. It was frieseen by congress gainst the traverser, on the presentment, mestablishing the circuit courts of the made in the artice is altegether erroneunless the state law above mentioned go. United States, that difficulties and incon- our; but if it were true, this respondent a cise. This respondent contends, for the tres it was provided, that the district alledges that "disregarding the duties residen of the state and a practit oner in | dignity of a judge, and stoop to the leits counts, he all the necessary means of | velof an info. mer." This high offence b co ling acquainted with its I cal laws, consisted, according to the article, let,

> may be justly consider das particularly indichment, and had no presentinents to responsible for their due observance. If make, that he the said Samuel Chave in the case in question, this respondent | understood that a highly sed to us tern overlooked or misconstruccarry I calliaw j per had a anifested itself in the state of dge, who had the best opportunities of knowing and understanding 1, and in Wom, never helest, this oversight or ground of a criminal charge.

tensive enquire which the time allowed | 5thiy, in authoritatively enjoying in the | for preparing this alewer would permit, | district at orney of the United Sates, f' isis enacts, " 1. cases not capital, the | tion of the printer in question, the necesfi d is a notice held to asswer any sity of procuring a file of the papers to resemment of a grand jury, until the | which alluded, and by strict examinac ur nexi succeeding that during which | tion of them to find some passage, which such present ment shall have been made." | might furnish the ground work of a pro-The principle he supposes to be an secusion against the printer."

i frence drawn by the authors of the a - [out an indictine t or the intervention of | general welfare." low the presentment, this law mad, not cerning the transaction mentioned i Congress, to be the rule of decision in to be true, and expects to prove. the courts of the United States, only "in ply to the case of Canender, for the reasons : taled above , and the efore that i. w uld have b en his du y to disregard it, even had it been made known to hun by the coursel lo: the traverser.

And in the last place he contends, that tie law of Varginia in question, is not adepted by the abovementioned act of congress as the tue of decision, in such ca ses as that n w under con ideration. That act does indeed provide, " that the laws of the several states, except where ! te constitution treaties or stati tes of the U ited States shall othe. Wise privide,

laws of Virginia; and to enact by law flated by the refusal to continue the case of the state laws, which come into question on the trial; and not to forms of process or modes of proceeding, anterior or prebaistory to the trial. Nor can it, as this cation to indichment for off-nces against the statutes of the United States, which cannot with any propriety be called "tricounsel of Callender, in support of their | a's at common law.' It relates merely, sitting alone; nor when they renewed it, this provision are, when they come in

ruling the motion for a continuance and | It is these opinions this respondent be not have done had he known that such a conterds that neither such an error in law existed, or considered it as applica | the construction of a law, nor his ignornever heard of any such law, until the ar- | opportunity of knowing, and of which the ticles of impeachment now under consi- | counsel for the party whose case it is suppublis ment or blame.

A judge is certaily bound to use all A.d for plea to the said six h art cle of impeachment, the said Samuel Chase ing a knowledge of he laws which he is saith, that he is not guilty of any high appointed to administer; but after the clime or misdemeanor as in and by the use of such means, to overbook, misun- | said article is alledged against him; and derstanding, or remain ignorant of some | this he prays may be enquired of by this

he is a stranger, and with the hoal laws | ent in his judicial capacity, a a circuit 1800. The statement of this conduct judge of each state, who having been a jof his office, he did descend from the should from a part of the circuit court in refusing to discharce the grand juy in his own state. I e judge of the su- although futrea ed by several of the said a eme court is expected, with reason, to jury to do so" 2dly, in " observing to w. li versed in the general laws; but | the said grand jury, after the said grand hal call we of the state form the pecu- jury had regularly declared through their list province of the district judge, who livreman, that they had found no bil's or

of the state of Virginia, which ought to Diaware, among a certain class of peohave governed the case, it was equally ple, particularly in New Castle county overlooked a dini u. derstood, not only and more especially in the two of Wil by the primite's cau sel who made the mi gton, where lived a most sedi nous moriun, and whose equivarduty it was princer, unrest a ned by any principle of to know the law and being it into the virtue, and regarding less of social order, the can find it law of Virginia which ex- with intention to procure the prosecu-

These charges amount in substance to cles of im eachinent, from the law of this; that the respondent refused to dispreceding a ticle, the law of November | which is every day's practice, and which | 15th, 1732, which provides " that upon he was bound to do, if he believed tha present ment made by the grand jury of the due administration of justice required an offsice not capie, the court shall oi- their longer attendance: that he direct der the clerk to issue arsue mons, or ed the attention of the grand jury to an other proper process, against the pers in offence against a statute of the United or person so presented, to appear and | States, which he had been informed was answer such presentment at the NEXT | committed in the District; and that he court!" This law Le conceieves does | desired the district attorney to aid the not warrant the inference so drawn from | grand jury, in their enquiries concernit, because it speaks of presentments and ling the existence and nature of this ofnot of indistinents, which are very differ- fence. By these three acts, each of ent things; and is, as he is informed, which it was his duty to petform, he is co. fined by practice and construction in | a ledged " to have degraded his high juthe state of Virginia, to cases of small dicial functions, and tended to impair the offences, which are to be tried by the public confidence in, and respect for, the court itself upour the presentment, with i tribunais of justice, so essential to the

a perijary. But for cases, I ke that of That this honorable court may be Callender, where an indictment nous fol- able to form correctly its judgment, con provisi n. Further, the state laws are this article, this respondent submits the direct oby the abovementioned act of following statement of it, which he avers

On the 27 h day of June, 1800, this cases where they apply " Whether they | respondent, as one of the associate justice apply or but to a part cular case, is a of the supreme court of the United States, question of law, to be decided by the presided in the cucuit court of the U court where such case is pending, and States, then held at Newcastle in and for an elerin making the decision is not a the district of D laware, and was ascrime, nor even an offence, unless it can | sisted by Gunning Bedford esq. then disbe shown to have proceeded from impro- tritt judge of the United Sates for that per motives. This respondent is of opi- district. At the opening of the court or nion, that the law in question did not ap- that day, this respondent according to his duty and his uniform practice, delivered a charge to the grand jury in which he gave in charge to them several statutes of the United States, and among others, an act of Congress pased July 1798, enutled "An act in add tion to the act for the punishment of certain crines against the United States," and commonly called the "sedition law." He directed them to enquire concerning any breaches of those statutes, and especially of that commonly called the sedicion law, within the district of Dela-

On the same day before the usual hour | Baltimore in and for the district of Maryof adjournment, the grand jury came land, in May 1803, and did then deliver into court, and informed the court that a charge to the grand jury, and expicts in very dangerous tendency, and on which made the rule of decision by the above py." But this provision in his opinion, they had found no indicament or pre- the conclusion of it some opinions as to cer.

them, for which reason they wished to be discharged. This respondent replied, that it was earlier than the usual hour of discharging a grand ju y; and that business might occur during the sitting of the court. He also asked them if these had no information of publications within the district, that came under the sedition law, and added, that he had been informed, that there was a paper called the -i "Mirror," published at Wilmington, which contained be lous charges against the government and President of the United States: that he had not seen that paper, but it was their duty to enquire into the subject: and if they had not turned their attention to i, the attorney for the district would be pleased to examine a file of that paper, and if he found any thing that came within the sedit on law, would lay it before them."___ This is the substance of weat the respondent said to the jury on that occasion, & he believes nearly his works on the morning of the NEXT BAY, they came into court aid decli ed they had no prasentments or ind chirents to racke, on which they were immed a elv discharged. The whole time the cfore for which they were detained, was twenty four hours, far less than is generally required or grand ju-

In these proceedings, this respondent acted according to his fense of what the duties of his office requi ed. It certainly was his duty to give in charge to the grand jury, all such statutes of the United States as provided for the pinishment of offen es, and among others, that called the sedition act; into all offences agai st which act, while it continued in torce, the grand jury were bound by their oaths to enquire. In giving it in charge, together with the other sets of Congrets for the punishment of off news, he followed moreover the example of the other judges of the supreme court, in holding their refpetive circuit courts. He alto contends, and did then believe, that it we shis duty, when informed of in offence, which the grand pary had overlooke , to direct their at ention towards t, and to request for them, and even to require in necessary, the aid of the different atto ney in making their enquiries. In thus differently what he conceines to be has duty, even if he committed an error in to emblering it, he deries timt le committed or could commit any offerce whatever,

With respect to the remarks which he is charged by this article with having made to the grand | relative to a his hly fedicious temper, which he had enderflood to have maintefled irrest in the state of Deliware, among a certain class of view of the court, but also by the dis not | that the name of this printer was - | people, particularly in New title county, " 3d.v, " in then checking and more effectivity in the town of Wilhimself es if sensible or the indecerum | mington," and relative to a most sediwinch he was committing." 4 hly, m ! tious printer, refiding in Wilmingt n, unmust ke is considered as a venal error, adding "that is might be assuming refliamed by any principle of virtue, and while in this respondent it is made the | too much, to mention the name of this | regardless of social order;" this responperson; but it becomes your du y, gen- | dent does not recollect or believ, that he This respondent further states, that af- | tlemen, to enquire dil gently into this | made any fach observations. But if he ter the most dangent and the most ex- matter," or words to that effect." And make them, it could not be improper in him to tell the jury that he had received fuch information, it in fact be had received it; which was probably the cafe, though he cannot recollect it with certainty at this distance of time. That this information, if he did receive it, was correct, so far as it regarded the printer in que ion, will fully appear from a file of the poper called the " Muror of the Times," &c. published at Wilmington, Delaware, from Virginia met tioned in the answer to the charge a grand jury on their request, clufive, which he has lately obtained, and is ready to produce to this honorable court when necessary, and some extracts from which are contained in the exhibits severally marked No. 7, which he prays leave

to make part of this his answer. And for plea to the said seventh article of impeachment, the said Samuel Chase saith, that he is not the lty of any high crime or misdemeanor, as in and by the fa d seventh article is alledged against him, and this he prays may be enquired of by this honorable court, in such manuer as law and justice shall seem to them to re-

The eighth article of impeachment charges, that this respondent, "difregarding the duties and dignity of his official character, did, at a circuit court for the diftrict of Maryland, held at Baltimore, in the nonth of May, 1803, pervert his official right and duty to address the grand jury then and there assembled, on the matters coming within the province of the faid jury, for the purpose of delivering to the said grand jury an intemperate and inflammatory political harangue, with intent to excite the fears and resentment of the said grand jury, and of the good people of Maryland, against their state government and constitution," and also that this respondent, " under pretence of exercisling his judicial right to address the grand jury as aforesaid, did endeavor to excite the odium of the said grand jury, and of the good people of Maryland, against the government of the United States, by delivering opinions which were, at that time and as delivered by him, highly indecent, extra judicial, and tending to proditute the high judicial character with which he was invested, to the low purpose of an electioneer. ing partizan."

In answer to this charge this respondent admits, that he did, as one of the affociare justices of the supreme court of the United States, preside in a circuit court held at very severe punishment is inflicted by the mentioned and of Congress, and was vio. can relate only to righ a acquired under sentment, and had no business before | tain public measures, both of the govern-