

The Gazette.

PHILADELPHIA, MONDAY EVENING, SEPTEMBER 9.

The Office of "The Gazette of the United States" is removed to the first three-story brick house in Eleventh, above Arch street, where this paper will continue to be published during the prevailing sickness.

Subscribers in Germantown and its vicinity, will receive their papers from Mr. Kitchen.

Those at Frankford, from the Store of John McClen, Esq.

APPROACHING ELECTION. NUMBER VIII.

To the Electors of Pennsylvania.

IN conformity to the promise I made in my last number, it is now my intention to justify some charges against Mr. McKean, which his committee did not think proper to notice. The inconsistency of his political principles, and his agency in promoting the treasonable embassy of Logan, I have already enlarged on; his intemperance also, I have slightly adverted to; I shall therefore now, only animadvert upon a few of the most flagrant instances of his judicial intolerance; for to enter into a minute detail of all the cases wherein he has outraged jurors, insulted witnesses, and scandalously abused lawyers, would be an undertaking too disgusting for the patience of my reader, and too prolix for my own.

In the year 1783, Eleazar Oswald, printer of a paper, supported by the Republicans, (the present Federalists) published some strictures on the conduct of Mr. McKean, who was then a zealous partizan of the constitutional faction. He was soon after prosecuted in the supreme court as a libeller. After a full investigation, an independent grand jury returned the bill of indictment with an ignoramus. At this the chief justice discovered all the symptoms of the most outrageous passion, told them that their division was produced by the spirit of party; and ordered them back to their chamber to alter their verdict. The grand jury, however, were not to be thus forced into acts of oppression and injustice; they returned with the manly and spirited memorial which has lately been republished in the Gazette of the United States, complaining of the arbitrary influence wherewith they had been treated, and finally declaring their fixed adherence to their original determination. No small degree of apprehension indeed, was entertained that he would commit them for their noble resistance; but the general indignation was too powerful to be opposed, and he finally, fully dismissed them. By whom were the rights of grand juries here trampled on? By whom were those sanctuaries, which it is surely a common interest to preserve from the taint of party zeal, here perverted from the design of their establishment? But here Mr. McKean's own passions were roused, his own follies were lashed, his own misconduct condemned, and his own revenge to be glutted.

In the year 1788, Oswald became an adherent of the constitutional party, and Mr. McKean a warm partizan of the republicans. An action having been brought against the former for a libel, he published an account of the proceedings against him, and severely but not indecently, reflected on the character of Mr. McKean and one other judge of the courts. The counsel for the plaintiff moved, that Oswald should be punished for a contempt in addressing the public relative to the merits of a cause then in suspense, and for attacking "the integrity and impartiality" of the judges. He repeatedly declared, (says Dallas in his report of the case) "that he meant no contempt of the court in what he had published;" but Mr. McKean's vindictive nature was not to be appeased by an apology of this kind; and the daring contemner of his sovereign authority was sentenced to rot with the meanest malefactor in a goal for the period of thirty-one days.

This transgression excited a great degree of attention, terror and execration among those who are now the most active supporters of Mr. McKean's election, and a petition was presented to the executive council signed by Sergeant, Hutchinson, Eyre, McClenachan, Dupontreau, D. Jackson, Pole, Barker, Fox, Israel, Bailey, Burton, Ferguson, and a number of others who have distinguished themselves by their virulent opposition to government, praying for the oppressed criminal's pardon. This petition states "that if such proceedings are allowed, nothing can prevent the infamous proceedings of the Star Chamber of England from being revived in this country; it being the very grievance complained of in that abominable court, that they proceeded by arbitrary discretion, and frequently punished men upon frivolous pretences to gratify the malice of Archbishop Laud, or some other member of the court; that the petitioners apprehend that the ninth section of the bill of rights was intended to secure them the invaluable rights of trial by jury in criminal cases, and to prevent such arbitrary proceedings as had been instituted in the case of Colonel Oswald."

Here the conduct of Mr. McKean is expressly compared with the proceedings of the infamous Star Chamber; he himself is indirectly likened to Archbishop Laud; he is in effect, said to have trampled the constitution under foot; and the whole measure is branded with the infamy of being illegal, arbitrary and tyrannical. Yet do we now see these confident petitioners not only among the most zealous supporters of the "Republican

candidate," but impudently stigmatizing those as abandoned calumniators, who dare to warn their fellow-citizens against his future executive tyranny, from his past judicial intolerance. After the term of his imprisonment had expired, Oswald presented a memorial to the general assembly, praying for the impeachment of the Chief Justice and two other members of the court.

On this occasion Mr. Findley presented the following resolution to the house:

Resolved—That the proceedings of the supreme court against Mr. Eleazar Oswald, in punishing him by fine and imprisonment at their discretion, for a constructive or implied contempt, not committed in the presence of the court, or against any officer or order thereof; but for writing or publishing improperly or indecently respecting a cause depending before the supreme court, and respecting some of the judges of the said court, was an unconstitutional exercise of judicial power and sets an alarming precedent of the most dangerous consequence to the citizens of this commonwealth."

This proposition was vigorously supported, and finally voted for by Mr. Findley, and all the members of his party then in the legislature. It is true, indeed, it was opposed by the federalists, and after a long debate, it was lost. Nor could it have been adopted unless the assembly had thought as the resolution expressed, that Mr. McKean's conduct had been contrary to the constitution. This it certainly was not, and Findley's idea was highly ridiculous, for the court did possess the power to punish Oswald by fine and imprisonment; but it does not thence follow, that the exercise of that power was not tyrannical; that the punishment was not excessive and cruel; and that the motives which led to it were not contemptible and mean. How Mr. Findley and those who agreed with him, can now support the election of a man whom they have thus publicly charged with breaking down the barriers of a constitution he was sworn to maintain, and with flagrantly violating the most important rights of the citizen, is for them, their country and their God to determine.

The next case which I shall advert to, is that of William Cobbett, editor of Porcupine's Gazette. It is not at present my intention to become either the accuser or the defender of Porcupine. Whether he has rendered essential service or done serious injury to our country, is totally unconnected with the present discussion. While a resident here, he owes to our government a local allegiance, and is consequently entitled to the full protection of our laws. A breach of them, when committed by him, is punishable precisely in the same manner, as when committed by a native American, and judicial oppression, when the one is the sufferer, ought to be as strictly scrutinized and as severely punished, as when practised on the other.

It is well known, that for a long time previous to the prosecution against him for a libel on the Spanish minister, he had made the Chief Justice the constant butt of his ridicule and the object of his severest censure. All the rancour of the Judge, was of course excited, and a knowledge of his character, created a general expectation, that some memorable instance of his wrath, would soon fall on the head of the devoted Porcupine. Accordingly, when the Chevalier D'Yrujo caused a prosecution to be commenced against Mr. Cobbett, for a libel, Mr. McKean resolved fully to display the effects of his vengeance. When the court assembled, he gave a charge to the grand jury, more than two-thirds of which, consisted of a description of libels, their dangerous tendency, the evils they had already produced and the still greater calamities they were about to engender. Had he stopped here, his conduct would have been highly reprehensible, for surely no jury ought to be prejudiced against an offender, by their detestation of the offence of which he is charged. After the riots in London, in the year 1783; after the horrible outrages of every species, which had been committed by the rioters; the whole city thrown into consternation and dismay, and a general conflagration seriously apprehended; lord Loughborough delivered a charge to the grand jury who were to indict the criminals, far less virulent in its language, and infinitely less rancorous in its ideas, than that which Mr. McKean uttered against libellers; yet, because it was in some degree calculated by the pathetic eloquence with which it described the injuries that had been committed upon every age, sex and character, to inflame the passions and bias the judgment of the jury, the friends of liberty, throughout the British nation (says the Annual Register) publicly censured it. But Mr. McKean went much further, he not only described the offence, but designated the offender and particularized the person, whose guilt was the most dangerous and atrocious. The grand jury, by the theory of our laws, are alone the judges of the propriety of preferring an indictment; they, alone, were to determine, whether Cobbett's publications were "licentious and virulent beyond all former example;" they are permitted only to examine the witnesses in behalf of the prosecution, and this is surely of itself, sufficient to dispose them to prefer all real criminals, whose cases come before them; and therefore the attempt of Mr. McKean, to influence their decision, by authoritatively pronouncing in his official station, that the object of his vengeance, had been guilty of the offence for which he was then to be tried, was an illegal, unconstitutional, and tyrannical assumption of judicial power. Besides, if Porcupine had been indicted, he was still entitled to a fair and impartial trial before the petit jury, and the judges of the court: it was still his right to repel the charge of libelling; to endeavour to disprove it even to the satisfaction of the Chief Justice himself, and it was the duty of the latter, to form no opinion, certainly to express none, until he had heard the supposed criminal's defence. If

men are thus to be judicially pronounced guilty before their trial comes on, before the allegations against them are proved, and before any answer is given to those allegations, the supreme court is indeed, in no respect preferable to the "infamous star-chamber," to the detestable Spanish inquisition, or even to the horrible revolutionary tribunal of France.

But wherefore was Cobbett only to be punished for this offence, so detestable in the eyes of "all good men" and of the "republican candidate?" were there no other printers who had "stained the honour of families, rendered the highest posts cheap and vile in the eyes of the people; and blatted the greatest services and virtues?" the virtues and services of General Washington and of Mr. Adams, were, at least, as great as those of Mr. McKean, or of his popinjay son-in-law; and yet, when the infamous Buche called the one a perjured peculator and a willful assassin, and the other "an old, bald, blind, toothless and decrepit president," the vigilant Chief Justice of Pennsylvania, was not so "fully impressed with the duties of his station," as to bind over the abandoned calumniator. Nay, he has since in some degree, even sanctioned "the magnitude and virulence of the lies" of the Aurora, by granting it the only distinction in his power; by making it necessary that the advertisements of insolvent debtors, relative to their discharge, should be published in that vehicle of slander.

So thoroughly was Yrujo himself, convinced that Cobbett's punishment would be commensurate with his own malignity, if the trial took place before the democratic judge, that he solicited the government of the United States, to cause the prosecution it had ordered at his instance, in the federal courts, to be transferred to the supreme court of Pennsylvania; and when our executive refused a request, (which by the bye, I do not believe he had the power to grant,) the Spaniard procured a new prosecution to be instituted before his father-in-law. The grand jury returned the bill of indictment with an ignoramus, and for this, did Mr. McKean expressly charge them, in open court, with a direct breach of the duty they were sworn to observe.

In all the instances I have yet mentioned, did his judicial tyranny arise from a desire to satiate his own rancorous malevolence. Mr. Oswald personally attacked him, and for this, Oswald was sentenced to endure the miseries of a goal. Mr. Cobbett like wife ridiculed his follies, censured his vices, and held his misconduct up to deserved public odium and contempt. To destroy a private enemy therefore, was the law violated, decency disregarded and justice trampled under foot.

Some time since there was published in the Aurora, an exaggerated account of a Quaker's having been threatened with imprisonment in a Scotch Court of Justice, because he refused to be sworn. Religious opinions of one kind, are as much respected as those of another, and in this State where the most unqualified religious tolerance is secured by the constitution, every attempt to abridge it ought to be observed with a watchful, scrutinizing and jealous eye. In 2 Dall. p. 213, is an instance of Mr. McKean's regard for the religious rights of the citizen, which ought not to pass unnoticed. Jonas Philips a Jew was offered as a witness on Saturday. This day being his Sabbath, he refused to be sworn; and for this the court in which Mr. McKean presides, fined him ten pounds.—Whether the conduct of the Pennsylvania Judge was not quite as arbitrary and tyrannical as that of the Edinburgh Justice, it is for the public to determine.

While the proposition for repealing the Alien and Sedition Bills was under consideration in Congress, four United Irishmen assembled a mob in one of the church yards in this city in order to procure signatures to a petition for their repeal. At this time the congregation had met together peacefully to worship their God. Justly enraged at the insolent and impious intrusion, some of the more youthful members of the Church endeavored to apprehend the villains with a view to place them in the hands of Justice. A riot ensued, and one of the ruffians drew a pistol out of his pocket in order to murder his opponents. After a violent scuffle, the rioters were made prisoners and carried before the Mayor. During the examination, the Chief Justice, who possessed no more authority there, than any other individual, forced himself into the mayor's house, grossly insulted that magistrate while in the execution of the duties of his office, and declared that the prisoners ought to take up their hats and go away. Unfortunately the mayor is not a lawyer, for if he had been perfectly acquainted with the extent of his authority, he would probably have chastised this insolent breach of law, order and decency by an immediate commitment of the daring offender. With the unlimited power of pardon vested in such a man, what outrage will not escape punishment? What security will there be for the lives liberties and property of our citizens, when the most atrocious villains in the country are so secure from the avenging rod of Justice.

MILO.

A TRUE AMERICAN, to mortow.

The Chevalier de Frere is appointed by the court of Portugal, Minister to the United States of America.

Captain Dickinson, of the brig Victor, arrived at Charleston from Martinique, in forms that lord Hugh Seymour sailed on an expedition against Surinam, from Martinique, on the 29th of July last, with one 98 gun ship, two ships of 74 guns each, and 5 frigates. Four of the frigates had recently arrived from Barbadoes, with troops, and the 47th regiment embarked at Martinique. The English were sanguine in their hopes of

success, having been solicited by a deputation from the inhabitants of Surinam, to take possession of the colony.

An embargo was laid on at Martinique, for 13 days previous to the sailing of the Squadron.

Gazette Marine List.

Port of Philadelphia.

Arrived at the Port—Ship George, Rice, Londonderry—left there the 28th June. No inward bound vessels have arrived at New-Castle since the brig Ariel, Griffiths, from St. Croix.

Ship Fame, Jones, for London, and brig Maria Sorelson, for Hamburg, lay at New Castle on Saturday evening.

Ship Boston Packet, Cowperthwait, of this port, has arrived at Hamburg, from Charleston.

The following vessels were spoken in lat. 23, 30. long. 70, 00, under convoy of the ship Ocean, Reynolds, bound for Cape Francois, viz.

Ship Alexander Hamilton, Philadelphia. Brig Eliza, York, do. Polly, Jones, do. Francis, Cox, do. Clarissa, Thomas, do. And several others names unknown.

Brig Sally, McCall, from hence, has arrived at Hamburg.

Boston, September 3.

Arrived, schr, Nancy, Huxford, 8 days from Halifax.—Passengers, Messrs. Carr, Greenwood, Cullagher, Pearce, Gardner, Duan, Cooke, Mrs. Hall, and Mr. Magher and family. Ship Harriot, Cloutman, 74 days from Lisbon; brig Katy, Cottle, 26 days from Havana. Arrived at Hospital Island, since our last—schr. Industry, Cornell, from Wilmington, (Del.) one passenger;—schr. Nancy, Daggett, 9 days from Philadelphia, two passengers; brig William, Small, 22 days from port Morel, one man died.

REPORT Of the Sextons of the different grounds, of the number of Funerals at their grounds.

FOR THE 48 HOURS, ENDING THIS DAY AT 12 O'CLOCK.

Table with columns: Names of the Burial Grounds, Children, and Burials. Lists various grounds like Christ Church, St. Peter's, St. Paul's, etc.

* Of these 17 were from the City Hospital, and 11 from city and suburbs.

The above list comprehends all the burials from the City and Liberties of every disease.

By order of the Board of Health. WILLIAM ALLEN, Health Officer.

CITY HOSPITAL. ADMITTED.

Jacob Cook, from the street. Elizabeth Kelly, corner 3d and Lombard st. Joseph Hets, Penn and South street. Abraham Sands, from the streets. Mr. Finican, South Water st. Mary Koon, near the 3 mile stone, Lan. road. John Catherwood, 5th and Small st. James Fitzgerald, 32 Plumb street. Betsey Mickle, German, near 3d st.

DIED.

Margarette Davis, ill 3 days previous to ad. Charles Yost ill 3 days do. Roger McKenzill 2 days do. Mary Cheekman ill 2 days do. John Lewis ill 2 days do. Betsey Spence ill 2 days do. Bartholomew Murray, 2 do. James Irvin, 4 do. James McGarill, 3 do. Polly Henry 7 do. do. William Cheffeman 2 do. do. Terence Lyach 6 do. do. Joseph Lawrence 10 do. do. Susan Bryant 4 do. do. James Welch 2 do. do. Henry Dean 4 do. do. Coleman Finican admitted with Black vomit.

Remaining in the Hospital 46, of whom 25 are convalescents.

Interred in the Public ground the last 24 hours.

City and suburbs, 11. City Hospital, 17. —28

PETER HELM, Steward.

NEW-YORK, September 7.

7 Deaths and 25 new Cases of Fever were reported at the Health-Office for the 24 hours ending last night at 8 o'clock.

CHARLESTON, August 22.

Yesterday anchored under Fort Johnson, the ship Lucy, Connelly from the Havana. Captain Connelly sailed from the Havannah on the 30th of May; the next day he was captured by the York of 64 guns, part of a fleet of ten sail, which were cruising off the Havannah, which after taking out all the crew of the Lucy, except captain Connelly, his second mate and carpenter, a funnel boy who was sick, and one passenger, put a lieutenant of the York, as prize-master, and eleven seamen on board, and ordered her for Jamaica; but on Friday night last, when coming through the Gulf, captain Connelly, assisted by his second mate and carpenter, made an attempt to take possession of his ship, by knocking down those who were on deck, and securing the others below, and succeeded; when capt. Connelly made the attempt, there were ten of the seamen on deck. The lieutenant of the frigate and captain Connelly's passenger were below asleep, and did not know that he was master of his vessel until the next morning, when he had altered her course for this port.

NEW-HAVEN, September 4.

Wednesday last the sloop Mary, Ward, master, with her stock and store on board, ready for sea, (lying at anchor in this port,) the hay took fire from the cabin, by which six oxen and horses, and a number of sheep were burnt to death, and her mast, rigging, sails and hull greatly injured. The damage estimated at more than 2,000 dollars.

WINCHESTER, August 14.

Extract of a letter from the Natchez, dated May 17, lately received by a gentleman in this town.

"I have received intelligence from New-Orleans, by a friend on whom I can rely, that the General of Marine in the Havannah, with a number of principal officers, are under an arrest, from a plot being discovered of giving up that important fortress to the British."

DIED, AT NEW-YORK.

Among the victims to the present epidemic we have to mention with that regret which always arises from the departure of real worth—Mr. A. Berr, Printer, Son of Mr. A. Berr, of Stamford, in this State. He died on Wednesday evening last, after 3 days illness. Those who knew him, will know how to regret the loss of this amiable Youth.

Yesterday Morning of the prevailing Epidemic, Mr. Robert Burton, printer.

Dr. Perkins, author of the Metallic Tractors, died lately at New-York, of the yellow fever.

John J. Parry.

WATCH-MAKER.

INFORMS his friends and the public, he has removed from the stall on his shop in Second-street to the next house to the post-office in Trenton, opposite the Market, where all orders in his line will be executed with particular care and attention.

An excellent assortment of Silver Ware and Jewellery, and Gold and Silver Watches, for Sale as above.

Trenton, Sept. 4, 1799. JAW 246.

Notice.

ALL persons having claims against the Estate of Col. Edward Oldham (deceased) late of Cecil County, Maryland, are hereby warned to exhibit the same immediately, with vouchers thereof, to the subscriber.

EDWARD OLDHAM, Jun. Attorney for Mary Oldham, Ex'ca.

Bohemia Manor, Cecil County, Maryland, Sept. 1, 1799. JAW 246.

United States, District of Pennsylvania, }.

To the Marshal of the Pennsylvania Districts of the United States.

WHEREAS in my opinion a contagious sickness in the city of Philadelphia, renders it hazardous to hold the next stated Session of the Circuit Court of the United States, in and for the Pennsylvania District of the middle Circuit of the said city, the place appointed by law at which to hold the stated session of the said Court—These are by virtue of the powers and authorities vested in me, RICHARD PETERS, Judge of the Pennsylvania District of the United States, in the name and by authority of the United States; to order and direct you to adjourn the session of the said circuit court, directed to be held at Philadelphia, on the eleventh day of October next, to Norris Town, in the county of Montgomery in the same district, being a convenient place within the same for holding the said court; and you are to make publication hereof in one or more public papers printed at the said city, that the said court is adjourned as it is hereby directed to be; and you are accordingly to adjourn the said court to the said place hereby appointed from the time you shall receive this order to the said eleventh day of October next, the time by law prescribed for commencing the said session.

(L.S.) Given under my hand and seal at Belmont in the said district this sixth day of September in the year of our Lord 1799, and in the twenty-fourth year of the Independence of the United States.

RICHARD PETERS.

WHEREFORE I, the said Marshal, by virtue of the powers vested in me by the above order and directions from the honorable Richard Peters, Esquire, judge of the Pennsylvania district of the United States, and in the name and by the authority of the United States, do adjourn the session of the Circuit court of the said United States, which was to have been held at Philadelphia, on the eleventh day of October next, to the courthouse in NORRIS TOWN in the county of Montgomery in the same district, there to meet on the said eleventh day of October next at ten o'clock in the forenoon of the same day of which all persons bound by Recognizance or have otherwise to do thereto are desired and required to take notice and give their attendance accordingly.

WILLIAM NICHOLS, Marshal. Marshal's office at Philadelphia, September 7, 1799. JAW 246.