

Rickett's New Amphitheatre,  
CHESNUT-STREET.

TO-MORROW EVENING,  
Saturday, the 20th February,

Will be exhibited,  
**Amazing Feats of Horsemanship,**  
By Mr. Ricketts, Mr. F. Ricketts,  
Mrs. SPINACUTA,  
Mr. Langley, and Mr. Sully, Clown to the Horsemanship.

Mr. Ricketts will ride standing, and take several SURPRISING LEAPS  
OVER A FIVE BAR GATE,  
With a number of other different manoeuvres, &c.  
Mr. Sully will go through his Comic Feats on Foot and Horseback.  
[With a great variety of other performances, particulars to-morrow.]

The Evening's Amusement to conclude with  
RICKETT'S NEW PANTOMIME,  
called,

**The Triumph of Virtue;**  
OR, HARLEQUIN IN PHILADELPHIA.

The Doors in future to be opened at FIVE and the Entertainment to begin at SIX o'clock.  
Boxes, one dollar—Pit, half a dollar.  
Those Gentlemen who intend to take places for the Boxes, are desired to send in time.  
There are a number of Stoves placed in the Amphitheatre which render it perfectly comfortable.

**The President's Birth Day.**

MONDAY, the 22d instant, being the President's Birth Day, the Officers of the First Division of the Militia of Pennsylvania are requested to meet at the State House, precisely at TWELVE o'clock, from whence they will proceed to the President's, to congratulate him on the return of the Day; and demonstrate their satisfaction on his commencing another year of exertion for the Happiness of their Country. Such Members of the Cincinnati, or Officers of the Army as may be in town on that day, are requested to join in the procession.

W. STEWART, Major-General.  
Philadelphia, February 13, 1796.

**Notes Wanted.**

MESSRS. MORRIS & NICHOLSON'S NOTES, for which valuable and well situated Lots in the City of Washington, will be given.  
THOMAS NOBLE.  
February 13.

**Ephraim Clark,**

CLOCK & WATCH MAKER, PHILADELPHIA,  
Has received by the different arrivals,  
A VERY LARGE AND EXTENSIVE ASSORTMENT OF  
**Gold, Silver, and Metal WATCHES;**  
ALSO, A GENERAL SUPPLY OF  
TOOLS, FILES, AND MATERIALS;  
CONSISTING OF—

Japanese Clock Faces; Eight day, and thirty hour brass; fit pinions and forged work; large and small bells; time-piece and watch glasses; springs; large and small stakes and beak irons; ditto hammers; large and small bench vices, and hand vices; sliding tongs and pliers; screw plates; round, oval, and square draw plates; shears; blow pipes; emery; rotten stone; pumice stone; crucibles; cat gut, and 30 hour lines; an elegant assortment of ladies and gentlemen's steel and gilt chains, silk strings, gilt and steel seals and keys.  
All orders from the Country carefully attended to.  
February 11.

**Stop, and take Notice,**

As the undermentioned paragraph will be found well worth your attention—such indeed has never been offered to the Public.

The Subscriber, just from London,  
Has brought by the ship Favourite, four thousand pounds worth of  
**Plated Goods, Silver Plate, Jewellery, &c.**  
and a few WATCHES,

WHICH he will sell for little more than half the price that such articles are sold for in this country. A pair of the best plated candlesticks, that are generally sold for 16 dollars, will be sold for 9 dollars; and every other article in the like proportion; such as waiters, bread baskets, tea and coffee urns, tea and coffee pots and biggins, tea caddies and shells, milk pots, sugar and cream basins, dish covers with lamps, dish rings with ditto, toast trays, candlesticks of various patterns and sizes, franchises to match, fruit frames, liquor ditto, wine and water ditto, egg stands, butter boats, sauce tureens, fish knives, ink stands, wine strainers, wax jacks, salts, goblets, and every other plated article that is made at Sheffield, and of the latest fashion; and will be open for SALE, this week (only) wholesale and retail, at Madame ANDRÉ'S, fourth Third-street, third house from Market-street.

The Jewellery will be open for sale on Monday next, and will continue one week (only) such as ear rings and drops of plain gold, cornelians, and set with pearls, necklaces to match, neck chains, lockets of plain gold with fine paintings, some set with diamonds and pearls, ladies' and gentlemen's rings of every kind, ladies' and gentlemen's watch chains, keys, seals and trinkets, and various other articles, all of gold, and the latest fashion from London.

The Public will not think the above mentioned strange when I inform them, that the destructive war that England is engaged in, has reduced the Manufacturers to this necessity of raising money.

Feb 10.  
The PLATED GOODS will be open again THIS DAY—which together with the JEWELLERY, and a small box of CUTLERY, will continue open this week (only).  
ROBERT HENDERSON.  
February 13.

**To the Public.**

THE Miniature Painter from Paris begs leave to inform the public, that his hours of attendance for the future will be from 8 o'clock in the morning unremittingly until three in the afternoon.  
No. 2, North fifth street.  
2d of February 1796.

JUST PUBLISHED,  
By MATHEW CAREY, No. 118, Market-street,  
[Price Three Dollars, in Boards]

**American Remembrancer.**

IN THREE VOLUMES.  
THIS WORK contains the whole of the Essays under the signatures of *Cato, Furcula, Camillus, Cloana, Decius, The Federalist, Atticus, Tully, Cato, Columbar, Coriolanus,* with an extensive variety of other Essays—Likewise the chief part of the *Responses and Proceedings* throughout the United States, on the subject of the *TRAVEL*.  
February 2. cad 1st

**Mr. Walter Robertson**

BEGS leave to acquaint the Gentlemen subscribers to the print Portrait of George Washington, President of the United States of America, engraved by Mr. Fild, from an original picture painted by W. Robertson, that the Proofs are ready for delivery to the several subscribers at John James Barral's, No. 19 North Ninth-street; or at J. Ormrod's, bookseller, No. 41, Chesnut-street, where the subscribers are requested to send their addresses.  
October 27. cad.

STATE OF NEW-YORK.

Arguments in the Supreme Court in the late January term.

Argument of Mr. JUSTICE BENSON.

The People, versus Joseph Webb, }  
otherwise called Josiah Stiles. }

BY a statute, of this State, passed the 7th Feb. 1788, it is among other things, enacted, "that if any person shall utter or publish as true a forged promissory note for the payment of money, knowing the same to be forged every such Person being thereof convicted according to the due course of law shall be deemed guilty of Felony and shall suffer death as a Felon"—The defendant was in April term 1794 convicted on an indictment for a felony on the clause of the statute here cited: but the forgery being a forgery of a note made by the President, directors and company of the bank of the United States, a corporation created by a statute of the United States, and thereby enabled to make promissory notes for the payment of money, the following questions have thereupon occurred, 1st. Is not the fact charged against the defendant "An offence against the United States," as it is expressed in the Constitution of the United States, Art. 2, Sect. 3. or doth it not constitute "a case to doth extend as arising under their laws;" as it is expressed Art. 3. Sect. 2. If so then secondly, hath a state Court jurisdiction in the case?—On these questions judgment against the defendant hath been stayed hitherto.

Those questions when examined will discover themselves to be very important, and as there will therefore be a proportionable responsibility for the judicial opinions respecting them I have from that consideration been induced to commit the reasons or principles, of that opinion which I shall give, to writing in the form of an argument.

Although the questions as stated are supposed to be distinct and independent; they however appear to me to be inseparable, and that the affirmative of either of them, necessarily involves the negative of the other; and so I shall consider them, and I shall endeavor to be as concise as perspicuity and conclusiveness will permit.

By the constitution of the United States, in reference to the present questions, it is implied 1st, that every act punishable as a public offence, however complex it may be, is to constitute a case not partible, in respect to jurisdiction, between the United States, and the state within which such act may have taken place. Supposing A. kills B. supposing that further he burns the house of B. If A. when he killed B. was in open rebellion against the United States, and if he killed him by resisting him when lawfully attempting to suppress the rebellion, and if he burnt the house with intent thereby to deter others from attempting to suppress the rebellion, the killing and burning would then be adjudged malicious, and consequently be respectively murder and arson; but being combined with the act of rebellion, they do, together with it, become a complex act constituting a case of the offence of treason "in levying war against the United States"—It is not easy, perhaps not possible, to conceive an instance, as it were in the converse, exemplifying a simple act, a less offence and existing as such an offence against the United States, but being combined with another act, a greater offence, becoming thereby an inseparable part of a complex act constituting an offence against the state—the reason, as I perceive the subject is, that every simple act, in itself criminal to as to be punishable by law, will be considered an offence against the state of course, and will become an offence against the United States, in consequence only of a circumstance which may happen to be attached to it; and although a simple act, may, by reason of a circumstance be an offence against the United States yet it may, by being further combined with another act, then become an inseparable part of a complex act constituting a case of an offence of a greater degree and as such an offence against the state.—The circumstance by which an act, otherwise existing as an offence against the state, may become an offence against the United States, may, or may not, so affect the act as to render it more offensive.—To explain what I here mean—If A. assaults B, it is an offence against the state; but if B, when assaulted was an officer of the United States and in the execution of his office, this is a mere circumstance, and in this instance a circumstance of aggravation and the assault, to circumstanced, is an offence against the United States.—If A. not only assaults B so being in the execution of his office, but if further he murders him, then the assault by such further combination becomes an inseparable part of a greater offence and an offence against the state. The act charged against the defendant, in the case now before the court, is as will be more particularly stated a cheat; the artful device, or the mean used, was a forgery of a note of a corporation created by the United States; this is a mere circumstance and not of aggravation, the act would have been equally aggravated if the mean used had been a forgery of a note of a corporation created by the state, or even of a note of an individual natural person; but by this circumstance, the simple act of the cheat becomes an offence against the United States.

2dly. That the same simple act cannot be an offence against the United States, and also an offence against the state, so as to be punishable by both.

3dly. That the acts of State Officers, in the cognizance of cases against the United States, are to be deemed *coram non Judge*, and therefore void as nullities, and *vice versa* as to the acts of the United States officers in cases of offences against the state—What the consequences of such acts may be, if any are to ensue, to the agents, in cases of conviction and punishment, it not being necessary for me on the present occasion, I therefore forbear here to examine, much less to decide, and I only mention, that it does not appear to me certain, that the rule, that where the court hath general criminal jurisdiction, the mere error of the judge will not subject him or any other of the agents to be questioned, either criminally at the suit of the public, or civilly at the suit of the party aggrieved by

the error, will avail them for their indemnity—a United States court and a state court, may each of them have general criminal jurisdiction, it will notwithstanding be found difficult not to suppose, that they are respectively to be limited, the former to offences against the United States, and the latter to offences against the State.

These three several matters are necessarily implied in the constitution of the United States, and so evidently so as not to require to be demonstrated; for it must be discerned, that unless they are admitted it will follow—that a person may be tried and may be acquitted, or being convicted may be pardoned or punished, for the lesser offence comprised in the complex act, and be afterwards put in jeopardy for the greater offence, and *vice versa* if first tried for the greater offence; and that a person may in like manner after acquittal, or after conviction and pardon or punishment be again put in jeopardy for the same simple offensive act.

I now state, 1st. That the fact charged against the defendant being "the defrauding of another by means of an artful device, contrary to the plain rules of common honesty," constitutes a cheat, an offence at common law, of the class denominated *midemeanors*, punishable in the discretion of the court, as that discretion is now understood to be defined.—The common law, here intended, is such parts of the common law of England as formed a part of the law of the colony of New-York on the 19th day of April 1775, and declared by the constitution of this state "to be part of the laws thereof," and the common law intended in the 9th article of the amendments proposed by Congress to the Constitution of the United States, and the principles and usages of law referred to by the United States in the Statute for establishing their judicial courts, and so recognized as forming a part of the laws of the United States; those parts of the common law of England which now form a part of the laws of this state, and the common law intended in the amendment to the constitution of the United States, and the usages and principles of law referred to in the statute of the United States, are to every purpose of the present enquiry the same.

2dly. That in every case where the United States have jurisdiction, and in every case where the state hath jurisdiction, their respective legislatures may enact, that the offence, then existing as misdemeanor at common law, shall thereafter be a *Felony*, and may make any other statute or provision respecting it, which their respective constitutions will permit.

3dly. That neither the United States nor the state, can ever, by force of their own respective statutes, derive to themselves, the one as against the other jurisdiction in any case; and therefore if either of them should enact that an offence against the other, and then existing as a misdemeanor at common law, should thereafter be a felony, such other would not thereby be divested of, or in any manner be affected in its jurisdiction of the offence.

Unless those matters are also admitted, then the respective jurisdictions of the United States, and of the state do not rest on fixed constitutional *fundamentals*, but may vary according to the *volitions* of the legislature of the United States, or of the legislature of the State—then the like offences against the United States may be punished by different laws when committed in different States, and then the United States, for obedience to their laws and government, may be made to depend on the state, and there may be a similar dependence of the state on the United States; but if what is here premised is true, and it being certain that the U. States have a right to make a statute provision respecting the fraudulently uttering or publishing a forged note of the Bank of the United States, the offence charged against the defendant, then the jurisdiction is to be adjudged precisely as it would have been if there had been no statute provision by the state respecting the offence, and the next, as it would seem immediately necessary, inference, would be the affirmative of the first, and with it the negative of the second question, stated in the present case.

Here, then, I might in strictness conclude the argument; I will, notwithstanding, farther observe, that on the theory of the Constitution, it must be intended that there are rules, either expressed or to be discovered by just reasoning, by which every case or question of interfering jurisdiction, between the United States and the State, can be decided; for to suppose there are to be two distinct independent jurisdictions, and to suppose at the same time that they cannot always be distinguished and separated from each other, is irreconcilable; it is however to be apprehended, that this intent of the Constitution is only very *limitedly* PRACTICABLE.

In reference to this matter it is to be noticed, that in the course of this argument I have attempted distinctions between an offence as consisting in a simple act and as consisting in a complex act, between an offence as consisting in a complex act, and as consisting in an act more complex, the effect of an increased combination; and between an offence as consisting in an act unattended and as consisting in an act attended with a circumstance. Supposing these distinctions proper as the ground—work for rules in certain cases, let us now pursue them in some of the consequences, at least apparently so, which must arise from the application of them to the respective cases. If A. assault B it is a breach of the peace of the state; but if B when assaulted was an officer of the United States in the execution of his office, this is a mere circumstance by which the offensiveness of the assault is only aggravated; but the simple act of the assault thereby becomes an offence against the United States; and—if A should be tried in the state court for the assault and if it should be proved against him, and if the circumstance of aggravation should also be proved, then by the rule it would seem that he ought to be acquitted, the case appearing from the proofs to be of United States jurisdiction—if he should then be indicted in a United States' court for the assault with the circumstance of aggravation charged in the indictment, and which for an obvious reason would there be necessary, and if the jury should find on

ly the assault but not the circumstance of aggravation, then by parity of rule it would seem he ought also there to be acquitted, and therefore although there was full proof of the assault given to both juries, yet because the last jury differed from the first in judging of the proofs of the circumstance of aggravation he would remain wholly unpunished for the assault; so that the rule, when applied in the instances here put, may produce one or the other of these unfit consequences, an impunity of the offender or a deviation from that absolute and entire independence of each other, which must be supposed to subsist as to the United States and the state, respectively in regard to the execution of their laws, and the vindication and maintenance of their rights and authorities as distinct governments; to which may be added as a general remark, but deserving peculiar notice, that as the same offensive act may by being attended with a circumstance of aggravation render it more necessary for the state that the offender should be punished, the same cause may produce an incompetency in the state to punish and in like manner equally with respect to the United States and to the state where an act becomes more offensive by being combined with other acts.—To illustrate this—It is necessary for the state that A. should be punished for the assault, that the person assaulted was a public officer in the execution of his office made still more necessary even for the state, the preservation of its own peace and good order being thereby proportionably endangered, that A. should be punished for the assault, but by that very circumstance the state is divested of its right to punish him; that the assault may have been combined with another act an Homicide, and that the combination constituted a murder, made it more necessary on a similar principle even for the United States, that A. should be punished but by that very combination they are divested of their right to punish him; in short it is scarcely possible to limit the number of examples or the extent of argument to prove the want of rules or principles for defining or ascertaining the jurisdiction or authority of the United States as well legislative as executive, the latter considered as comprehending the judicial from the jurisdiction or authority of each of the particular states and which when extended in their application to cases numerous and probable will not terminate in gross and palpable incongruities—It is well known I have been long occupied in reflections on this subject: I have been an anxious and I trust an unprejudiced inquirer after the truth, and the result is a persuasion in my mind that it is not possible to supply the defect, and that the evil, for surely so it may be termed, the condition of men being even a miserable servitude where the law is vague or unknown, is occasioned by that ingredient in the mass of our governmental institution, sovereignty within sovereignty. To conclude, those to whom it is committed to declare the law can only, as each case comes before them, be assiduous and upright in their endeavors to discover a rule by which it may be decided—I have, so as fully to satisfy my own conscience and judgment, discovered a rule by which the present case may be decided. It may be collected with ease and certainty from what I have already said—I will notwithstanding briefly recapitulate it. It is that the United States having a right to establish their bank must have as an indispensable incident the right to provide for its security and preservation which includes the right to legislate respecting the forgery of its notes and the right to legislate respecting it, denotes the offence charged against the defendant, it being an offence at common law, to be of United States jurisdiction. The ultimate consequence, that therefore the state hath no jurisdiction of it, is inevitable. My opinion is that the defendant, as to the matters above stated to have been charged and found against him, be discharged from this court.

**NEW THEATRE.**

On FRIDAY EVENING, February 19,  
Will be presented,  
A COMIC OPERA, (written by the author of the  
Foot Soldier) called

**The Cattle of Andalusia.**

[The original Overture & Accompaniments, selected and composed by Dr. Arnold, with additional Airs by Shield.]

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|---------------|---|
| Don Scipio,   | Mr. Francis,  |
| Don Fernando, | Mr. Marshall,   |
| Don Caesar,   | Mr. Darley,   |
| Don Juan,     | Mr. Morris,   |
| Don Alphonso, | Mr. Darley, jun.  |
| Pedrillo,     | Mr. Bates,  |
| Spado,        | Mr. Wignell,  |
| Sanguino,     | Mr. Green,  |
| Philippo,     | Mr. Warrell, jun.   |
| Banditti,     | { Messrs. Warrell, Mitchell, Robbins,<br>Morgan, Beete, Bl. Scit, &c. |
| Victoria,     | Mrs. Warrell,   |
| Lorenza,      | Mrs. Marshall,  |
| Habel,        | Mrs. Bates,   |
| Catalina,     | Miss Willems.   |

End of the Opera,  
**Une Divertissement Pastorale.**  
Composed by Monsi Lege.  
By Messrs. Lege, Warrell, jun. Doctor, J. Warrell, Darley, jun. Morgan, Mitchell and Francis.  
Miss Milbourne, Miss Willems, Mrs. Harvey, Mrs. Bates, Miss Rowton, Mrs. Doctor, Mrs. Lege, & Mrs. De Marzac.

To conclude with a Grand GARLAND DANCE.  
To which will be added,  
A DRAMATIC TRIFLE, in one act, never performed here) called

**AS IT SHOULD BE.**

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|--------------|---------------|
| Lord Megrim, | Mr. Moreton,  |
| Mr. Fidget,  | Mr. Francis,  |
| Winworth,    | Mr. Green,    |
| Sparkle,     | Mr. Barswood, |
| Lucy,        | Miss Willems, |
| Celia,       | Mrs. Francis. |

\*\* On Saturday, a Comedy, called THE ENGLISH MERCHANT—with, for the last time this season, The Burletta of TOM THUMB.

The Public are respectfully informed that there will be no performance on Monday.

The Public are respectfully informed, that the Doors of the Theatre will open at a quarter after FIVE o'clock, and the Curtain rise precisely at a quarter after SIX—until further notice.