Mr. Lewis. I believe there is no doubt of the fact.

Mr. Randolph. I understand you to say that by withdrawing from the defence of Fries, and the not having counsel assigned him, you expected to serve your client. Wherefore did you think the cause of your client would thereby be served?

Mr. Lewis. It appeared to me that the conduct of the court justified us in withdrawing, after not being suffered to go on in the usual manner, and I thought it more probable that a man, thus convicted, would be pardoned by the President, than that we should be able by any thing we could say, to alter the opinion of the court.

Mr. Nicholson. Were the jurors present?

Mr. Lewis. They were—they were called over as usual, but I do not know that they were called for the trial of Fries. It was I believe usual to call over the list on the morning of each day.

ALEXANDER J. DALLAS, *sworn.*

Mr. Dallas. I will endeavor to be correct in the statement which it is my duty to give; and I am sure that I shall be substantially so, though I cannot promise to place the facts precisely in the order of time, in which they occurred; nor to recite the very words that were used by the several parties, in the course of the transaction.

When the Northern Rioters were brought to Philadelphia, in the spring of 1799, some of their friends applied to Mr. Ingersoll & to me, to undertake their defence. Mr. Ingersoll was then attorney general of Pennsylvania; and on consideration, I believe, declined the task. Mr. Lewis, either before or after this application, was also requested to act as counsel for the prisoners; and upon his acquiescence we repaired to the prison, to make the necessary arrangements preparatory to a trial. Mr. Wm. Ewing had been engaged by several of the Rioters; and we agreed to unite in the defence, as the same general facts and law, applied to all the cases.

In April term 1799, the first trial of Fries took place. It was conducted with great propriety throughout by the court, and by the prosecuting officer; and the counsel of the prisoner were permitted to address the jury at large, on the law and the facts; as well as to cite every authority which they thought proper. Fries was convicted; but on a motion made by Mr. Lewis and I, the verdict was set aside, and a new trial awarded.

The second trial of Fries, upon a new indictment (the first having been discontinued by Mr. Rawle) occurred in May, 1800. Mr. Lewis and I had again, at his request, been assigned by the court, to defend him. On the morning fixed for the trial, I entered the court-room some time after the court had been opened. Fries was standing in the prisoner's box: The jurors of the general pannel appeared to be in the jury boxes: And the hall was crowded with citizens. On my entrance, I perceived Mr. Lewis and Mr. E. Tilghman engaged eagerly in conversation, and the gentlemen of the bar, generally, seemed to be much agitated. As soon as Mr. Lewis saw me, he hastened towards me, on the outside of the bar; and told me in effect, "that a very extraordinary incident had occurred; that Mr. Chase, after speaking in terms of great disapprobation of the defence, at the former trial, declared that the court, on mature consideration, had formed, and reduced to writing, an opinion on the law of treason, involved in the case; and that he should direct one copy to be delivered to the attorney of the district, another to the prisoner's counsel, and a third [after the opening for the prosecution] to the jury to take out with them."

Here *Mr. Harper* rose, and said:—Mr. President—surely it is improper that the witness should repeat what Mr. Lewis told him, not in court, nor when the Judge was present.

Mr. Dallas, turning to Mr. Harper, observed "Sir, I know the rules of evidence, and I mean to conform to them." Then turning to the Vice-President, he continued; "If Mr. President, the counsel's patience had lasted for a minute, he would have heard, that I repeated Mr. Lewis's communication to the court, and that it was not contradicted. What I have said was necessary to introduce that fact; and, surely, it is strictly within the rules of evidence.

Mr. Lewis and I exchanged an opinion on the impropriety of the conduct of the court; we determined [as I thought when first recurring to my memory for the facts and as I still think, though I wish not to speak positively] to withdraw from the defence; and we went into the bar together. When there, something occurred, which called for attention on our part; and Mr. Lewis informed the court in effect "that there was little dispute about the facts in the cause; and that as the court had deliberately prejudged the law, he could not hope to change their opinion, nor to serve his client; while a submission to such a proceeding would be degrading to the profession." It was, then, I think, that I stated to the court, the information, which I had received from Mr. Lewis [but certainly it was either then, or, as it has been suggested to me, by a respectable gentleman of the bar, at the opening of the court on the next day] and I paused, to give an opportunity for contradiction, or explanation. For, although I had no doubt of Mr. Lewis's intention to deliver a correct representation of what had passed, it was possible, that I might myself have mistaken the import of his communication. I cannot now state all that Mr. Lewis told me; but, I am confident, that I then repeated it all to the court. No remark being made, in consequence of the pause, I proceeded to state a few comparative observations on the province and rights of the Judge, and the province and rights of the advocate; and concluded with declining to act any longer as counsel for the prisoner. The court was soon afterwards adjourned.—These are all the material occurrences of the first day, which I recollect; except, perhaps, that soon after I came into court, I heard Mr. Peters remark to Mr. Chase: "I told you what would be the consequence. I knew they would take the studl."

On the next day, the court was opened, Fries was placed in the prisoner's box, the jury attended, and the number of spectators were increased. Silence being proclaimed, Mr. Chase asked, "if the prisoner's counsel were ready to proceed on the trial;" and Mr. Lewis and I, successively, declared, that we no longer considered ourselves as the counsel of Fries. Mr. Peters then, as well as at other times, expressed a great desire that we should overlook what had passed; he told us that the papers delivered the day before had been withdrawn, and that he did not care what range we took either on the law, or the fact. Mr. Chase also said: "The papers are withdrawn; and you may take what course in the defence you please; but it is at the hazard of your characters." I thought the expression was in the nature of a menace; that it was unkind, improper, and unnecessary. Mr. Lewis observed, in effect: "You have withdrawn the papers; but can you eradicate from your own minds the opinion which you have formed; or the effect of your declaration on the attending jurors, a part of whom must try the prisoner?" Mr. Chase said: "If you think to embarrass the court, you will find yourselves mistaken." He then asked Fries, if he chose to have other counsel assigned? Fries answered, that he did not know how to act, but that he thought he would leave it to the court and the jury. On which Judge Chase exclaimed; "Then, we will be your counsel; and, by the blessing of God, do you as much justice, as those who were assigned to you." Mr. Lewis and I had visited Fries in prison during the preceding afternoon; we had told him our determination to withdraw from his defence, unless he and his friends wished us to resume it; and we declared it to be, in our view of the case, his best chance to escape, as we could entertain no hope of changing the opinion of the court. He, finally, left the matter to us; and, I think, Mr. Lewis, in my hearing, with my concurrence, advised him not to accept other counsel, if the court should offer to assign them. The rest of the facts, as stated by Mr. Lewis, correspond so precisely with my recollection, that I presume, after this recognition, it is unnecessary to repeat them. I wish it, however to be properly understood, that on the second day, both the judges were extremely anxious to prevail on us to proceed in the defence; and, as I understood, withdrew all the restrictions of the preceding day. We persisted, however, in our determination; because after what had happened, we deemed it the best chance to save our client's life; and not because we wished (as has been insinuated) to bring the court into disgrace or odium. Fries was, accordingly, tried, and convicted without counsel.

It is, perhaps, proper to state, what passed on the first trial of Fries, as it has been much misunderstood, or misrepresented. The general course of argument, *on the facts*, was an endeavor to shew that the acts of Fries and his companions amounted to nothing more than a riotous opposition to the direct tax officers, or obstruction of the marshal in the execution of process; and the rescue of a particular description of prisoners, whom the marshal had arrested. We drew to our aid, in this part of the discussion, the sections of the penal law, and the sedition act, which provided for the punishment of such offences, distinct from the crime of treason. The general course of our argument, on the law, was an endeavor to shew, that the offence did not amount to an act of levying war against the United States. The constitution defines that to be the only treason that can be committed; and neither the legislature, nor the court, can amplify, or alter, the definition. The words of the constitution, however, require a practical exposition. This exposition can only be obtained by a consideration of the natural, the familiar, and the reasonable import of the words themselves, or by a reference to the glossary of the English decisions on the same branch of treason, expressed in the same terms, in the English statute of *Edward* 3. The glossary of the English decisions ought not to be relied on. It is true, that since the English revolution of 1688, and, particularly, since the statute of *William* 3, (which first gave judicial freedom to the English bench) the judges of England have been independent, as well as wise and virtuous; and implicit confidence may be reposed in their judgments, upon all matters originally submitted to their jurisdiction. But the English judges, since the revolution of 1688, are bound to administer the law, according to the precedents established by the English judges, before that revolution; although, either in criminal, or in civil matters, if the question were *res integra*, they would themselves, have decided in a different way. Hence, the counsel of Fries were induced to cite common law authorities, and authorities under the statute of Edward 3, to shew (not what the law of England was or ought to be, not what the law of the United States was, or ought to be, but) what had been the extravagance of dependent judges, in setting the precedents, which the independent judges of England were bound to follow. Among other books they read Blackstone's Commentaries, where in illustration of a positive or imputed treason, the commentator cites the cases [under the statute of Edward 3.] of one man being hung as a traitor, for saying that his son was heir to the crown, because he was himself the owner of a tavern, with the sign of the crown; and of another man's meeting the same fate, because he wished the horn of his buck, which had been killed by the king, in the belly of the monarch. These were, indeed, the illustrations of Blackstone, and not of Fries's counsel; but what professional man need be ashamed, to be supposed capable of resorting to the same authorities, to enforce an argument, which Blackstone had employed! Tho' the English judges were thus bound by precedents established in very bad times of the juridical history of England, Fries's counsel contended that the American judges were not under the same obligation; and that the era of our federal constitution furnished a favorable opportunity to emancipate ourselves from the trammels of constructions given to the words of our constitution by corrupt and dependent courts, before the English revolution. Reforting, then, to the natural, familiar, and reasonable, import of the words, it was urged, in defence of Fries, on the first trial, that it was not a case of treason, but of riot, obstruction of process, and rescue of prisoners; that the discrimination in the offences, was marked by the very distinct nature of the actions; and that the sedition act having treated the latter case, as a case of misdemeanor, it was a legislative construction, that it was not a case of treason. There was still ground enough for the constitutional provision to occupy (an attempt by force to subvert the government, to defeat the legitimate operation of its principal departments, to attack, or to resist, its military power, &c.) and, after the passing of the sedition act, it might be presumed, such ground alone was intended to be occupied.

On this course of argument, we could not ascertain the opinion of the court, nor how far the case of the Western insurrection would be deemed to apply, till the charge was pronounced. But, after hearing the charge, and after a new trial was granted, I confess the whole force of my mind was bent to shew, on the new trial, the strong distinction between the cases of 1794, and those of 1799; and that, even in England, there was no authority since the revolution of 1688, for construing the offence of Fries to be treason, unconnected with the obligation of the judges, to conform to the previous adjudications.

The President. Both you and Mr. Lewis have stated, that the jury were present when the written opinions of the court were handed to the clerk: Could they hear what passed on the occasion?

Mr. Dallas. Undoubtedly, Sir, I do not mean, however, the jury who tried Fries; but the general pannel of jurors, from whom Fries's jury might have been taken.

(To be continued.)

FOR SALE.

ON FRIDAY THE 22ND INSTANT,

WILL be offered at public sale, for ready money, at the present dwelling of Mrs. ELIZA PEACOCK, opposite Mr. Lewis Morin on the Pennsylvania avenue, sundry articles of

HOUSEHOLD & KITCHEN FURNITURE,

And a collection of Books.

The sale to commence at 11 o'clock, A. M.

N. B. Mr Peacock having been in the habit of lending out almost indiscriminately, a number of books, and to whom it is impossible to recollect—it is requested that any person having any of those books will return them to Mrs. Peacock as early as possible.

☞ Any of the above articles may be had at private sale on application to

ELIZA PEACOCK.

City of Washington, March 18—3t

WASHINGTON CITY.

MONDAY, MARCH 18.

Departed this life, on the 6th inst. Mrs. SARAH W. WOOD, wife of Col. James G. Wood, Nottingham, Prince Georges county, in the 26th year of her age. It will doubtless be indulging to the feelings of distant relatives and friends, to be advised that the indisposition of Mrs. Wood had been formidable for many months anterior to the early part of February, when she seemed to be arrested by the messenger of death.

Under an increasing illness, she was sensible of her approaching end—If any disposition prevailed to deal with the florid style of panegyric, the character of Mrs. Wood, under the endearing offices of a daughter, wife, friend, neighbor and mistress, would afford a rich and abundant theme; but declining the course of eulogy, it would be injustice, not to add, that she crowned all the amiable virtues, by a fervent love of her Redeemer, and an exemplary conformity to his divine precepts and authority—from her laudable life, and triumphant death, perquisites of the most comfortable joy and consolation, and amply offered to the disturbed bosom of a fond husband, charged with the tender care of a small son, and infant daughter. In the memory of her neighbors, her virtues will have a lasting bloom; while those who are busy in the wild careers of life, may here peep into the grave, and read the most useful exhortation.

"Make the extended skies your tomb;
Let stars record your worth;
Yet know vain mortals all must die,
As Nature's sickliest birth."

New York, March 11.

By the ship Maria, captain Main, we have received French papers to the 10th of January, but we do not perceive that they contain any thing of an interesting nature. We are informed verbally, that the produce exported from America, was generally in demand, and high.

An article in the French paper called the Journal of Commerce, of the 9th of January mentions, that news from Barcelona, states, particularly, that the Spanish convoy from Barcelona to Port Mahon (which had put to sea on an assurance from the British that they would not be molested) had been captured by an English ship of war, 16 leagues from Port Mahon. This convoy consisted of three sail, having on board a regiment of volunteers. The officers and their wives were kept on board the Spencer man of war, to be sent on shore.

Bank of Columbia.

THE Board of Directors having this day declared a dividend for the half year ending the 20th inst. at the rate of Eight per cent. per annum. The same will be paid to the Stockholders or their representatives, on or after Wednesday the 20th inst.

WILLIAM WHANN, Cashier.

March 18—6w

FOR RENT.

THAT large and convenient three story BRICK TAVERN, in the city of Washington, fronting on the President's Square, lately occupied by Mr. Wm. Rhodes. To a good tenant it will be let on very low terms, and immediate possession given. For terms apply near the George Town college, to

MARY ANN FENWICK.

March 18—1aw5t

NOTICE.

THIS is to give notice, that the subscriber of George Town, hath obtained from the Orphans court of Washington county, in the district of Columbia, letters of administration de bonis non, on the personal estate of William Deakens, jun. late of said town deceased. All persons having claims against the said deceased, are hereby warned to exhibit the same with the vouchers thereof to the subscriber at or before the 1st day of October next, they may otherwise by law be excluded from all benefits of the said estate Given under my hand this 18th day of March, 1805.

JOHN HOYE, admr' d' B. N.

NOTICE.

This is to give notice, that the subscribers of George Town, have obtained from the Orphan's court of Washington county in the district of Columbia, letters of administration de bonis non, on the personal estate of Francis Deakens, late of said town deceased All persons having claims against the said deceased, are hereby warned to exhibit the same with the vouchers thereof, to the subscribers at or before the 1st day of October next, they may otherwise by law be excluded from all benefits of the said estate Given under our hands this 18th day of March 1805.

JOHN HOYE, and
LEO M. DEAKENS, Executors.

ALL persons indebted to either of the said Deakens's estates, are requested to make immediate payment to the administrator and executors.

JOHN HOGE.

March 18—1aw4w

A Stray Cow.

TAKEN up about the first of January near Mrs. Cassteves, a RED COW, with white under her belly, white legs and the tip of her tail white, she has two slits on her left ear, and a star on her forehead. The owner may have her again on proving property, and paying charges, on application to the subscriber living on the plantation, formerly occupied by Mr. Downs.

JOSEPH THOMAS.

March 18—3t

A GREAT BARGAIN.

THE Subscriber will sell at private sale and give possession immediately, the

PAINT MILLS,

on a never failing stream of water, with about 30 or 40 acres of LAND, the greatest part fit for cultivation, part now in clover, and eight or ten acres more will be sowed this spring—The MILL HOUSE, is a large stone house 38 by 44, two stories high, with one pair of stones now running, and an OIL MILL in one end of the same house. The above house is calculated for another water wheel, and is intended for a Merchant Mill, but has not been finished—there is an excellent SAW MILL so convenient to the Grist Mill that one miller can tend them both—there is a WHISKEY DISTILLERY with every convenience for making whiskey, with two stills and a boiler—there is a log dwelling house 16 by 18 with a kitchen, blacksmith's shop and stables. The purchaser can be accommodated with 50 or 150 acres of good land, part of it well timbered, adjoining the above mill with a good apple orchard and very comfortably improved The above property lies in Prince Georges county, on the Big Paint Branch, about six and a half miles from Bladensburg, ten from the city of Washington, and one and a half from the stage road leading from Bladensburg to Baltimore.

THOMAS EDMONSTON, jun.

March 18—1aw3t

DIOMED.

This extraordinary horse, in as high health and vigor as he has ever been since his arrival in America, will stand the ensuing season at my stable, three miles below Richmond, on James river, and cover Mares at FIFTY DOLLARS the season, the money to be sent with the Mares; or ONE HUNDRED DOLLARS by insurance, the money for the insurance to be paid in October, and returned in every instance where the mare shall not prove to have been in foal (except the property shall be changed) and all mares sent to Diomed last season, which proved not to have been in foal, are at liberty to come this season, gratis. Notes of hand for the insurance will be expected, to accompany the mares The season commences the 1st of March, and ends the 1st of August.

The pastures and inclosures are good and secure; the strictest attention will be paid all mares, particularly those in foal and those with colts, who shall have inclosures suitable to their condition—no responsibility for escapes or accidents.

The great size, figure and performances on the turf, added to the high prices which his colts command, gives him a decided superiority over any stallion in America.

To say nothing of the number of his colts who won in 1803, (the first season they appeared on the turf) which greatly surpassed (in number) those of any other horse, although he came to America many years after several stallions of high fame. In 1804 we find Mr. Tayloe's Hamlintonian winning five times, Mr Homes's Peace Maker four times, Mr. Selden's Lavinia three times, and Sting four times, Mr. Wyllie's Mask twice, Mr. Ball's Florizel, three years old, winning two sweepstakes, which produced his owner 4400 dolls. and many other good racers.

Mr. Ball has refused for this colt 5000 D's. Hamlintonian was sold in May last for 2000 D's.—Peace Maker was sold in October last for 2700 D's—Lavinia in November for 2100, and 2000 refused for Sting.

PEDIGREE.

DIOMED was got by Florizel, one of the best sons of King Herod; his dam by Spectator; sister to Juno, (the dam of Dragon and Young Eclipse) his gradam (sister to Horatius, by Blank;) his great grandam, Feather's dam; and full sister to the grandam of Cygnet and Blossom, by Childers, out of Miss Belvoir, by Grey Grantham, Paget, Turk, Betley Percival, Leeds, Arabian.

MILES SELDEN.

Tree Hill, March 6—w4t

TO LET.

THE House now in the occupation of Mr. JOHN WALL, situated on Eleventh street west between the Branch Bank and Theatre, containing 10 rooms, piazza and portico, carriage house, stable, smoke house, pump of good water, and a good garden.

Possession may be had immediately. For terms apply to the subscriber near the premises.

PETER LENOX.

March 13—1awtf

CIDER, FOR SALE.

JUST received from Rhode Island, and for sale by the subscriber, a quantity of very good CIDER at the reduced price of THREE DOLLARS & FIFTY CENTS per barrel—also a quantity of excellent CHEESE, a small part of which is old, and of a superior quality.

RICHARD ELLIOTT.

March 6—w3t

Thirty or forty likely

NEGROES,

Will be offered for sale for ready money at Loudon March court, on the first day of the court, before the door of Mr. Jones Innkeeper in Leesburg; where due attendance will be given by the subscriber,

WILLIAM BYRD PAGE,
Trustee of F. Fairfax.

Jefferson county, Feb. 18—td