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## IMPEACHMENT OF JUDGE CHASE.

THURSDAY, *February* 21, 1805.

The court was opened at 10 a. m.

Present, the Managers, attended by the House of Representatives in committee of the whole; and

The accused in person.

MR. CAMPBELL, *in continuation.*

I will now proceed, as well as my indisposition will permit, to examine in a brief manner the leading part of the subject, containing the several charges founded on the trial of Callender, at Richmond, as stated in the second, third, and fourth articles of the impeachment. I will collect these several articles in the order in which the transactions on which they are founded took place in court. In order to afford the witnesses that attended the judge, in this whole transaction, it will only be necessary to view his conduct as proved, so far as the same relates to the subjects, previous to the trial. The first of these we have of the intended prosecution, or I might say persecution, of Callender, is at Annapolis. Here the judge being at the time in book, called the Prospect Before Us, upon which the prosecution was founded; and here the determination was formed to convict and punish Callender. The witnesses that will would take the book with him to Richmond; that the libellous parts had been marked by Mr. Martin, and that he had her returned he would teach the lawyers of Virginia to know the difference between the liberty and licentiousness of the press; and, that if the commonwealth of Virginia was not totally depraved, it there was a jury of honest men to be had in the state, he should punish Callender before he returned from Richmond. This is the evidence of Mr. Martin, taken by the accused, and no petition will pretend to doubt its correctness. What to judge could be alled, that would induce clearly these the partiality and predetermination of the judge to punish Callender, and the hurry of prosecution by which he was actuated. Again, on his way to Richmond, according to the evidence of Mr. Tuttle, the judge reveals the object of his intended vengeance; from the Tapsfield report, that he had not been received in Virginia; remarks that the United States had thrown too much levity into foreign politics; and after arriving at Richmond, intimates the document, he was already convinced would not be wanting for the purpose that court. Thus evening in every page of this behavior the indecorum, point of impartiality and vengeance, that seems to have given tipping to his office. After the indictment is found against Callender, the counsel of the prisoner is petitioned to the judge, to suspend the bail any of the recounters called democrats, on that ground, directly the method to examine it, and if there were any such in it, to bridge them off. This is the evidence of Mr. Heath, whose character and standing in society are known to many of the members of this house, courts. And the judge was evidence in opposition to negative declaration of Mr. Randolph, who affirms, that he did not prefer the petition to the judge to the judge, or receive such petition; yet I conceive the court will give more weight to the affirmative declaration of Mr. Heath, with regard to their fitness, than to the negative affirmation of Mr. Randolph, who may have forgotten the transaction. This point rests upon the integrity and veracity of Mr. Heath. He could not receive the impression of their facts, unless the transaction had taken place; he could not intentionally be a party, if the fact was so and extraordinary, and must have asserted his attention and in this case there is no ground to make allowance for a treacherous memory; for it is not pretended that the witnesses, Mr. Heath, had forgot the facts, but that they never existed. It is probable, there is no reason to believe the distortion makes, it will follow that you shall, the witness has willfully and corruptly stated a falsehood; that I presume will not be admitted; but on the other hand, Mr. Heath may have forgotten the transaction, or the bottle of brandy, and this will account for the difference in the evidence of the witness without impeaching the veracity of either; the mode of recounting the evidence is a greestable to the rules of law. I take the facts, therefore, as stated by Mr. Heath, to be correct, and they afford an instance of partial depravity, hitherto unequaled and unknown in our country, a disinclination to pack a jury of the same political sentiments with the judge, to try the defendant. This is a fair representation of the previous conduct of the judge, relative to the subject, before which the defendant was about to be tried, or rather before whom he who to be called for certain convictions and punishment for he ought not to be dignified with the name of a trial. With this view, therefore, of the temper and disposition of the judge, and of his previous conduct on this occasion, we will examine the indecorous deportment in the trial, in which the delegate of the judge begins some clearly to unfold the intention, to be refuted to poll some or continue the trial until the next term, in an affidavit regularly filed, stating the absence of material witnesses and the places of their residence, being the second charge in the fourth article of impeachment.

It is admitted by the respondent, in his answer, that an affidavit was filed, which he exhibits to the court, and a motion made thereupon by the counsel of Callender to continue his cause for the next term; and it is proved by the evidence of Mr. Hay and Mr. Nicholas, that as counsel for Callender, they filed for a continuance of Callender, on the grounds stated in the affidavit, that the witnesses, named in it, they were not prepared to argue the law arising to the case, for want of time to consider the subject, and that the defendant was not, by the laws of Virginia, bound to come to trial that term, and that it was proper to flow what are the grounds for a continuance known in law, and to inquire whether the facts stated in the affidavit were within the decisions heretofore made in courts of law. On this ground I will refer the court to one authority only, but one equally respectable with any, that can be produced on the subject. Foster's C. Law, page 2 and 3. Here Mr. Foster, in a long case at length, and then obliquely, that this decision took place in a country where criminal law is administered with much rigor as in any in the world, where there is the liberty of liberty; and yet the affidavit filed in this case, on which a continuance was granted, only claims the absence of material witnesses and the places of their abode; the defendant was required to state the facts that their witnesses would prove, if in ordinary cases the counts do not require this, and in many cases it would be impossible for the defendant to state the facts, and yet continue in evidence; nor is the defendant bound, except in extraordinary cases, to state the evidence that his witnesses, who are absent, can give, as it might be inconvenient and may give an advantage to the prosecutor, if to dispose, to procure evidence, whether true or false, to counteract the effect of the defendant. The court in the case cited was held by a special consultation from the crown, and the judges of the trying offenders in crimes of the deepest die, and such as are attended with the severity with the utmost rigor; yet the court considered the case of the defendants for such a period of time as was sufficient for them to procure their witnesses according to the distances at which they resided, and the facts which they stated were such to which the client could adjourn and continue the cause; they, therefore, fixed upon a reasonable time and adjourned over to such day; in order to enable the defendants to prepare for trial; and it was observed by the court in that case as an additional ground for adjourning the cause, that the trial had not been found until the court sat, and that, therefore, the defendants had not time to prepare for trial. This was a case with Callender's he had no notice of the intended prosecution, after the indictment was found, and during the four terms; he, therefore, could not have had time to prepare for his trial. The affidavit he filed was stronger and much more full than that in the case cited, and the absence of witnesses, and the place of residence, with evidence the opposite defendant intended to use in his defence. It would be sufficient to subscribe a continuance upon a full application, and none ought not to have been required; but the affidavit goes further, and states the substance, in fact as the defendant knows, of the evidence the witnesses could give; and also states the want of paper and books, material to the defence, that could not be obtained without allowing a considerable time to procure them. What more could be desired in an affidavit, for a continuance on the ground of want of testimony, by any defendant who wished to adhere to the truth? Yet the court, overruled, they affirm, an instance of partial depravity hitherto unequaled and unknown in our country, a disinclination to pack a jury of the same political sentiments with the judge, to try the defendant. This is a fair representation of the previous conduct of the judge, relative to the subject, before which the defendant was about to be tried, or rather before whom he who to be called for certain convictions and punishment for he ought not to be dignified with the name of a trial. With this view, therefore, of the temper and disposition of the judge, and of his previous conduct on this occasion, we will examine the indecorous deportment in the trial, in which the delegate of the judge begins some clearly to unfold the intention, to be refuted to poll some or continue the trial until the next term, in an affidavit regularly filed, stating the absence of material witnesses and the places of their residence, being the second charge in the fourth article of impeachment.

It is admitted by the respondent, in his answer, that an affidavit was filed, which he exhibits to the court, and a motion made thereupon by the counsel of Callender to continue his cause for the next term; and it is proved by the evidence of Mr. Hay and Mr. Nicholas, that as counsel for Callender, they filed for a continuance of Callender, on the grounds stated in the affidavit, that the witnesses, named in it, they were not prepared to argue the law arising to the case, for want of time to consider the subject, and that the defendant was not, by the laws of Virginia, bound to come to trial that term, and that it was proper to flow what are the grounds for a continuance known in law, and to inquire whether the facts stated in the affidavit were within the decisions heretofore made in courts of law. On this ground I will refer the court to one authority only, but one equally respectable with any, that can be produced on the subject. Foster's C. Law, page 2 and 3. Here Mr. Foster, in a long case at length, and then obliquely, that this decision took place in a country where criminal law is administered with much rigor as in any in the world, where there is the liberty of liberty; and yet the affidavit filed in this case, on which a continuance was granted, only claims the absence of material witnesses and the places of their abode; the defendant was required to state the facts that their witnesses would prove, if in ordinary cases the counts do not require this, and in many cases it would be impossible for the defendant to state the facts, and yet continue in evidence; nor is the defendant bound, except in extraordinary cases, to state the evidence that his witnesses, who are absent, can give, as it might be inconvenient and may give an advantage to the prosecutor, if to dispose, to procure evidence, whether true or false, to counteract the effect of the defendant. The court in the case cited was held by a special consultation from the crown, and the judges of the trying offenders in crimes of the deepest die, and such as are attended with the severity with the utmost rigor; yet the court considered the case of the defendants for such a period of time as was sufficient for them to procure their witnesses according to the distances at which they resided, and the facts which they stated were such to which the client could adjourn and continue the cause; they, therefore, fixed upon a reasonable time and adjourned over to such day, in order to enable the defendants to prepare for trial; and it was observed by the court in that case as an additional ground for adjourning the cause, that the trial had not been found until the court sat, and that, therefore, the defendants had not time to prepare for trial. This was a case with Callender;