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AND

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FIVE DOLLARS PER ANNUM. FRIDAY, AUGUST 23, 1805. PAID IN ADVANCE.

Council, Annapolis, May 16, 1805.

ORDERED, That the act to provide for the trial of facts in the several counties of this state, and to alter, change and abolish, all such parts of the constitution and form of government as relate to the general court and court of appeals, be published twice in each week for the space of three months in the Maryland Gazette at Annapolis; the American, Telegraphe and the Federal Gazette at Baltimore; the National Intelligencear; the Republican Advocate and Bartgis's paper at Frederick-Town; Greeves's paper at Hagerstown, and in Smith's and Cowan's paper at Easton.

By order,
NINIAN PINKNEY, Clerk.

AN ACT

To provide for the trial of facts in the several counties of this state, and to alter, change and abolish, all such parts of the constitution and forms of government as relate to the general court and court of appeals.

BE it enacted by the general assembly of Maryland, That this state shall be divided into six judicial districts in manner and form following to wit: St. Mary's, Charles and Prince George's counties, shall be the first district; Caecil, Kent, Queen Anne's and Talbot counties, shall be the second district, Calvert, Anne Arundel and Montgomery counties shall be the third district; Caroline, Dorchester, Somerset and Worcester counties, shall be the fourth district, Frederick, Washington and Allegany counties shall be the fifth district; Baltimore and Harford counties shall be the sixth district; and there shall be appointed, for each of the said judicial districts, three persons of integrity and sound legal knowledge, residents of the state of Maryland, who shall previous to and during their acting as judges, reside in the district for which they shall respectively be appointed, one of whom shall be styled in the commission chief judge, and the other two associate judges, of the district for which they shall be appointed; and the chief judge, together with the two associate judges, shall compose the county courts in each respective district; and each judge shall hold his commission during good behavior, removeable for misbehavior on conviction in a court of law, or shall be removed by the governor, upon the address of the general assembly, provided that two thirds of all the members of each house concur in such address; and the county courts, so as aforesaid established, shall have, hold and exercise, in the several counties of this state, all and every the powers authorities and jurisdictions, which the county courts of this state now have, use and exercise, and which shall be hereafter prescribed by law; and the said county courts established by this act shall respectively hold their sessions in the several counties at such times and places as the legislature shall direct and appoint, and the salaries of the said judges shall not be diminished during the period of their continuance in office.

II. And be it enacted, That in any suit or action at law hereafter to be commenced or instituted in any county court of this state, the judges thereof, upon suggestion in writing by either of the parties thereto, supported by affidavit or other proper evidence, that a fair and impartial trial cannot be had in the county court of the county where such suit or action is depending, shall and may order and direct the record of their proceedings in such suit or action to be transmitted to the judges of any county court within the district for trial, and the judges of such county court, to whom the said record shall be transmitted, shall hear and determine the same in like manner as if such suit or action had been originally instituted therein; provided, nevertheless, that such suggestion shall be made as aforesaid before or during the term in which the issue or issues may be joined in the said suit or action; and provided also, that such further remedy may be provided by law, in the premises, as the legislature shall from time to time direct and enact.

III. And be it enacted, That if any party presented or indicted in any of the county courts of this state, shall suggest in writing to the court in which such prosecution is depending, that a fair and impartial trial cannot be had in such court, it shall and may be lawful for the said court to order and direct the record of their proceedings in the said prosecution to be transmitted to the judges of any adjoining county court for trial, and the judges of such adjoining county court shall hear and determine the same in the same manner as if such prosecution had been originally instituted therein; provided that such further and other remedy may be provided by law in the premises as the legislature may direct and enact.

IV. And be it enacted, That if the attorney general, or the prosecutor for the state, shall suggest in writing to any county court, before whom an indictment is or may be depending, that the state cannot have a fair and impartial trial in such court, it shall and may be lawful for the said court, in their discretion, to order and direct the record of their proceedings in the said prosecution to be transmitted to the judges of any adjoining county court for trial, and the judges of such county court shall hear and determine the same as if such prosecution had been originally instituted therein.

V. And be it enacted, That there shall be a court of appeals, and the same shall be composed of the chief judges of the several judicial districts of the state, which said court of appeals shall hold, use and exercise, all and singular the powers, authoritities and jurisdictions, heretofore held, used and exercised, by the court of appeals of this state, and also the appellate jurisdiction heretofore used and exercised by the general court; and the said court of appeals hereby established, shall sit on the western and eastern shores for transacting and determining the business of the respective shores, at such times and places as the future legislature of this state shall direct and appoint, and any three of the said judges of the court of appeals shall form a quorum to hear and decide in all case pending in said court and the judge who has given a decision in any case in the county court, shall withdraw from the bench upon the deciding of the same case before the court of appeals; and the judges of the court of appeals may appoint the clerks of said court for the western and eastern shore, respectively, who shall hold their appointments during good behavior, removeable only for misbehavior on conviction in a court of law: and in case of death, resignation, disqualification or removal out of the state, or from their respective shores, of either of the said clerks in the vacation of the said court, the governor, with the advice of the council, may appoint and commission a fit and proper person to such vacant office, to hold the same until the next meeting of the said court; and all laws passed after this act shall take effect, shall be recorded in the office of the court of appeals of the western shore.

VI. And be it enacted, That all and every part of the constitution and form of government which relates to the court of appeals and the general court, or the judges thereof, or that is in any manner repugnant to, or inconsistent with, the provisions of this act, be and the same is hereby repealed, abrogated and annulled upon the confirmation hereof; provided, that nothing herein contained shall be construed so as to authorise the removal of the clerks of the respective county courts being in commission at the time of the passing of this act, in any other mode or manner than that prescribed by the constitution and form of government.

VII. And be it enacted, That if this act shall be confirmed by the general assembly, after the next election of delegates, in the first session after such new election, as the constitution and form of government directs, that in such case this act, and the alterations and amendments of the constitution and form of government therein contained, shall be taken and considered, and shall constitute and be valid, as a part of the said constitution and form of goverment, to all intents and purposes, any thing in the said constitution and form of government to the contrary, nowithstanding.

May 31—2aw3m

West Indies.

BERNARD M'MAHON SEEDSMAN,
No. 129.
CHESNUT STREET. PHILADELPHIA,
Has just imported from London by the ship Columbia,
A GENERAL ASSORTMENT OF
Garden Seeds,

PARTICULARLY of such kinds as are usually in demand in the West Indies, and as other hot climates; and also of such sorts in are necessary for summer and fall sowing in the United States They are all fresh, of the last season's growth, and will be disposed of on moderate terms.

TURNIP SEED.

He has likewise imported from one of the most eminent Turnip farmers in England, a quantity of the genuine White Norfolk field Turnip seed, which is the most profitable kind yet known for cattle feeding, and exceeded by none for ordinary purposes.

FLOWER ROOTS.

His flower roots being now taken up, his friends and the public may be supplied with upwards of three hundred varieties of the most superb Tulips, all named, and arranged in their proper divisions, a large collection of the best double Hyacinths, Anemones, Ranunculuses and Jonquils; likewise Crown Imperial, crocus spring and autumnal Cyclamen roots, with several other kinds.

BOOKS.

He is constantly supplied with the best and most approved works on Agriculture, Botany and Gardening, and in a few weeks will have ready for publication his treaties on AMERICAN GARDENING, adapted particularly to the climates, seasons, and vegetable productions, that are, or may be profitably cultivated in the United States

He is also supplied with the best English flour of mustard and split peas; white and brown mustard seed for mangoes, &c watering pots, bass mats, pruning, grafting, and inoculating knives; garden rakes, hoes, reels, lines, spades, shovels, trowels and edging irons, hot bed lights and glass, hyacinth glasses, red, white, and yellow clover seed, burnet, lucerne, ray grass, timothy, herd grass and orchar grass seeds, lentils, vetches, peas, beans and every other necessary article in the seed trade.

M'MAHON invites, nay he solicits a correspondence and reciprocity of services with the admirers of curious and useful vegetable productions, in the United States and elsewhere; and having it considerably in his power, being generally supplied with an immense number of scarce, curious, and valuable seeds, he hopes they will find in him an attentive and useful correspondent.

July 15.

IMPEACHMENT OF *JUDGE CHASE.*

MONDAY, FEBRUARY 25.

Mr. HARPER'S speech concluded.

Let us advert, Mr. President, to the state of mind in which this witness was, at the time when these expressions are supposed to have been uttered.

He informs us that he was the author and chief supporter of those measures of the Maryland legislature, against which the respondent levelled his artillery; that he considered himself as particularly pointed at; and supposed the eyes of the audience to be turned upon him. So greatly was he irritated by this imaginary attack on himself, that as he left the room, after the charge was finished, he declared that the respondent should be impeached for that charge. This we learn from the testimony of Mr. M'Mecken, who heard the declaration. After he went home, he wrote an inflammatory piece for the press, purporting to be the substance of the charge. This piece was avowedly written, for the purpose of promoting an impeachment. It recommends that measure; abounds with the most approbrious and abusive language against the respondent; and, what is still worse, it varies very materially from the testimony which the author of it has delivered at this bar.

Is it surprising that a man in this state of mind, should misconceive the truth? Is it to be wondered at that he should convert his own inferences, the misconceptions and distortions of his own brain, into facts? Have any members of this honorable court heard a person give an account in a court of justice of a quarrel in which he himself had been a party? Of a brawl or riot in which he had been himself engaged, in which he had perhaps been beaten, and of his wrongs in which he came to complain? Have they observed how the truth in such situations, is distorted by the blindness of passion, the partiality of self love, and the thirst of revenge? I presume that they have; and they will then know how to appreciate the testimony of a witness, in the state of mind in which Mr. Montgomery viewed these transactions, and in which he has given evidence at this bar.

I have said that his publication, purporting to be the substance of this charge, varies materially from his testimory in the case. For the truth of this statement I refer to the publication itself, which is in evidence before the court, and to his testimony, which is in the recollection of the honorable members. But I will point out one of the most remarkable variances.

In the publication he represents the respondent as saying "that in a country where were equal rights and equal laws, that is, laws equally administered, and that operate equally upon the rich and poor, there was freedom, but that country was *not* ours; we had *no* equal rights or equal laws." In his testimony, as taken down by the short hand writer, he represents the respondent as saying, "that where there were equal laws and equal rights, there was freedom, but where the administration of the laws was partial and not certain, the people were not free: and that we were approaching to that state of things." In his publication he accuses the respondent of saying, that we actually were in this condition; in his testimony, that we were approaching to that state of things. Is it possible to give credit to a witness who thus contradicts himself? And what assurance have we that he whose memory is so treacherous, and who is proved, by his publication to have been so angry, has not stated his own impressions and inferences as facts?

This witness has indeed made an attempt to support himself, by an explanation of this part of his testimony. In his explanation he tells us, that although he attributed the word "administration" to the respondent, the term used might perhaps have been "government." In this way he endeavors to get rid of the contradiction between himself and the numerous other witnesses. But this cannot avail him. The expressions, whether applied to the administration or the government, must, in this instance, have meant the same thing. The charges of weakness, relaxation, incapacity, and a view to the continuance of their unfairly acquired power, instead of the public good, could have had no application to the government in its general abstract nature. They could have been applied to it only as administered, by the persons or the party now in power. So that whether the term "government" or "administration" was used, the meaning was precisely the same. The expressions were equally remarkable, in one case as in the other. They must have struck the by-standers as much in one case as in the other. They were in fact the same, with the variance of a single word, which did not in the least vary the sense. The witnesses have all sworn that they heard no such expressions, and the contradiction is as strong after the explanation, as it was before.

Who are these witnesses thus standing opposed to Mr. Montgomery? These witnesses that were present, and attentive, and yet did not hear these remarkable expressions which he heard so distinctly, and which he tells us made so strong an impression on his mind? If, when he stood on his own merits, and on the comparison between his publication and his testimony, he was so weak, how must he appear, when opposed by this host of witnesses?

First, Mr. Mason. That gentleman, indeed, was so much occupied by the salutations of his friends, that he did not attend accurately to the whole charge; although he had leisure enough to remark what nobody else saw; that the respondent, in the intervals of reading his charge, sometimes seemed to introduce extemporaneous observations, by way of comment on what he read. Still he has given us with great confidence, and no less accuracy, the principal points of the charge. He recollects nothing of these expressions. Can it be believed that they would not have struck him, had they been used? Mr. Mason is one of the strongest adherents, one of the warmest and most zealous friends of those who now administer the government. Indeed he is one of the chief props of the present administration, united with it in interest, principle and affection. He is, moreover, so accurate in his observation, and so correct in his recollection, about what relates to the respondent, as to be able, after a lapse of five years, to repeat a casual, and jocular converlation; which is usually forgotten as soon as it passes. Can it be believed that so outrageous an attack upon his friends, by this judge, and in such a place, could have escaped his notise, or been effaced from his memory?

Next Mr. Smith, Editor of the National Intelligencer, than whom the present administration certainly has not a more zealous friend. He is, indeed remarkable for the devotedness of his attachment to this administration; his lively and keen sensibility to all its wrongs, real and imaginary; and his vigilant and unwearied zeal in its defence. He is, moreover, remarkable for his talent of stating in writing, whatever he has heard spoken or read; a talent into the careful cultivation and constant exercise of which he is led by his profession. He listened attentively to this charge. After hearing it he sat down in his chamber, the same evening, and committed the substance of it to writing, for the express purpose of publishing it in his paper. This publication he has produced and attested, and it contains no such expressions about the present administration, or the present government, as were heard by Mr. Montgomery. Is it possible to believe that had such expressions been used, they would not have been heard by Mr. Smith; or that if he had heard them, he would have omitted them in his publication?

Mr. Stephen, too, who is known to be strongly attached to the present administration, was present at the delivery of this charge, attended to it, but heard no such expressions as those related by Mr. Montgomery. A multitude of other witnesses who stood round the respondent while he delivered the charge, who were all for various reasons very attentive to it, have with one voice declared that they heard no such expressions. Among them is the district judge, who sat by the side of the respondent; the clerk of the court, who sat next to him but one, and who moreover is an adherent of the present administration; the foreman of the grand jury, who stood close to the respondent, and to whom the charge was particularly addressed; and one of the judges of this district, who attended that court as a witness, and stood very near to the respondent, while he delivered the charge. The others are gentlemen of the bar, men of high character, who have delivered their testimony with great accuracy, and assigned with candor and precision the reasons of their belief. And all these persons declare most positively, that they heard no such expressions as have been related by Mr. Montgomery, about the conduct, character and views of the present administration.

Nay more. The charge was read from a written paper, and that paper is produced in court, and proved by the person who wrote it, from a rough copy furnished by the respondent. Mr. Mason, it is true, states, that some extemporaneous comments appeared to him to be made by the respondent, while reading from the written paper; and the inference to be drawn from this, I presume, is that these expressions might have formed one of these extemporaneous comments, and therefore might have been used, tho' they do not appear in the paper. But Mr. Mason, it will be remembered, though very correct and positive in stating the substance, does not pretend to accuracy in the particulars. He was too much interrupted by the salutation of his friends, who pressed through the croud to speak to him. And it may very well have happened that when, after these interruptions, he turned his attention again to the respondent, he sometimes found him with his eyes raised from the paper, as those of every man will be who reads his own composition, or any writing with which he is familiar.

This might have led him to conclude, that the respondent sometimes spoke extempore. But Mr. Montgomery himself has stated that the whole charge was read from a paper; and the same fact has been established by the testimony of nine or ten witnesses, among whom are the district judge and the clerk of the court. Those gentleman sat near to the respondent, while he delivered the charge. One of them sat next to him, and the other next but one. They were both attentive to the manner in which the charge was delivered, and they both say that it appeared to them to be entirely read. They both say that the respondent, in reading it, occasionally raised his eyes from the paper at the close of a sentence, and turned them to the audience; but not longer at any one time than is usual with a person reading. In this the other witnesses fully concur. They all stood round the respondent, had their eyes upon him during the whole time, and were particularly attentive to the manner as well as to the matter of the charge.

Mr. Montgomery, indeed, after he had heard the testimony of Mr. Mason, explained himself on this subject. He said at first, that the whole charge appeared to him to be read from a written paper. But after he heard Mr. Mason state that the respondent, in delivering the charge, sometimes appeared to leave the paper, and introduce extemporaneous matter, he was called again, and he then informed us that his eyes were not constantly directed towards the respondent, but were occasionally turned on the by-standers, whose eyes he observed to be directed to him as the known author of the measures reprobated in the charge. From this he inferred very properly, that the respondent might have spoken extempore from time to time, without his observing the fact. This explanation certainly removes the contradiction wich at first appeared between Mr. Mason and Mr. Montgomery; and weakens materially the testimony of the latter gentleman, as to the fact now in question. But it has no such effect on the testimony of the other witnesses, whose attention was not called off like that of Mr. Montgomery; who had their eyes upon this respondent during the whole time; and who firmly believe that every word which he delivered, was read from the paper. This fact, then, I consider as completely established. The paper has been proved, and is in evidence before the court. A true copy of it will be found among the exhibits filed with the answer, No. 8. On examination, it will be found to contain no such expressions as are attributed to the respondent by Mr. Montgomery.

The testimony of Mr. Montgomery on this point, thus liable to suspicion in itself, on account of the state of irritation in which he saw the transaction; thus contradicted by his own written statement, by the testimony of so many witnesses, and by the written charge; is not entitled to belief, but must be laid wholly out of the case. I do not charge him with wilfully mistating the fact; but that he has utterly mistaken it cannot be doubted.

There is another point on which some contrariety appears in the testimony. Some of the witnesses have supposed that the respondent concluded this charge with a direct recommendation to the jury, to use their endeavors on their return home, towards preventing the