[illegible] relation to it. The attachment was [illegible]day asked for against Mr. Madison [illegible], Mr. Colden dispensing in his argument with the attendance of all the other absent witnesses but Mr. G. Clinton, jun. and Bradley, who he said were expected the following day.

The district attorney, and Mr Pierpont Edwards, replied that the motion to bring on the trial was first in order, and that after that was disposed of they would meet the motion for an attachment. If the object of the counsel for the defendant was to put off the trial, they should avow it; the questions were distinct ones and should not be mixed. If Mr. Madison had been guilty of a *contempt*, for on that alone could an attachment be granted, the attachment might be issued to purge him of the contempt, and the trial go on.

Judge Patterson observed that he had received a letter from Mr. Madison, Mr. Dearborn, and Mr. Smith, which he read, and of which the following is an exact copy.

"*To the honorable the Judges of the Circuit Court for the district of New-York.*

"We have been summoned to appear on the 14th day of this month, before a special Circuit court of the U. S. for the district of New-York, to testify on the part of William S. Smith, and Samuel G. Ogden, severally, in certain issues of traverse between the U. S. and the said William S. Smith, and Samuel G. Ogden. Sensible of all the attention due to the writs of subpoena issued in these cases, it is with regret we have to state to the Court, that the *President* of the U. S. taking into view the state of our public affairs, has specially signified to us that our official duties cannot consistently therewith, be at this juncture dispensed with. The court we trust will be pleased to accept this as a satisfactory explanation of our failure to give the personal attendance required. [illegible] [illegible] it must be distinct in whether [illegible] the absence of heads of departments at such a distance from the scene of their official duties [illegible] [illegible] interfere with them, we respectfully submit, whether the [illegible] this case may not be reconciled with public considerations by a commission issued, with the consent of the counsel and that of the district attorney of the U. S. for the purpose of taking in that mode, our respective testimonies.

"We have the honor to be
With the greatest respect,
Your most obt. servts.
JAMES MADISON,
H. DEARBORN,
R. SMITH.

City of Washington, 9th July, 1806."

Having read this letter, touched, in the most respectful terms, and in which the gentlemen tender their testimony by commission, Judge Patterson said, with an energy that we had not expected in his debilitated state, that, from the affidavit of the defendant on the files of the court, it did not appear to him that the testimony of Mr. Madison was *material*. The crime of the defendant, said the judge, if he be guilty of a crime, was committed in the city of New York when Mr. Madison was at Washington. When special matter is presented, we will consider it. The jurors were discharged until to-morrow.

A desultory conversation ensued as to the *precedence* of the two motions for the morrow. Judge Patterson said he would not fetter the counsel by forms. Adjourned to Tuesday morning at 10 o'clock.

Tuesday morning.—The defendant's counsel produced a special affidavit. It had, however, in our opinion, but a remote, if any relation, to the decision of the court the preceding day, namely, that the offence of the defendant, if any, being committed in the city of New-York when Mr. Madison was at Washington, this gentleman could not be considered by the court as a material witness, unless it were shewn, by a special matter, that in plain language, he had heard what he did not hear, and had seen what he did not see. Under the circumstance of absence from the place where the act was committed, it required, indeed, special matter to prove that Mr. Madison's testimony was at all material.

The special affidavit, which was read by Mr. Colden, set forth that the defendant [illegible] expected to prove, by the testimony of Mrs. Madison, Mr. Smith, Mr. Wagner, and Mr. Thornton, that if the defendant had embarked in the expedition of the Leander, that expedition was begun, prepared, and set on foot with the knowledge and approbation of the President and the Secretary of State." This was the speciality of the affidavit. Attachments were now prayed for, not against Mr. Madison alone, as yesterday, but against the four gentlemen named.

Mr. Colden followed up the reading of the affidavit with a speech of considerable length and zeal, and enlarging a variety of points and precedents, but it appeared to me, to be a recession of the question before the court. There is an obvious and wide distinction between—whether any man in the United States be above the law, which was not made a point, or whether, which was the true and only point, Mr. Madison be a material witness. Leaving the latter ground almost untouched, Mr Colden treated the question on the former and adduced British precedents to show that high official characters in that country had under circumstances analogous to those of Mr. Madison, appeared in courts as witnesses. There was indeed, he said, a decision of the Supreme Court of the United States against him. He alluded to the cause of the U. S. vs. T. Cooper, of Philadelphia, in which the noted Judge Chase imperiously decided, on a very special affidavit of Mr. Cooper, that the then President, Mr. Adams, could not be compelled to come into court as a witness. He spoke in terms of mild reprehension of this decision; perhaps because he was sincere, but certainly because it was his business, as advocate, to do so. He could not wish the court to apply Chase's rule in the case of Cooper to that of his client.

Mr. Colden was followed by Mr. Hoffman on the same side. The gentleman gave us a brilliant specimen of his great and ready talents. He was ingenious, and he had need to be so, for where weakness of materials is not in some sort compensated by dexterity of argument, it requires all the patience of stupidity to bear with the advocate.—He was, however, only ingenious; I thought him not solid, and this, as he had nothing substantial to stand upon, is saying nothing in disparagement of his abilities.

The foundation of Mr. Hoffman's argument was laid in possibilities; not in what *is* but what *may be*. If, he said, he could show a possible case in which the testimony of Mr. Madison could be material, the court would not withhold the attachment. The testimony of Mr. Madison, he said, might be, although he did not affirm that it was material; but in his conscience he believed it to be so. In reviewing the subject in all its relations, it would be proper, he said, to take into consideration the posture of our affairs when the expedition was undertaken and carried on. In his message to Congress, the President, the highest official character in our country, and who *ought* to be respected, stated that acts of hostility had been committed by Spain on citizens of the United States within our own territory, and that he had ordered our armed force to repel these attacks if repeated in future. Speaking of the functions of the executive, the right of declaring war, he said, was vested exclusively in Congress, but could not the United States, he asked, be at war with a foreign power without a declaration of it in Congress? Congress declared *offensive* war, but when hostilities, such as those mentioned in the President's message, were committed against us; without such declaration by Congress we were *de facto* at war, *defensive* war, and the President was bound to resist the aggressions. We were then at war, according to M. Hoffman, who very adroitly converted the President's presumed knowledge and approbation of the Leander's enterprise not indeed into a full but sort of half-way authority for the defendant's embarking in it. The Spanish aggressions on our citizens and territory was in the south; suppose said Mr. Hoffman, it had been in this city; besides repelling it, the President might have commenced offensive operations, and have ordered a force to any other quarter, say the Carracas, by way of inflicting farther punishment on the aggressing power. Mr. Hoffman thought of Hannibal at Rome, and Scipio at Carthage.—As a politician he would not credit the President for so much military knowledge, skill and intrepidity!

Our territory was then invaded, and our rights infringed, and without a declaration from Congress, it was the duty of the President, said Mr. Hoffman, to chastise the invaders; such was our situation.—Let us now glance at the case of the defendant. It is notorious said, Mr. Hoffman, that Congress was debating with closed doors, and if debating in unison with the feelings of America, upon a declaration of war. If war was to be declared, and as the doors of Congress were closed, no one could tell but it was the business of the executive to anticipate and provide for it. At this juncture the enterprise of the Leander was planned, and Miranda consulted Mr. Madison respecting it. Mr. Madison then knew of it and approved of it, and so, *said Mr. Hoffman*, did the President. From these premises Mr. Hoffman concluded that the testimony of Mr. Madison was *material*, for that in fact a knowledge and approbation of the enterprise, by the President, was authority to the defendant to engage in it. Every one will see how fallacious this hypothetical reasoning is when applied to the case of his client. It was presuming upon a state of things that did not exist, and upon authority given by the President which neither was nor could be given, but which if the state of things had existed, and the authority could be, and had been given, would have justified the defendant, nay, he would not, under these circumstances, have been brought to the bar of his country to answer for an act calculated to embroil it with a foreign power.

(To be Continued.)

CIRCUIT COURT OF THE UNITED STATES.

NEW YORK DISTRICT.

UNITED STATES *vs* WM. S. SMITH.

FIFTH DAY.

The Court met at 10 o'clock, pursuant to adjournment.

Present: Judge TALMADGE—Judge Patterson from indisposition not being able to attend.

The following jurors were called over and sworn, viz

John Sullivan, John Rathbone, jun. Lewis C. Hamersley, Cortlandt Babcock, John P. Haff, Gold Hoyt, John A. Fort, James Mafterton, Schuyler Livingston, Henry Panton, George Forman, and Augustus Wyncoop.

The Attorney General opened the case by briefly stating to the jury the counts in the indictment. After which the following witnesses were examined in behalf of the prosecution, viz

Messrs. Samuel G. Ogden, Dr. Romine, David Gelston, (Collector of the port) John M'Lean, General Stevens, Richard Belden, Jonathan Ogden, John Jacob Astor, Benjamin Haight, Bernard Hart, Abram Vannest, Jonathan Fay, William Estbrook and William Allen.

After which the court adjourned until 10 o'clock this morning.

Philadelphia, July 20.

The ship Philadelphia, captain Smith, arrived last evening at the Lazaretto from Liverpool, which he left on the morning of the 15th of June. Our London papers by her are to the 11th, four days later than those heretofore received, via Boston and New York.

LONDON, June 10.

Paris papers have arrived to the 1st, Dutch to the 5th, and a Hamburgh Correspondenton.

The French troops remain in Bavaria and Suabia, and Braunau has not yet been delivered up till the official account has been received of the surrender of Cattaro, which is not expected till the middle of this month. In the mean time Prince Alexander Berthier continues at Munich. Gen. Andreossi, who was on his return to Paris, received orders at Munich to measure back his steps to Vienna, where M. Talleyrand's nephew arrived with dispatches on the 20th ult. The correspondence between the Austrian and French governments is extremely active. Anspach which was to be transferred to Bavaria, continues in the hands of the French, and we shall not be surprised to find Bonaparte erecting it into a principality, for a member of his illustrious house. Having placed Prince Joachim as a kind of centinel on the Prussian frontier, he may have determined to station another of his relatives in a similar capacity on the Austrian.

Gaeta holds out, and is likely to hold out for a great length of time. The garrison are in no danger of wanting provisions or supplies of any kind. Civitella del Fronto continues also, under an Irish officer, to make as bold a resistance as that of Gaeta.

The islands of Procida and Ischia, lying between Gaeta and the Bay of Naples, have, it is stated, been attacked by a British squadron, without success.

The island of Capri, at the entrance of the gulph of Naples, was also attacked on the night of the 11th ult. We trust the attack was successful. The Moniteur, of the 30th ult. contains a very long account of a very trivial engagement between the French and Russians, in one of the islands (Lesina) in the Adriatic. The affair, we have no doubt, is much exaggerated. It is likely that the Russians, seeing the post where the enemy were entrenched too strong to be attacked, determined upon a retreat, and might have been harrassed a good deal in returning to their ships. It is clear, however, from this intelligence, that no idea was entertained by the Russians, so late as the end of April, that they were about to evacuate Dalmatia.

We have received New York papers to the 9th and Boston to the 13th ult.—The President of the United States has published a Proclamation, commanding all persons within the United States, to arrest captain Whitby, of the Leander, wheresoever he may be found, now or hereafter. The Proclamation also requires the Leander, Cambrian, and Driver, to depart from the harbors and waters of the United States, and interdicts for ever the entrance of all other vessels which shall be commanded by Henry Whitby, captain of the Leander, John Nairne, captain of the Cambrian, and Slingsby Simpson, captain of the Driver. In case of the return of the above vessels, all intercourse with them is prohibited; no supplies are to be furnished them; and pilots are commanded not to assist in navigating them.—The President, in issuing this silly proclamation, appears to have accommodated himself to the temporary mania of the revolutionary faction in New York, and we are concerned to find that some of the political agitators in this country have caught the infection.—The Americans in their late treaty with Tripoli, recognise the right of visit and search and prescribe the form in which it is to be made. Our readers will therefore be surprised to learn, that all this senseless clamour against England, has arisen out of a right granted to pirates and robbers, to chastise whom, the United States lately sent their little navy to the Mediterranean. The right to visit and search, carries with it, of necessity, a right to enforce it, if resisted. And the unfortunate death which has happened, appears to have been the result of the legal exercise of this right. The death of the American sailor is certainly a subject of regret, but it furnishes no fair ground of complaint against the captain of the Leander, or the British government.

June 11.

Lord Melville's case continues to occupy the whole attention of the lords, who generally sit on it with closed doors, till eleven or twelve o'clock at night. Much warm debate is, it is said, shewn in these discussions. It is not yet known when judgement will be given.

Mr. Fox, in a very spirited speech, has declared the disposition of his majesty's ministers to be pacific: but that no propositions would be acceded to, but such as were fair and honorable to G. Britain and her allies.

The London Gazette of June 5, contains his majesty's order in council—That the embargo on ships and goods belonging to Bremen, be taken off; but Memel, Danzic and other Prussian ports, are closely blockaded by the *Swedes*.

The passage of British goods from Tonningen through Hanover and Prussia, remained uninterrupted on the 28th of May.

A kind of influenza, which spares no one, at present prevails in Spain. Fortunately it is seldom fatal. The whole of the royal family have been attacked by it. At Barcelona, where this malady commenced, 28,300 persons were ill of it at once.

District of Columbia, Washington county, to wit:

I hereby certify that Benjamin Hawley brought before me, as a trespassing stray, a Bay HORSE about 14 hands high, 8 years old, rigged mane, branded on the off buttock with letters I. G.

Given under my hand this 14th day of July 1806.

SAMUEL HAMILTON.

July 23—3t

For AMSTERDAM,
The fine new ship
FAIR LADY,
CAPTAIN PETERSON. 150 hogsheads tobacco, and articles of small bulk, will be taken on moderate terms. Good accommodations for passengers. For freight or passage apply to captain Peterson on board, or to

WASHINGTON BOWIE.

George Town, July 14—w3t

WASHINGTON CITY.

THE Subscriber takes this method to inform the public that he has enlarged his tavern considerably for the accommodation of Travellers and Boarders; his stand being on F street opposite the Bank and very near the public offices. He flatters himself from the advantage of his situation and the reasonableness of his charges, with the strict attention to business, to give general satisfaction.

THOMAS THORPE,

June 20—wtf

To the North Carolina Gold Mine Company.

The following resolutions were passed by the Board of Directors, at their adjourned meeting on the 12th of June, 1806.

Resolved, That the subscribers to the North Carolina Gold Mine Company be required, and they are hereby required to pay the sum of ten dollars on each share to which they are respectively entitled, on or before the 15th day of July next, for the purpose of defraying the expence of prosecuting the business of the Company.

Resolved, That WILLIAM THORNTON, Esq. be authorised to receive all payments that shall be made under the preceding resolution, and account with the Board for the same.

Resolved, That the above resolutions be published in the National Intelligencer for the information of the stockholders.

DANL. CARROLL of Dud'n
President.

June 20—3t&1wt15J.

Valuable Property For Sale.

THE Subscriber offers for sale a number of valuable heights convenient to the city of Washington about 2 1 2 miles from the President's House and near the same distance from the Capitol, and command a handsome view of the City, river Potomac, and Alexandria. Lot No. 1. contains 60 acres, No. 2. contains 42 acres. No. 3 contains 102 acres. No. 4 contains 19 acres; Likewise a lot lying between John Tayloe, and Dr. Worthington, containing from 85 to 100 acres. Those lots will be sold together or apart as may suit purchasers.

Terms may be known by applying to James White or Rev. John Breckenridge near the property. Jan. 24 wtf.

FOR SALE,

A Handsome two story BRICK HOUSE, 22 feet front by 34 feet back, with a kitchen stable and carriage house, its situation for a public or private dwelling is superior to any house near the Navy Yard, it commands a perfect view of the Yard and shipping and is now rented for 300 dollars per annum. I will also sell a valuable unimproved Lot near the premises in sq 881—young negroes will be taken in part payment. For terms apply to the subscriber living near the Navy Yard, or to Mr. Samuel M'Intire.

NICHOLAS VOSS.

Washington Feb 14—wtf

June Court 1806—In Chancery.

Thomas Law, vs. Richard Gridley.

THE Report of Daniel C. Brent the trustee formerly appointed in this cause having been returned and sworn to and filed and the proceeding therein approved—it is therefore decreed and ordered that the said report be ratified and confirmed unless cause be shewn to the contrary on or before the 1st Monday of October next provided a copy of this order be published for three successive weeks before that time in the Washington Federalist and the National Intelligencer.

The report states that the mortgaged property therein mentioned was sold for the sum of four hundred and thirty-five dollars.

By order,
WM. BRENT, Ck.

July 7—w3t

FRESH TURNIP SEED.

Warranted GOOD for sale at THEO: HOLT'S Nursery Garden, City Washington.

Jly 16——w3w.

Young Ladies Academy.

MRS. REAGAN respectfully informs the inhabitants of Washington city and its vicinity, that she has taken that commodious house on F. Street situated between Capt. James Hoban and Josiah W. King, where she has this day opened an Academy, for the instruction of young ladies in the following branches of female education, viz. Tambouring, embroidery, open work, queens work, marking, all kinds of plain sewing, filigree, painting, wax work, French, music, dancing, reading and writing. Mrs. Reagan is sensible of the responsibility of her situation, & will endeavour by an assiduous attention to the morals, manners, and literary improvements of her pupils to merit the approbation of their parents and the patronage of the public. Young ladies can be accommodated with boarding, &c.

N. B. Millinary, mantua making, glove making, executed with neatness and dispatch.

July 16—w3t.

FOR SALE.

THAT extensive and valuable estate formerly owned by Presley Thornton, esq. and late the property of Sharp Delany, esq. deceased, situated in Northumberland county Virginia, three miles from the Court House, and lying on the Potomac nearly opposite to Point Look Out.

The property consists of about 2500 acres, 1700 of which is fertile low grounds, well adapted to the growth of Indian corn, tobacco and all kinds of small grain, and highly important for grazing—These lands naturally rich and fertile are capable of the highest improvement, having inexhaustible sources of sea weed cast upon the shores easily obtained; large quantities of oyster shells on the shores, and in indian banks on different parts of the lands; some valuable marsh easily reclaimed may be adapted to grass or culture.

There is on the premises a substantial built brick dwelling house two stories high upwards of eighty feet front, well finished, two well built brick houses forming a square with the dwelling house & used as offices. Upwards of 30 by 20 feet in good repair; a brick stable with stalls for 24 horses and a large coach house in the middle; a brick dairy and a brick mill house, also an extensive frame barn.

There is a large proportion of wood lands included in the 1700 acres, heavily covered with white oak, hickory, and chesnut, and a considerable quantity of thriving locust, red cedar and wild cherry.

The high land consisting of 800 or more acres is of a good quality, level and affords a good opportunity of improvement.

This property will be sold together or divided into convenient farms, to suit purchasers, and possession will be immediately given. Any further description is thought unnecessary as persons inclined to purchase will no doubt view the lands.

Application to be made to John Murphy of Westmoreland county, or James Moore on the premises, who are duly authorised to make conditional contracts for the same.

June 3—wtm

District of Columbia, Washington county.
Orphans court, 5th July, 1806.

ON the application of Christiana Berrs for letters of administration on the personal estate of Wm. Sykes late of the Navy of the United States, seaman, deceased, claiming the same as a creditor. Ordered that she give notice of her said application by advertisement in the National Intelligencer inserted once a week for four weeks.

True copy
JOHN HEWITT, Reg.

July 18 w4t

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60 DOLLARS REWARD.

RANAWAY from the subscriber living in Prince George's county on Sunday the 29th inst the three following slaves—a mulatto young man who calls himself BILL STEWART, he was born at Montgomery court house, was once the property of Honore Martin, was purchased of him by the late Rich. Contee who sold him to me; he is a likely well made fellow about 21 years of age, 5 feet 10 inches high, his hands and feet are large; the evening before he absconded he had his hair cut close; he had with him a variety of clothing, viz. 1 blue coat and overalls, one light colored bearskin coat and overalls, 2 swansdown waistcoats, 3 fine Irish linen shirts and some coarse shirts, three muslin neckcloths, a fine hat, price 7 dollars; he took away a prayer book, in the first page of which is written Mary Duckut.

JOE who calls himself Joe Grimes, alias Graham, and HARRY, both young negro men about 21 years of age—the clothing of these cannot be described. Joe has one of his arms broken near the wrist, which makes it longer than the other; when he is spoken to he speaks fast as if his tongue was too large for his mouth. Harry, I am informed, has several large scars on his body and one of his thighs occasioned by burns when he was young.

The above reward will be paid for confining the three in jail, or 50 dollars for confining Bill in jail so that I get him again.

WALTER BOWIE.

July 9—2awtf

TEN DOLLARS REWARD.

Ranaway from Pettworth, the farm of John Tayloe, esq. near Washington city on Thursday the 15th ult. a negro boy by the name of BILL about 19 years of age, of a yellow cast, of middling stature and well made; his cloathing an old fur hat, and old brown broadcloth coat and coarse brown linnen shirt and trowsers, his countenance naturally good, but will shew guilt immediately on being questioned—whoever will take up said boy and deliver him to C. Bailey the place he went from or to the subscriber, at Neabsco Furnace near Dumfries Virginia [illegible], receive the above reward beside what the law allows.

THOMAS T. PAGE, agent for John Tayloe, esq. at Neabsco.

July 9—4t&wtf