CIRCUIT COURT OF THE UNITED STATES.

NEW-YORK DISRTICT.

UNITED STATES *vs.* WM. S. SMITH.

THIRD DAY.

The court met at 10 o'clock pursuant to adjournment.

Present, judges Patterson and Talmadge.

The jury and witnesses for the prosecution were called over, and dismissed until 10 o'clock this morning.

After some desultory observations by the counsel who spoke yesterday, Mr. Edwards was heard in continuation of his argument.

Mr. Emmitt replied in a speech of great length. We are sorry that the rules of of the court do not permit us to give a detail of a speech so argumentative, eloquent and impressive.

He was followed on the same side by Mr. Harrison, who spoke at considerable length.

At half past two, the court adjourned to 10 o'clock this morning, when it is expected they will determine on the further proceeding in the trial or the issuing an attachment against the witnesses who have been subpœna'd and do not attend.

FOURTH DAY.

The court met at 10 o'clock pursuant to adjournment.

Present, judges Patterson and Talmadge.

Judge Patterson delivered the opinion of the court on the questions raised by the counsel for the defendant.

On the first, the court agreed that the trial must come on at this sitting.

On the second they disagreed; one being of opinion a rule might be granted to shew cause why an attachment should not issue; the other, that neither an attachment nor rule to shew cause could be granted.

Judge Patterson being much indisposed, retired after delivering the opinion of the court.

An affidavit on the part of W. S. Smith was offered, stating the absence of the captain and supercargo of the Leander, who are material witness in this case, and who will be here some time in September.

Upon this affidavit a motion was made to postpone the trial till the next regular term of the court.

This was refused by judge Talmadge, and the trial was ordered on.

It will therefore commence this morning at 10 o'clock.

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 Masterton, 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. Romaine, 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 Fosbrook, and William Allen.

After which the court adjourned until 10 oclock this morning.

SIXTH DAY.

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

Present, Judge, TALMADGE.

The jury and the witnesses having been called, Judge Talmadge stated to the jury that Judge Patterson being too indisposed to attend the trial, and a mournful occurrence having taken place in his own family, he found it necessary to adjourn the Court until 9 o'clock on Monmorning.

New York, July '9.

The following is a copy of the letter read by judge Patterson, on Monday last.

"*To the honorable the judges of the circuit court for the district of New-York.*

We have been summoned to appear on the 4th day of this month, before a special circuit court of the United States 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 United States and the said William S. Smith and Samuel G. Ogden. Sensible of all the attention due to the writs of subpœna issued in these cases, it is with regret we have to state to the court that the president of the United States taking into view the state of our public affairs, has specially signified to us that our official duties cannot, consistently threwith, 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. And as it must be uncertain whether, at any subsequent period, the absence of heads of departments, at such a distance from the scene of their official duties, may not equally happen to interfere with them, we respectfully submit, whether the object of the parties in this case may not be reconciled with public considerations by a commission issued, with the consent of their counsel and that of the district attorney of the United States, for the purpose of taking, in that mode, our respective testimonies.

We have the honor to be,
With the greatest respect,
Your most obedient servants,
JAMES MADISON,
H. DEARBORN,
R. SMITH.

City of Washington, 8th July, 1806."

"*I am opposed to the reading of the declaration of independence, particularly that part which recites the injuries said to be committed by the king of Great. Britain.*" (Albany Cent.)

THE apologist and the eulogizers of Great-Britain are numerous in this country. But however numerous and respectable some of them may be, is it not strange that they, who participate in the blessings of freedom, and who enjoy the hospitality and protection of our shores, should condemn an institution, and attempt to abolish a custom, the most sacred and dear to freemen, of any exercise of the celebration? Is it because it is grating to their ears to hear the cruelty and despotism of their royal master exposed? With men who glory in the prerogatives of a crown, and rejoice at the exaltation of a *few* at the expence of the *many*, this no doubt is the case.—And even a few federalists, Americans by birth, we believe are to be found, base enough to concur in this deprecated sentiment.

But why is the custom improper? and what are the reasons which should influence us to dispense with this all-important exercise?—The only reason which is pretended to be urged is, that it tends to continue an animosity against a nation, with whom we now are at peace. This, in a limited degree, may be correct; but we apprehend the intelligence of the people will enable them properly to discriminate between the respect due to a nation in amity with us, and the natural feelings which ought to predominate in the recitation of past injuries.—It is not to wound the feelings of any man, that the declaration of independence is read, but to keep in lively remembrance the causes which impelled our separation.

We ask the question, ought not the birth day of freedom to be celebrated? No real friend to liberty can deny it.—If this is true, how ought it to be done? Shall we meet in congregated assemblies, and instead of hearing the sublime instrument, which declares us a free and independent nation, be content with the frothy declamation of upstart politicians, and mushroom patriots? No this cannot be the case. Let one exercise be dropt, & presently another will be required; & at length celebration cease, and principles and the day be forever forgotten. This would indeed be a triumph to our enemies—and it is to accomplish this end, that they endeavor to corrupt the public mind, by denouncing the declaratian of independence, "particularly that part which recites the injuries *said* to be commited by the king of Great-Britain." It is the patriot and soldier of '76, whose locks have become grey in the service of his country who can hear read with pride and pleasure the instrument which separated our allegiance from the British nation. It warms his breast—it fires his soul. With satisfaction and delight he exclaims, I was one that felt these injuries and hardships—I was one that raised my voice and my arm against it. I was one that followed Washington to atchieve, what Jefferson, Franklin and the other sages had projected. I can hear the recitation with pleasure; & am solicitous that my children, and the rising generation, should know why we renounced slavery, and become a nation of freemen. Under such impressions, can any real friend to liberty wish the suppression of this foundation stone of the temple of liberty? No, it cannot be. It is the friends of monarchy who desire it; it is the apologizers of the conduct of the British towards our commerce and seamen,—and the friends of those who murdered a Robbins and a Pierce, that would forever neglect and forget the worthy deed of July 4, 1776. *N. A. Cen.*

Extract of a letter, dated Natchitoches, June 5, 1806.

"Mr. Freeman and his party arrived here a few days since from exploring the Red River; he makes Natchitoches distant from the mouth of the river only 180 miles in 31 deg. 46 m. N. lat. 97 deg. 30 m. W. of the meridian of Greenwich; he started again this day, and intends to go as far as the dividing ridge called Catahaves, between Louisiana and the Pacific; the expectations of information entertained from his expedition are very high, as the distance is said not to be very great from where the Paronindians are settled, a rich and very productive country.

"The report you mention of an engagement between our troops and the Spaniards I suppose arose from the desire of some one to anticipate the intelligence of an event which from the conduct of the Spaniards, for a time appeared inevitable; however they found we were not to be trifled with, and after making a great bluster retired when we were prepared to handle them; they have appeared since more cautious, and when it is considered that the road from hence to Santa Fee, is not through marshes and over steep mountains, but thro' a continued prairie to the very fount of the mountains of Santa Fee, and that the city itself is only 600 miles from this place. I apprehend they wil be very cautious how they lead us after them.

"We are in daily expectation of three companies of troops from St. Louis, who were ordered hither in consequence of the hostile conduct of the Spaniards—with that force we shall be able to repel every inroad, and to give a good account of any aggression.

"The climate here is incomparably fine, and the lands on the Red river of the richest kind.

"P. S. Since writing the foregoing we have received information from a source that connot be doubted that Guardiana, a Spanish lieutenant, with fifty men, had been dispatched from Nagadoches to intercept our exploring party and with hostile instructions: that they have, by their emissaries, already endeavored to stir up the Indians of the Constachy villages, about 100 miles above Natchitoches; but measures have been taken on our part to frustrate them and to counteract them altogether: our party consists of 45 picked men, principally from the garrison here; who will be more than a match for an equal number of Spaniards at least; our party have strict orders to avoid hostility, & not to give the least color of excuse for aggression; but if attacked to do their duty."

DANVILLE, (*Kentucky*) JUNE 24.

ACCOUNT BALANCED.

Since the accouut, brought by the last western mail, of the *duel* between *Jackson* and *Dickinson*, we have understood that, in a subsequent combat, general *A. Jackson* too was killed by *Thomas Swann*—who was wounded. This fatal dispute, which has for months destroyed the repose of a great part of Tennessee is said to have originated amid the "*sports of the turf*"—a proof that vices have a connection and in many instances are their own punishment.

Dean Swift once observed that he was sorry parliament made laws against duellings; for none but *fools* and *knaves* will shoot one another, and the sooner the world is rid of such chatacters the better. Were we *certain* that no other characters would duel, we should readily concur with the celebrated Dean's conclusion: but we fear that a false prejudice, (it connot be any thing better) still induces a few men of some respectability to support the infernal practice. Although it is the most deliberate kind of murder, although it is forbidden by law, yet it is continued in many instances with impunity, except where it punishes itself.—Many hesitate not to say "it is beyond the reach of law——legislators can do nothing with it" Indeed this appears to be too much the case: but the reason? Many by their actions word the law very differently. Some tell us "popular opinion is in favor of duelling:" if so we know not where to listen for this opinion—almost every body reprobates the custom. But let those who think themselves eminent, (for such generally shape the manners of the day) correct this vulgar prejudice. If they cannot correct it, let them remember that there is a greater display of courage, and a magnanimity far more noble, in *doing right* is opposition to popular prejudices, than in fighting duels. The honor of a duellist, and we might add his virtue, is at least as despicable as that of Alexander, Cesar, Tamerlane, and other destroyers of our race: and both had fools enough to admire them.

The high tone about the Floridas is over. Millions sound terribly in our ears. But when war says millions more, the bargain becomes the heavier. Besides the interruptions to Commerce, the tendency of war to beget war, the beginning and no ending, the marching of troops, the loss of lives, and nursing of public discontents, as well as uncertainty of every industrious pursuit and domestic pleasure, are serious considerations. The people begin to consider them as such. And though they would prefer death to life, in defending their rights, yet in the purchase of land, money is a better price than blood.—And if troublesome neighbours will fix the bounds, and put an end to a dispute for a consideration less than a law suit or a quarrel, we are gainers, by the concession, have a clear title, a clear conscience, and a quiet life. We do not pretend the Floridas are our own. We know that the French and Spaniards did not succeed well enough in these colonies ever to make accurate surveys and boundaries. If we can end the dispute, say many of the honest citizens, let us do it and live in peace, perhaps for ages to come. Britain has been nursed for war, and she has enough of it. Let us follow sounder maxims, and pay honestly, and enjoy quietly. *Salem Reg.*

FOR THE REPUBLICAN STAR.

MR. SMITH,

Two interesting papers having come into my possession within these few days, which may throw some light on the subject of Methodist Episcopacy I send copies for insertion. The contending gentlemen may avail themselves of all they contain, as I can assure you they are genuine and authentic, and such as the Churchman will not, and the Wesleyan (as he has respect for his character as an honest man) dare not contradict.

The first is an extract from the first volume of the Arminian Magazine page 240–1—being a part of Dr. Coke's Journal while at sea, in October 1784:

'Monday, 18th October, 1784—I 'have now waded through Bishop Hoadley's treatises on Conformity and Episcopacy, 560 pages octavo. He is 'a powerful reasoner, but is, I doubt, 'wrong in his premises. However, he 'is very candid. In one place he allows the truth of St. Jerome's account 'of the Presbyter's of Alexandria, who, 'as Jerome says, *elected* * their own 'Bishops for 200 years, from the time 'of St. Mark to the time of Dionysius. 'In another, he makes this grand concession, "I think not an uninterrupted line of succession of regularly ordained Bishops necessary."—P. 489. 'In several places, he grants, that there 'may be cases of necessity which may justify a Presbyterian ordination.—'But he *really seems to prove one thing*, "That it has been the *universal* practice "of the Church from the latter end of "the lives of the Apostles to the time "of the reformation, to invest the power of ordination in a church officer "superior to the Presbyters, whom the "church, soon after the death of the "Apostles, called *Bishops*, by way of "eminence, but who had no distinct "name given him in the New Testament."

The second paper is a letter from a Right Rev. Gentleman to a Clergyman, now residing on this shore—and (if I am not mistaken in the person) to him also who has undertaken to vindicate Mr. Wesley's Episcopacy.

P———a, July 30th, 1804.

REV. SIR,

I received your letter of the 27th instant, under circumstances which prevented my answering it by the return of the post—with it there was delivered a letter from the Rev. J. M'C——y; whom I find to be the person alluded to in yours. Having written to this gentleman, my transcribing of the information given him will be an answer to you also.

"I beg it may be understood, that I have never from the suggestion of my own mind, given information of the matter concerning which you inquire, except to those whom Dr. Coke expected to be informed of it. Several years passed after the transaction, before I had reason to suppose it known to any others. Within these few years, I have been spoken to on the subject two or three times; when I found myself under a necessity of stating *facts*, in order to guard against misrepresentation.

"In the spring of the year 1791, I received a letter from Dr. Coke, on the subject of uniting the Methodist Society with the Episcopal Church. An answer was returned. In consequence of which, Dr. Coke on his coming to town, made me a visit, having not then received my letter, but having heard that I had written. Our conversation turned chiefly on the aforesaid subject. The general outlines of Dr. Coke's plan were, a re-ordination of the *Methodist* ministers, and their continuing under the superintendance then existing, and on the practices of their peculiar institutions. There was also suggested by him a propriety—but not a *condition* made of *admitting to the Episcopacy* himself and the gentleman associated with him in the superintendance of the Methodist Societies. This intercourse was communicated at the time from Dr. Coke to Dr. M. G—w. I do not know of any other person then informed of it, unless I may except the gentleman above alluded to; by whom, if I have been rightly informed, my letter to Dr. Coke was opened in his absence; such a freedom being understood as I supposed, to arise out of the connection between the two gentlemen. But for this part of the statement I cannot vouch. It was understood between Dr. Coke and me—that the proposal should be communicated to the Bishops of the Episcopal Church at the next convention, which was to be in September 1792, in New York. This was accordingly done—after which, I perceived no use of further communication on the subject; and I have not since seen Dr. Coke, nor heard from him, nor written to him.

It appears to me, that the above comprehends either *explicitly* or by *implication*, all the points to which your letter leads—It would have been more agreeable to me, if no occasion of this testimony had occurred; and it is now given, merely to prevent the matter's being understood otherwise that it really is."

The above is what I have written to Mr. M'C——y; and remain, &c. &c.

Your affectionate brother,
W. W.

The reason of the letters being wrote to the R. R. Gentleman to which the above is an answer, is as follows:—

The rev. clergyman was one day in company, where the subject of ordination was conversed upon—and expressed an opinion that he believed Dr. Coke was not well satisfied with the Episcopal powers he had received from Mr. Wesley, and related the substance of the foregoing letter (having been some time before informed of the circumstances) in justification of that opinion. The very cavalier treatment he met with from several of Mr. Wesley's followers, and particularly from Mr. M'C——y, for daring thus to express himself, was the occasion of his writing to the R. R. Bishop.

As the person who sends these extracts knows what expedient will be resorted to in order to destroy, if possible, the force of the letter, he thinks it his duty to counteract it by the following remark.

Dr. Coke as a Presbyter of the Protestant Episcopal Church in England, could not be ignorant that the very same reasons which prevented the Methodist ministers from being admitted into the ministry of the Protestant Episcopal Church, without a re-ordination—and to which he was willing to subscribe, and thereby own those ordinations he and Mr. Asbury had inferred mere nullities—would equally operate against his and Mr. Asbury's admission to the Episcopacy without a re-concecration, and to which he was willing to submit, by suggesting the propriety of their admission; thereby indirectly, at least, owning their former consecration, invalid.

Thus in the first extract, you have Dr. Coke's theory on Episcopacy, for he declares that Bishop Hoadley "seems *really* to *prove* one thing." And in his application to a R. R. Bishop, you see his attempt to obtain the power of putting that theory in practice. Had Dr. Linn wrote his Miscellanies previous to this period, we should suppose he (Dr. C.) acted thus in pursuance of the advice given him by that gentleman.

JUVENIS.

* *Note on the word "Elected."*

Election of a man to an office, and his receiving a commission to exercise that office, are two distinct things. Suppose the Presbyters did elect, it does not follow that they consecrated also. Let the advocates for parity shew us one single authenticated instance of a man being recognized as a Bishop from the time of the Apostles to the time of the reformation by the church, who was only consecrated by Presbyters, and we shall acknowledge the force of the fact. Salmasius's old wife's tale will not answer the purpose—so they may spare themselves the pains of searching for it and producing it.

Boston, June 26, 1806.

The Legislature of Massachusetts terminated their summer session on Tuesday. During the short but interesting period in which they were convened, the conduct of that portion, who hold the preponderance in each branch of the the government, was highly honorable: they have conducted in a manner worthy of men possessing those liberal immutable principles, of which they profess to be the advocates and supporters. Leaving their opponents to eject their poison unheeded, until their currupt sources were exhausted, and the serpent of anarchy & misrule was writhing under its own folly and desperation; the Republicans disdained to descend to such paltry and disgusting expedients. Resolved to pursue those measures which were required for the common good, they were willing to yield the plan of victory to those choice spirits who were engaged in a cause in which contumely is often substituted for argument.

GEORGIA.

The Legislature of this state, is in session at Louisville.—The following is a paragraph of Governor MILLEDGE's address at the opening of the sitting.—

"You must have viewed, with interesting concern, the important subjects, in regard to foreign relations, which have lately engaged the attention of our national Councils—and though we have reason to hope that the result of their deliberations, aided by the penetration and wisdom of the chief magistrate of the nation, may occasionn our differences abroad to eventuate in peace, and to the interest of our country, yet as the issue is still involved in uncertainty, it behoves you, on your return to your respective homes, to inspire and cultivate as much as possible a military zeal among our citizens, for it is a maxim which may be greatly relied on, that to be always prepared for war is the best means of preserving peace."

Among the improvements and ingenuity of the citizens of the U. S. we have the satisfaction of stating, a clock made by Mr. Adam Ault, of Hanover, Pennsylv. which plays 13 tunes every quarter on the plan of a hand organ. He has made two very hansome chamber organs—and is now making an organ to be of part of the Piana Forte, can be played seperate or double. (*Rep. Gaz.*)