From the BALANCE.

LIBERTY OF THE PRESS.

A CORRECT HISTORY OF

HARRY CROSWELL's TRIAL.

[*Continued from Thursday's Gazette.*]

The court adjourned until the next morning, when the jury having been impanneled, Mr. Spencer opened the cause on the part of the prosecution. It is impossible for us to give, from the few notes in our possession, his speech with much accuracy. This, however, was the purport of it :—That libellers were a very criminal class of offenders. That the government must be protected from their attacks. That the libel then to be tried, was of a very heinous nature; and, if true, was sufficient to consign the name of Thomas Jefferson to eternal infamy, &c. But, by the direction of the court, it certainly was not a subject of inquiry whether it was true or false. For, whether true or false, by the law of this state, it was certainly libellous; and he trusted that the jury would shew their detestation of such slanders, by a verdict of guilty. That there was a great difference between the liberty and the licentiousness of the press. The one was a most invaluable privilege, which he would be the last man to attack; but the other was a growing and intolerable evil; and that it was high time its destructive progress should be arrested. Respect for public officers were necessary; and if such papers as the Wasp was permitted to be published, no good man would take an office, &c.

Mr. Spencer then called witnesses to prove that Mr. Croswell was the publisher of the paper, called the Wasp, from one of which, (to wit, No. 7,) the present libel was extracted. It was proved that some of the papers had been printed at the press of the defendant—that they had been seen in his book-store. It was also proved that a file of the Wasp from No. 1 to 5, inclusive, had been sold by the defendant; and the residue to No. 12, by one of his journeymen. Mr. Spencer then called a witness to prove the truth of the inuendoes. To this, the counsel for the defendant objected; and the chief justice over-ruled the objection. The witness was then examined, and testified that he understood the words Washington, Adams and Jefferson, contained in the alledged libel, to mean as stated in the inuendoes in the indictment. He believed the inuendoes to be correct; and he stated the ground of his opinion to be, that he had frequently seen similar charges in other papers prior to the publication of the alledged libel in the Wasp.

The evidence on the part of the prosecution being closed, the defendant offered to prove that he neither wrote nor indited, or devised the publication in question—that it was handed to a person in his employ, and printed in his absence, and without his knowledge or consent. This was over-ruled by judge Lewis.

The defendant's counsel then proceeded to address the jury. Mr. Van Ness began an argument of about one hour by stating that in cases of libel, the jury had the power and the right to judge of the law and the fact. That they, and they alone, were the sole judges between the public and the defendant. That it was their province to determine, *first*, Was the defendant the author or publisher of the alledged libel? *Second*, Was the publication in question calculated to disturb the peace of the people of this state—to excite sedition? And *third*, Was it published with a milicious, seditious and diabolical intent? Mr. Van Ness contended, that these questions must be determined by the jury in the affirmative, before they could ever pronounce the defendant guilty of the crime charged in the indictment. In a speech of some length, he expatiated upon the above topics. He argued, with irresistible force, that on the very face of the publication there was ample evidence against every presumption of malice. It was introduced to correct a false charge made against the federalists in the *Bee*. He read the charge from the Bee, viz.—"The burden of the federal song now is that Mr. Jefferson paid Callender for writing against the late administration." He then read the publication, to wit:

"Holt says, the burden of the federal song is, that Mr. Jefferson paid Callender for writing against the late administration. This charge is explicitly this:—Jefferson paid Callender for calling Washington a traitor, a robber, and a perjurer—For calling Adams a hoary-headed incendiary; and for most grossly slandering the private characters of men, who he well knew were virtuous. These charges not a democratic editor has yet dared, or ever will dare to meet in open and manly discussion."

He contended that the publication was merely a correction of the above falsehood in the Bee—a true statement of what the "burden of the federal song actually was—and a challenge to an open and manly discussion. There was not even a charge made by the defendant against the president. He says, the charge made by the federalists was not as Holt had represented—and he then states what that charge really was—to wit: that "the charge made by the federalists, is explicitly this," &c. Now, he asked, if such a charge had not been made? Yes—it had rung through every corner of the continent. It had been published at the very seat of government. Callender had published repeatedly that Mr. Jefferson had paid him for writing the "Prospect before us." He had published a letter from Mr. Jefferson to himself, approving of the book, and offering him fifty dollars. He then took up the "Prospect before us," and stated that in that book Washington and Adams were charged with the very crimes mentioned in the affidavit. Mr. Spencer objected to the reading of any thing from the "Prospect before us." The court enforced the objection; and determined that it should not be read. Mr. Van Ness then contended, that sufficient appeared to do away every pretence of a malicious intent in the defendant. That the charge had been published in almost every federal paper, could not be denied. And all that the publication in question stated, was that fact.—Whether the charge was true or false, the publication did not determine. It merely detected a falsehood in the Bee, and corrected it by stating the nature of the charge. It stated that the federalists charged Jefferson with paying Callender. This was certainly true. It might be found in numerous papers. The defendant himself had never made the charge; nor had he declared it true. He was, therefore, not responsible for it. He had challenged "an open and manly discussion" of that charge, which he said the federalists had made. And, he contended, that a malicious intent could never be inferred, either from the correction of the garbled statement in the Bee, or from his challenging a discussion of a charge against the character of Thomas Jefferson. We regret that it is not in our power to give more than this faint sketch of this argument. But we are not without hopes that we shall yet have it in our power to give it at length.

Mr. Van Vechten then rose; and, in a speech which, for correctness and brilliancy of stile, cogency of argument, and perspicuity of arrangement, we have seldom, if ever, heard equalled, contended for principles similar to those advanced by Mr. Van Ness. We shall be able soon to give his argument to the public;—we shall, therefore, refrain from mangling it by an attempted abridgement.

[*To be continued.*]

SALEM, September 6.

Arrived, schooner Union, capt. James Cheever, from Basseterre, (Gua.) 22 days.

Southern Traders.

The Hannah, Phippen, is up for Philadelphia.

The Hannah, Skerry, for Charleston and George-town.

The Betsy, Shillaber, for Baltimore.

The Fame, Tucker, for Alexandria.

The Essex, Fabens, for Norfolk and Baltimore.

The Lively, Smith, has sailed for Baltimore.

BOSTON, September 9.

Mr. Bradford, a federalist, has lost his election as representative of the town of Bristol in the Rhode-Island legislature by a majority of *one vote*, and that one (says the Newport Mercury) was given for himself by the successful candidate, Dea. Wardwell.

Died, at Newburyport, the honorable Theophilus Bradbury, esquire, late one of the judges of the supreme judicial court.

At Westfield, a daughter of the honorable Samuel Fowler, esquire, aged 18 months; there were 34 deaths in that town from the 29th of July to the 1st instant.

At Pittsfield, Mr. Zebadiah Stiles, jun. aged 46, after a sickness of 28 years, for 12 of which he was deprived of the use of his legs.

At Southwick, of the dysentery, 5 children of the rev. Mr. Clinton, all within the space of 5 days; 3 children of Saul Fowler, esquire; 3 children of Mr. Bill; 2 children of Mr. Shubael Stiles; a child of Mr. Reat; a child of Mr. Timothy Noble; a child of Samuel Owen; a child of Mr. Thomas Hatchet; a child of Mr. Ezra Kent, junior. We are informed that upwards of thirty persons have died of the dysentery in the small town of Southwick, within a few weeks.

At North-Hill, N. H. General Moses Leavitt.

At Cornish, N. H. within 5 weeks 45 person died of the dysentery.

NEW-YORK, September 13.

The committee of health report, that 13 deaths and 24 new cases of the prevailing fever occurred during the 24 hours ending at 8 o'clock last evening. The deaths were those of

Miss Abrahams, 83, Barclay-street.
Ambrose Detroat, 20, Roosevelt-street.
Mrs. Jane Roberts, Lombard-street.
Mary Mott, 32, Cherry-street.
Ann Goold, last house in Barley-street.
Elizabeth Neville, Bellevue, from 60, Dey-street.
John Eagles, do. from 222, Cherry-street.
Dominico Mascoline, 259, Water-st.
William Black, 21, First street.
Mary Grant, Lombard-street.
Sarah M'Guen, Barley-street.
Mrs. Ann Day, corner of George and Cheapside-street.
Hannah Henderson, Lumber-street.

By the Committee,
GEO. A. VALENTINE, Sec.

September 13.

Arrived at Salem on Tuesday, the sch'r Union, captain James Cheever, in 22 days from Guadaloupe, and 17 from St. Eustatia. By this arrival we learn, that several English men of war were cruising off Guadaloupe, and though the island could not be considered in a state of blockade, few vessels could pass in or out without strict examination. The British cruizers had endorsed the registers of those American vessels they met with, and forbid their entering the ports of the island. Five or six American vessels, bound home from Guadaloupe, had been sent into Nevis, and captain Cheever fell in with two vessels, which had been dismissed from that island after undergoing a rigorous examination. There are many small privateers out of Guadaloupe, which had captured 3 or 4 English prizes: the property, tho' condemned was not divided among the captors, but reserved in the hands of agents for further orders from the government of France—Many of the inhabitants even doubted if war actually existed between the two nations. Fish was at 5 dollars per quintal, lumber 20 per M. and island produce scarce and in demand. In consequence of the close blockade of Martinique, many Americans had crowded to Guadaloupe, and the island was thereby plentifully supplied with provisions, at so low a price as to afford little or no profit to the shippers. In Murtinique, on the contrary, it was reported that flour was at 30 dollars per bbl. and other articles of supply at proportionably high prices; but the English carrying on a close blockade with their ships and armed boats, which keep very near the shore, they have been able to intercept almost every vessel which attempts to enter, and many suppose the island may finally capitulate for want of provisions. The island of St. Eustatia had begun to revive in time of peace, as many of the old inhabitants had returned and built houses and stores; but feeling their property and persons very insecurely situated in time of war, they were about quitting the island, for a safer place of residence.

Arrived, ship Orlando, 57 days from Amsterdam. Passengers, S. S. Valle, Aaron Valle, C. F. Kiezschmar, and 5 in the steerage. Left ship Canton, Wells, Philadelphia, taking in ballast at New Dieppe. July 10, lat. 53, 13, off Keick Down, spoke the Rambler, Hill, 41 days from Boston, for Amsterdam. August 30, lat. 42, 52, long. 57, 64, spoke ship Five Sisters, Knight, 56 days from Liverpool, for Baltimore. September 9, lat 38, 26, long. 70, spoke ship Favorite, Wright, 4 days from Alexandria, for Cowes.

From London papers received at the office of the Mercantile Advertiser.

LONDON, July 25.

The following is a copy of the letter which Mr. Forbes, consul of the United States of America, in Hamburg, sent to the captains of his nation:—

Hamburg, July —.

"SIR,

"The blockade of the Elbe by the English has been officially announced to the government of this city. In so serious a crisis as the present, it is of consequence to the interest of your owners most strictly to observe, not only the laws as they have been acknowledged by the respective nations, but also those laws as they have been laid down by the principal maritime powers. I therefore advise you not to take any goods on board, to procure the best certificates, that what what you have already loaded has been shipped and loaded before the blockade of the Elbe was known, and to hasten your departure as much as possible.

"I am, &c.

JOHN M. FORBES."

A leter from the Banks of the Mein, states, that the first consul will assume the title of commander in chief of the army of England, which is to consist of 200,000 men. The head quarters are to be established *pro tempore* at Compeigne. This army is to form an immense cordon from the mouth of the Elbe to Rochelle & Rochefortc, and is to be subdivided into four separate armies, the first of which is to extend from the mouth of the Elbe to Flushing, and to comprehend the troops dispersed to the electorate of Hanover, and the Batavian republic; the second is to be formed by the troops in Belgium, and to extend from Flushing to Dunkirk; the third is to extend from Dunkirk to Cherbourg, and to comprise the troops cantoned in the departments of the north, the Pays-de-Calais, La Somme, and Basse Loire; and the fourth is to extend from Cherbourg to Brest and Rochefort, and to comprehend all the troops distributed in the departments of the west.

THE KING OF FRANCE.

The following is a translation of a printed paper delivered at his levee by Monsieur, entitled "Publication made by Monsieur, brother to the king of France."

Monsieur, the brother of the king of France, has looked upon it as his duty no longer to observe silence on an important fact too vaguely understood. The different accounts which have been circulated of it, the false reports which an usurping government has spread in France, imperiously demand that the opinion of the public, and particularly that of the French, should be accurately formed on the true facts.

This is the consideration which has determined Monsieur, in the present conjuncture, to publish the details, which particular circumstances, however interesting, do not suffer him to enlarge upon more fully than as follow:

On the 26th of February in the present year, a person fully authorised, waited on the king of France, at Warsaw, and verbally made to his majesty, in the plainest, but, at the same time, the most pressing, and, as he thought, the most persuasive terms, the proposal of renouncing the throne of France, and of requiring the same renunciation on the part of all the members of the house of Bourbon. This person added, that in return for such a sacrifice, Bonaparte would himself secure the king sufficient indemnities, and even a splendid support. His majesty, strongly impressed with that sentiment, which misfortune never destroys in great souls, and which attaches him as strongly to his own rights as to the happiness of France, instantly made the following answer, and remitted it in writing on the 28th, to the person who had been dispatched to him.

THE KING'S ANSWER.

"I do not confound Mr. Bonaparte with those who have preceded him; I esteem his valor, his military talents; I am pleased with several of his acts of administration; for the good done to my people will ever be dear to me, but he deceives himself if he thinks he can induce me to transfer my rights; so far from that, he will himself strengthen them, if they could be questioned, by the course he at present pursues.

"I know not the designs of providence with respect to me and my race. But I know the obligations which are imposed upon me by the rank in which it was its will that I should be born.

"As a Christian I shall, to my last moment, fulfil those obligations: as a descendant of St. Louis, I shall, like him, respect myself even in chains; as a successor of Francis I. I shall be desirous of saying with him—*Nous avons tout perdu, fors l'honneur—All is lost, except our honor!*"

At the bottom is written:

"With the permission of the king, my uncle, I, with all my heart and soul, adhere to this act.

(Signed) "LOUIS ANTOINE."

On the 2d of March, the king wrote to monsieur an account of all that had passed, and desired him to communicate it to the princes of the blood, who were then in England: undertaking himself to make the same communication to such as were not there.

On the 23d of April, monsieur called a meeting of the princes, who, with equal zeal and unanimity, signed the following instrument of approbation of the king's answer of the 28th of February

Act of Approbation of the Princes.

"We, the undersigned princes, the brother, nephew, and cousins of his majesty Louis XVIII. king of France and Navarre,

"Deeply penetrated with the same sentiments with which our sovereign lord and king shews himself so nobly animated, in his answer to the proposition which has been made to him to renounce the throne of France, and to renounce their imprescriptible rights to the succession of that throne,

"*Do Decree,*

"That as our attachment to our duties and our honor can never permit us to commute our rights, we concur, with heart and soul, in the answer of our king.

"That, after his example, we shall never suffer ourselves so be wanting in the slightest degree in our duty to ourselves, our ancestors, or our posterity.

"We further declare, that being positively certain that a great majority of the people of France entertain in their hearts the same sentiments which animate us, it is in the name of our loyal countrymen, and in our own, that we renew, before God, on our swords, and in the hands of our king, to live and die, true to honor, and to our lawful sovereign.

(Signed)

"CHA. PHILIPPE, of France.
"CHA. FRED. D'ARTOIS, duke of Berri.
"LOUIS PHIL. D'ORLEANS, duke of Orleans.
"ANTOINE PHIL. D'ORLEANS, duke of Montpensiert.
"LOUIS CH. D'ORLEANS, count of Beaujolois.
"LOUIS JOS. DE BOURBON, prince of Conde.
"LOUIS HEN. JOSEPH DE BOURBON CONDE, duke of Bourbon.

"Wanstead House, April 23d, 1803.

Act of accession of the duke of Engheim.

"SIRE,

"The letter of the 2d of March with which your majesty has deigned to honor me, has come punctually to hand. Your majesty too well knows the blood which flows in my veins, to have for a moment doubted in what sense I should make the reply required. I am a Frenchman. Sire, a Frenchman, faithful to his God, to his king, and to his own honor. Many others may one day, perhaps envy me this threefold advantage. Let your majesty then deign to permit me to add my signature to that of the duke of Angouleme, as I, like him, adhere, with all my heart and soul, to the contents of the note of my king. In these unalterable sentiments, I am, sire, your majesty's most humble, most obedient, and most faithful subject and servant.

(Signed)

"LOUIS ANTOINE HENRI DE BOURBON.

"*Ellenheim, in Baden, March* 12, 1803."

The prince of Conde's act of adherence has not been yet received by Monsieur; but there is no doubt of it.

Monsieur has since learned, that on the 19th of March the same envoy, in pursuance of orders which he had received, again waited on the king, to request a change, not in the substance, but in the form of his majesty's answer. It seemed to be apprehended that it might irritate the usurper to such a degree as to provoke him to use his influence to aggravate the afflictions of the king. His majesty answered, that "He should make no alteration in his answer, which was as moderate as possible, and that Bonaparte would be wrong to complain of it, since, if his majesty had styled him Rebel and Usurper, he would have said no more than the truth." The damages of such a reply were then pointed out to the king. "What," replied the king, "is malice to require that I shall be driven from my present place of retreat? I shall pity the sovereign who shall feel himself obliged to take such a part, and shall be gone." Oh no! But, might there not be reason to fear, lest Bonaparte, should require certain powers to withhold from the count de Lille the assistance which he now receives from them. "I fear not poverty—if necessary, I shall eat brown bread with my family and my faithful followers. But, be not deceived; I shall never be reduced to that: I have another powerful resource, which I do not think it my duty to use, while I have my present powerful friend. I have but to make my condition known in France, and to hold out my hand, not to the government of the usurper; no, never; but to my faithful subjects: and believe me, I shall soon be richer than I now am."

The consequence was, that the messenger was obliged to take back the king's answer, which had been returned to his majesty, under an expectation that he would have made some alterations in it.

Faithful subjects, spirits truly French, recognise at length a king so worthy to reign over you, whom the government of an usurper separates from his people.

July 28.

It is with the deepest concern we have to submit to the public details of acts as barbarous and atrocious as most of those which were perpetrated during the late insurrection in Ireland. Dispatches were yesterday received by government from the lord lieutenant, stating the revival of the spirit of rebellion in Dublin, marked with circumstances no less tragical than they were unexpected. In the beginning of last week it was observed, that many strangers arrived in Dublin from the country, but no apprehension arose, nor was any notice taken. Suddenly on Saturday evening, however, about 8 o'clock, a large mob assembled in Thomas-street, in the liberties, armed with pikes and fire arms, stopped the carriage of lord Kilwarden, who was then returning from his country seat, accompanied by his nephew, the rev. Arthur Wolfe, dragged his lordship and his nephew out, and assassinated them in the street, by stabbing them with pikes. The confusion that ensued is more easily to be conceived than described. General consternation and terror immediately pervaded the whole of the city, the drums beat to arms, the military were called out; but, in the mean time, the perpetrators of the horrid deed disappeared, and every effort to apprehend them, we are sorry to say, has hitherto proved ineffectual. On the same night the mail guard was attacked between Dublin and Naas, and, in consequence of the resistance that was made, two dragoons are stated to have been killed. On the same evening a pistol was fired at Mr. Clarke, the foreman of the grand jury of Dublin, by which he received a severe wound. He had, the day before, carried an address to the lord lieutenant, expressive of the determination of the city of Dublin to support his majesty in the contest in which we are engaged. Colonel Browne of the 21st foot, and several private soldiers, are said also to have been killed by the mob. Every measure calculated to ensure the safety of the city was that night carried into effect, but such was the daring spirit of the insurgents, or rather the assassins, that on Sunday a magistrate of the county of Dublin, walking with a gentleman on Ormond Quay, was fired at, and both he and the gentleman were wounded.

The circumstances of these atrocious acts, particularly the assassination of lord Kilwarden, are no less extraordinary and unaccountable, than horrid and deplorable. His lordship was certainly obnoxious to the rebels, and must have had enemies amongst the disaffected. He was not, however, a leading political character: then why should he have been singled out as the first victim? Could private malice have been the motive? and how could the sacrifice of such a man have tended in a particular manner to promote the views of the discontented? It is the opinion of some that the object of this enormity was, by an act of eclat, to hold out to France a sort of pledge that the people of Ireland were ripe for insurrection, and ready to welcome the aid of our enemies. Any other public man of consequence, it is thought, who might have fallen in the way, would have suffered the fate of lord Kilwarden.

By the proclamation which has been published on this melancholy subject, it is evident that the Irish government view those sanguinary outrages as the commencement of a rebellious conspiracy against the state: and that part of the United Kingdom is, in consequence, to be placed immediately under martial law. Orders have already been given to the several generals of districts to employ the troops under their command in the most speedy and effectual manner for the suppression of rebellions insurrections and treasonable practices, to disarm all rebels, and seize all arms and ammunition that may be found in the custody of persons not duly authorised by law to keep them. This proceeding is alike wise and necessary, and will, we trust, be the means of effectually frustrating the designs of the disaffected. The principles by which these deluded wretches are now actuated, it is somewhat difficult to discover. The lower orders of the Irish, it is true, are as ignorant as they are distressed; and it is not improbable but that the missionaries of France have, of late, been very industrious in fanning the flame of rebellion, which, unhappily, was not extinguished with the former subjugation of the insurgents. But what any description of Irishmen can promise themselves from a connection with France at the present moment, we are totally at a loss to conjecture, upon any principle of reason, policy, or justice. In no point of view whatever can Ireland hope for any improvement from such a connection, which, on the contrary, would deprive it of all the advantages of rational freedom, and in return for the enviable enjoyments of the British constitution, render it the object and insulted slave of an enemy, whose boasted protection is the most cruel oppression, whose object is