

BY THIS DAY'S MAILS.

BOSTON, May 28.

Arrived, schr. Boston, Smith, 28 days from Martinico. Passengers, Count Joseph Bach Darband, formerly major-general and commander of Fort-Royal, his lady, son and servants.

Arrived, brig Neutrality, 8 days from Baltimore; Susan, Trevett, ditto. Cleared, on the 24th, Thomas, Evelin, Baltimore; Sally, Thorp, Richmond; Packet, Bary, Alexandria.

NEW-YORK, May 27.

Arrived, brig Eliza, Anderson, 76 days from Leghorn, and 43 from Gibraltar. Conveyed through the Gut in co. with 8 other American vessels by a British cutter—as it was dangerous to pass unprotected, the French and Spanish gun-boats capturing all American vessels they fall in with.

Brig Hornet, Miner, 8 days from Wilmington, N. C. Schr. Rising States, Newcomb, Norfolk. Sloop Venus, Boush, 3 d from Norfolk. Sloop Fair Haven, Maxfield, of New Bedford, 7 days from Savannah. The schr. Venus, Slade, G. Town, (S. C.)

RICHMOND, May 26.

Opinion of the Federal Court, delivered by chief justice Marshall, on the motion of the attorney of the United States, to commit Aaron Burr for high treason against the United States.

In considering the question which was argued yesterday, it appears to be necessary to decide:

1st. Whether the court sitting as a court, possesses the power to commit any person charged with an offence against the U. S.

2dly. If this power be possessed, whether circumstances exist in this case which ought to restrain its exercise. The first point was not made in the argument, and would, if decided against the attorney for the United States, only change the mode of proceeding. If a doubt can exist respecting it, that doubt arises from the omission in the laws of the United States to invest their courts, sitting as courts, with the power in question. It is expressly given to every justice and judge, but not to a court.

This objection was not made on the part of colonel Burr, and is now mentioned, not because it is believed to present any intrinsic difficulty, but to show that it has been considered.

This power is necessarily exercised by courts in discharge of their functions, and seems not to have been expressly given, because it is implied in the duties which a court must perform, and the judicial act contemplates it in this light. They have cognizance of all crimes against the United States; they are composed of the persons who can commit for those crimes; and it is obviously understood, by the legislature, that the judges may exercise collectively the power which they possess individually, so far as is necessary to enable them to retain a person charged with an offence in order to receive the judgment which may finally be rendered in his case.

The court say this is obviously understood by the legislature, because there is no clause expressly giving to the court the power to bail or to commit a person, who appears in discharge of his recognizance, and against whom the attorney for the United States does not choose to proceed, and yet the 83d sect. of the judicial act, evinces a clear understanding in the legislature, that the power to take bail is in possession of the court.

If a person shall appear in conformity with his recognizance, and the court passes away without taking any order respecting him, he is discharged. A new recognizance, therefore, or a commitment on a failure to enter into one, is in the nature of an original commitment, and this power has been uniformly exercised.

It is believed to be a correct position, that the power to commit for offences of which it has cognizance, is exercised by every court of criminal jurisdiction, and that courts as well as individual magistrates are conservators of the peace.

Were it otherwise, the consequence would only be, that it would become the duty of the judge to descend from the bench, and in his character as an individual magistrate, to do that which the court is asked to do.

If the court possesses the power, it is certainly its duty to bear the motion which has been made on the part of the United States, for in cases of the character of that under consideration, its duty and its power are co-extensive with each other. It was observed when the motion was made, and the observation may now be repeated, that the arguments urged on the part of the accused rather prove the motion on the part of the U. States unnecessary, or that inconveniences may result from it, than the want of a legal right to make it.

The firsts, that the grand jury being now in session ready to receive an indictment, the attorney for the United States ought to proceed by bill instead of applying to the court, since the only purpose of a commitment is to bring the accused before a grand jury. This statement contains an intrinsic error which destroys its operation.

The commitment is not made for the sole purpose of bringing the accused before a grand jury; it is made for the purpose of subjecting him personally to the judgment of the law, and the grand jury is only the first step towards that judgment.

It has been argued, the commitment was simply to detain the person until a grand jury could be obtained, then its operation would cease on the assembling of a grand jury; but such is not the fact. The order of commitment retains its force while the jury is in session, and if the prosecutor does not proceed, the court is accustomed to retain a prisoner in confinement, or to renew his recognizance to a subsequent term.

The arguments drawn from the general policy of our laws, from the attention which should be bestowed on prosecutions instituted by special order of the executive, from the peculiar inconveniences and hardships of this particular case, from the improper effects which inevitably result from this examination, are some of them subjects for the consideration of those who make the motion, rather than of the court, and others go to the circumstances with which the testimony in support of the motion ought to be weighed, rather than to the duty of hearing it.

It has been said that colonel Burr already

stands charged with treason, and that therefore a motion to commit him for the same offence is improper. But the fact is not so understood by the court. The application to charge him with treason was rejected by the judge to whom it was made, because the testimony offered in support of the charge did not furnish probable cause for the opinion, that the crime had been committed. After this rejection col. Burr stood so far as respected his legal liability to have the charge repeated in precisely the same situation as if it had never been made. He appears in court now as if the crime of treason had never before been alleged against him. That it has been alleged, that the government had had time to collect testimony for the establishment of the fact, that an immense crowd of witnesses are attending for the purpose, that the prosecutor in his own judgment has testimony to support the indictment, are circumstances which may have their influence on the motion for a commitment, or on a continuance, but which cannot deprive the attorney of the U. S. of a right to make his motion. If he was about to send up a bill to the grand jury, he might move that the person designed to accuse, should be ordered into custody and it would be in the discretion of the court to grant or to reject the motion.

The court perceives and regrets that the result of this motion, may be publications unfavorable to the justice, and to the right decision of the case; but if this consequence is to be prevented, it must be by other means than by refusing to hear the motion. No man feeling a correct sense of the importance which ought to be attached by all to a fair and impartial administration of justice; especially in criminal prosecutions, can view without extreme solicitude, any attempt which may be made, to prejudice the public judgment, and to try any person, not by the laws of his country and the testimony exhibited against him, but by public feelings, which may be and often are artificially excited against the innocent as well as the guilty. But the remedy, for a practice not less dangerous than it is criminal, is not to be obtained by suppressing motions, which either party may have a legal right to make.

If it is the choice of the prosecutor, on the part of the U. S. to proceed with this motion, it is the opinion of the court that he may open his testimony. [Enquirer.]

FEDERAL GAZETTE.

FRIDAY, MAY 29.

CAPTURE OF MONTEVEDO, Feb. 3. At the capture of Montevideo, by the British under sir SAMUEL ACHMUTY, the Spaniards lost 800 killed, 500 wounded, the governor (Don Pasqual Ruiz Huicobro) with upwards of 2000 officers and men prisoners, together with 345 cannon, mortars, carbines and howitzers. The English lost, 142 killed, 921 wounded. Lieutenants-colonels Vassal and Brownrigg died since of their wounds.

CHEVALIER DE FORONDA

Consul-general of his Catholic majesty for the United States, has just received a letter from the intendat of Havana, dated the 20th day of April last, in which he mentions the following: "Hitherto I have permitted from a motive of equity, certain articles, which some of the captains of vessels and others from the United States have brought here, to be entered under the denomination of ship stores and private adventures; but as this has been repeated so often under this pretext, I do hereby declare, that such articles arriving here, and not included in the respective invoices, certified by one of the consuls of his Catholic majesty, will agreeably to former orders already published, be confiscated."

A circular letter from TOBIAS LEAR, Esq.

dated Tunis, 1st March 1807. Sir, I have the honor and satisfaction to inform you, that the differences which existed between the United States of America, and the Regency of Tunis, and which, on the departure of the Tunisian ambassador from the United States, threatened to terminate in a rupture between the two nations; are now happily and honorably settled. And the commercial intercourse between the citizens of the United States and this Regency, may be carried on with as much security and advantage, as that of any other nation with whom the Bey is in friendship.

Translated from the Havri Centinel, of the 9th of April.

The senate decreed on the 9th of March, that the following territorial imposts or duties should be paid on produce, to take place from the 9th of April: Coffee 210 per M. Cocoa 25 per M. Cotton 210 ditto. Sugar 25 per M. Export duties on coffee, 5 dals. per quintal. Sugar, molasses, tafia and rum are declared to be free of exportation duty.

Price of Produce. Coffee 17 sous per lb. Cotton 11 to 12 dollars per M. Logwood 10 to 12 lbs per .00. Molasses 2 1-2 .00. Sugar 5 do. do.

LONDON, April 21.

Trial of Captain Whistly, of the Leander. A court martial assembled on board the Gladiator, in Portsmouth Harbor, on the 16th and 17th inst. to inquire into the conduct of captain Whistly, late of his majesty's ship Leander, who by order of capt. John P. Beresford, of his majesty's ship Cambrian, (about April last) when commander in chief of his majesty's ships and vessels on the Halifax station, was directed to cruise off New-York, for the purpose of gaining information, and who, by letter dated the 6th of May last to captain Beresford, represented that on the 25th of the preceding month, several vessels were coming down from the light-house, near New-York, and as they obstinately persisted in not attending to the first shot fired from the Leander, when closely pursued, several of said vessels were boarded, and among the number that did not bring to, was a coasting sloop, on board of which it appeared, by various letters and papers transmitted by captain Beresford to the admiral, an American seaman was unfortunately killed by a shot fired from the Leander, or from some other of his majesty's ships and vessels then under the orders of captain Whistly; the court having inquired into the conduct of captain Whistly, on a charge of violating the neutrality of a nation in amity with his majesty, and having

on the 25th of April last, within the waters and jurisdiction of the United States of America, unlawfully, wilfully, and of his malice aforethought, caused a shot to be fired from his majesty's ship Leander, thereby one John Pierce, a citizen of America, was feloniously killed and murdered; and having heard the evidence in support of the charge, and captain Whistly in his defence; and having maturely considered the whole, were of opinion that the charge had not been proved, and did adjudge captain Whistly—to be acquitted!

Married, last evening by the reverend Doctor Bend, Washington Van Sicker, esq. to Miss Lucretia Emory, both of this city.

Departed this transitory life at 1 o'clock on Wednesday morning, after a lingering and afflictive illness, which she bore with christian patience and resignation, Mrs. JONAS JOHNSON, consort of Dr. Thomas Johnson, of Baltimore county. In the death of this amiable woman, society has been deprived of a useful and benevolent member, and her more intimate connections and family bereaved of a tender and affectionate friend. In the various duties of life she was eminently conspicuous for the strength of her attachments, urbanity of manners, and an unbounded liberality of soul. She was truly a bright example of female excellence, and died with a full assurance of receiving an eternal reward.

"When the dread trumpet sounds, the slumbering dust shall wake and every joint possess its proper place, with a new elegance of form!"

PORT OF BALTIMORE.

CLEARED, Ship John Adams, Callender, Liverpool Schr Thomas Jefferson, Watt, Nassau Fox, Mills, Vera Cruz From the Merchant's Coffee-House Books. May 28. Arrived, schr, Hawk, White, 18 days from La Vera Cruz—John and Robert Oliver. Passed the Swedish brig Experiment, from Jamaica off north point.

In consequence of a "Communication" in the American, of this morning, I am under the necessity of making a short reply.

Had any person waited on me, requesting I would sing for A Charity, nothing would have given me greater pleasure than to exert the poor abilities I possess, for the relief of any distressed person or persons. Mr. Neminger, I had no acquaintance with, understood his circumstances were on an equality with my own, I therefore agreed to sing at his concert for the Trifling Compliment I generally received, adding, that whenever I took a Concert I paid every performer that assisted me; Mr. Neminger agreed to my Trifling proposals. This is a statement of what occurred between Mr. N. and me. I leave the public to judge of my conduct, and remain their most obedient, very humble servant. W. H. WEBSTER. May 29. dt24

BALTIMORE THEATRE.

Mr. & Mrs. FRANCIS'S BENEFIT.

THIS EVENING, May 29th. Will be presented, a Comedy, in 5 acts (never performed here) called

The Fashionable Lover;

OR THE TRUE BOON SCOTSMAN. End of the Comedy, Mr Webster will sing "THE M. ID. OF LODY". To which will be added, an entire new serious Melo Drama, in two acts, called

The Black Castle;

OR THE PICTURE OF THE FOREST. PROSELYTUS OF THE PANTOMIME. SCENE I. A distant view of the Black Castle and Rustic Tomb on the murdered "Ravia," which has been raised by the peasants to her memory; a train of male and female peasants enter in procession, strewing flowers round the tomb, they are interrupted by the arrival of Asphar, who is borne in a palanquin, surrounded by trophies, &c. torn by treachery from the Turkish army, he alights with savage exultation and dismisses his train. Asphar and Cornu remain, he is about to follow, when the inscription on the tomb attracts his attention, he starts with horror, and sends Cornu for an implement to erase it, he is about to do so, when the inscription changes to letters in blood, Cornu attempts to conceal them by throwing a handkerchief before them, which is instantly covered with blood. Asphar driven almost to despair, Cornu endeavors to lead him from the place—after many entreaties on the part of Cornu, they enter the Castle.

SCENE II. Mowad and Alokim enter, the latter has been entrusted with the care of the lady Lamora, who has escaped, they are terrified at the idea of meeting their lord, who has threatened them with death if they suffered her to escape. Bugle horn announces his approach.

SCENE III. Gothic Apartment. Moorish soldiers ranged in order to receive Asphar, who enters with Cornu. Despair and horror are depicted on his countenance, he takes no notice of the surrounding objects, he beckons to Cornu as if he had something to impart, his eyes rest on the guards—shrinks within himself at his unguarded conduct—bids Cornu to depart.

SCENE IV. Cave. Lamora, who escaped from the Castle, is discovered asleep. Alam and Serina, who are in love with each other, enter as by appointment Lamora wakes at their approach, and is about to sacrifice them for her safety, they supplicate and offer to conduct her to their parents' cottage, she puts herself under their protection.

SCENE V. Castle Hall. Cornu and Mowad enter on their way to Asphar's chamber, to inform him of the escape of lady Lamora.

SCENE VI. Asphar's chamber, he is disturbed by visionary dreams—Cornu and Mowad enter with trepidation, and in a fearful manner inform him of Lamora's escape; he is in a rage, wounds Mowad, and sends him in search of her, with a charge not to return without her on the forfeit of their lives, he is engaged at the loss of his victim, and retires to his couch.

ACT II—SCENE I. Inside of Conrad's Cottage. Lamora enters with Conrad, Alam and Serina, after relating the manner of her escape and expressing her gratitude for their protection, is suddenly interrupted by a noise without, at this instant the door is broke to pieces—they stand petrified. Cornu and Mowad enter with savage

triumph, seize Lamora—Alam and Conrad endeavor to rescue her, Cornu and Mowad kill Alam and Conrad; Lamora faints in the arms of Cornu, who bears her off in his arms.

SCENE II. A Wood. Turkish March—Cazem and Simoustapha enter with Soldiers and Peasants, they determine to attack the castle, aided by the peasants—repair to the appointed place.

SCENE III. A Splendid Apartment fitted up in the Eastern style, in which Lamora is confined, having been brought here senseless—he starts from the sofa and looks round in despair; at this instant a noise is heard of distant thunder with a violent crash; on the panel of the door appears the following distich: "Ere thrice self-struck, the castle bell resounds. "Sorrow shall cease and you with joy be crowned."

She appears embarrassed, and treats it as a supernatural fancy, at this moment a voice warns her to shun Asphar and repulse him with firmness; he enters, with many protestations of love, endeavors to win her; she treats him with contempt, he is enraged; is about to sacrifice her to his fury, when little Muley (the page) rushes in and implores him to spare her, he spurns the child from him and stamps violently for a guard. Cornu and Alokim enter, he snatches the child from the embraces of Lamora, and throws him to Cornu who bears him off Asphar orders Mowad to draw his sabre and dispatch her, he with some feeling refuses; Asphar kills Mowad and leaves Lamora senseless in custody of slaves, she recovering, and reflecting on her situation, is born of lifeless by the guard.

SCENE IV. Castle and Tomb. Simoustapha and Cazem accompany the Peasants in their evening visits to the tomb. Cazem is driven to despair on perceiving the inscription on the tomb. A Storm. Peasants retire; Cazem and Simoustapha remain; the letters change to blood, and the spectre of "Ravia" rises from the tomb points to a wound in her bosom and to the castle, after viewing Cazem, she retires to the tomb and sinks; Cazem with reluctance is forced off by Simoustapha, after swearing vengeance on Asphar.

SCENE V. The Cave of Destruction. Cornu enters, looking about with caution, and beckoning to Alokim, who enters with the child; they throw dice to see who shall kill Muley; it falls to the lot of Alokim; he is about to plunge the dagger in the breast of Muley, but wounds Cornu in the arm; he, incensed at this, challenges Alokim to fight; a furious battle ensues, and Cornu is killed. Alokim conceals the child in the cave; it is interrupted by the approach of Cazem and Simoustapha. Alokim guards the mouth of the cave. Cazem, seeing the dead body, & supposing Alokim to be the cause, is about to kill him, when Muley runs out and implores him to spare Alokim. Cazem recognizes Muley for his son, an explanation takes place; he thanks Alokim for his conduct; they depart on their way to the castle.

SCENE VI. A Dungeon. Lamora and two guards asleep; she with caution examines the dungeon; as she ascends the steps towards the door, the bell tolls one; fearful of the sound waking the guards, she retires to her bed of straw. Asphar enters, and once more offers her protection, provided she will become his mistress; she repulses him with scorn; he is going to kill her; the bell tolls two; Spectre rises; he is appalled, a voice is heard admonishing Lamora not to despair. Loud huzzas are heard without; the doors are shattered to pieces; Cazem and Simoustapha enter, and overcome Asphar after a desperate battle. The Turks are seen defeating the Moors by torch-light.

Castle in flames—Bell tolls three—Asphar is put to death. Mr. and Mrs. MILLS'S Benefit will be on Saturday.

Sale by Auction.

On TUESDAY, The 2d June at the Auction room, at the head of Frederick-street dock, at 12 o'clock, will be sold on a liberal credit,

THE CARGO of the brig Decatur, from Bordeaux, Consisting of 250 pipes Choice Brandy, VAN WYCK & DORSEY, Auct'rs. May 29.

Sale by Auction.

ON THURSDAY Next, The 4th June at 12 o'clock, on the premises, will be sold on a credit of 6, 9, and 12 months for approved intorsed negotiable notes, A two-story Brick House and Lot, in Ruxton lane, No. 15, near Charles-street.—The Lot is 50 feet on Ruxton lane, and 120 feet deep. The House 20 feet in front, and 39 feet deep, containing 14 rooms, 11 of which have fire places, with a pump before the door, and another in the yard. VAN WYCK & DORSEY, Auct'rs.

For Leghorn,

The coppered and fast-sailing Ship CONNECTICUT, Capt David M'Clure, Has a considerable part of her cargo on board, and will be dispatched with all possible speed. For freight apply to THOMAS TENANT, Or D. L. THOMAS, Ship Broker. May 29. dt

For Liverpool,

The staunch new Ship INDIAN CHIEF, Capt. To sail early in June, having a considerable part of her cargo engaged; the remainder will be taken on moderate terms. Apply to SAMUEL WYDOWN, Water-street. Or CHARLES B. YOUNG, Broker, No. 20, Commerce-street. N. B. The above ship has excellent accommodations for passengers, will return from Liverpool to Baltimore direct. For passage apply as above. May 29. dt21st

Received

By the Brig Hiram, captain Church from St. Croix.

32 bbls. Rum, 28 do. Sugar, 44 bbls ditto, and 2 bbls. Molasses. For sale by WM. MATTHEWS. May 29. dt3t

Henry Stuckney,

BOWLY'S WEARE, OFFERS FOR SALE, 1200 bushels coarse Salt, 50 kegs Butter, in shipping order, 50 boxes smoked Herrings, 150 barrels Russia, Fitch and Varnish. May 29. dt3t

Received By the Brig Admiral Birkly, capt Collins, from Coahuila, About 70,000 lb. Prime Green COFFEE, in bags for sale by

PAYSON & SMITH, COB May 29.

Exchange on London,

FOR SALE BY ALEXANDER BROWN & SON, May 28. dt4

Bengal and Manila Indigo & Beef, just received.

7 cases 1st quality Bengal Indigo, 2 do. Manila Indigo, 250-bbls. Boston No. 1. and 2. Beef. On hand, Upland Cotton, Russia Sheetting, Fish Rice, Brown Soap, Candles, Cogniac Brandy, Gin, Shipping Cheese, Mackerel, and Carolina Indigo. For sale by CUMB. D. WILLIAMS. May 29. dt3t

Bank of Baltimore,

May 29th, 1807. The President and Directors have declared a dividend of thirteen dollars and fifty cents on each share of stock for the last half year, and the same will be paid to the stockholders, or their representatives, on or after Monday next, the 1st of June. JAMES COX, Cashier. May 29. dt3

Strayed

From Gunderman's (late Gray's) Gardens, a dark bay HORSE, 12 years old, remarkably fat; branded with an O on his left jaw and shoulder. ALSO, A dun MARE, in very bad order. Whoever brings home said strays, or informs me where to get them again, shall receive a reasonable reward, and have all necessary expenses paid. D. L. G. GUNDERMAN. May 29. dt4

For Sale, or Lease,

A LOT of GROUND situate to the east side of Charles street extended and adjoining Mr Daniel Lamont, jun; its size is 17 feet front and 138 1-2 feet deep, to a 20 feet alley, it is thought a Lot of this size cannot be found more healthy, convenient, or agreeable. JOHN BREWITT. May 29. dt4

For Sale,

A convenient Frame House, standing back on a Lot fronting 25 feet on Gough street, (opposite Mr. Shaffer's Brush Manufactory) and extending back 129 feet. The terms which will be moderate, may be known by applying to the subscriber living on the premises. JOHN JOHNSON. May 29. dt

Notice.

A real GREEN TURTLE of 100 lb will be served upon the table of the Fountain Inn, in the new assembly room, on Monday next, the 1st June, at 2 o'clock precisely. JAMES BRYDEN. May 29. dt

Turtle Soup

Will be served up to-morrow by the subscriber at the Shakespeare Tavern (nearly opposite the Theatre) every Wednesday and Saturday, during the season, from 11 o'clock in the forenoon to 3 in the afternoon. JOHN BROWN. May 29. dt4

Silversmiths wanted.

Two or three Silversmiths will meet with employment by application to CHARLES L. BÖHME. Who also will take two or three LADS from thirteen to sixteen years of age as apprentices. May 29. dt3t

To be Let,

(For a term of five or seven years) That property known by the name of Elliott's upper mill, lying on the river Patuxent, on the road leading from the city of Baltimore, to Fredericktown, and about eleven miles from the former. For terms apply to Mr. Elias Elliott, in the city of Baltimore, Mr Joseph Evans near the premises, or to Andrew Elliott in the borough of Lancaster in the state of Pennsylvania. May 29. dt4

Five Dollars Reward,

For delivering to me, or to Mr. Carroll's manager at Elkridge, his clerk at Annapolis, or his overseer near Annapolis, a small brown mare, with a haggard mane and cropped tail, branded on the near buttock and shoulder C. C. which strayed from my stable, in Baltimore, some days ago, and will probably attempt to get to Annapolis, or the manor. ROB. G. HARPER. May 29. dt3t

For Sale or Rent,

That commodious two-story Brick Dwelling with back buildings complete, situated in Charles-street, a few doors above Church-street. In point of neatness and convenience, as well as situation, this house is calculated to please, and will be found surpassed by few, it is now finishing and will be in readiness to enter on or about the tenth of June next.

For Sale in fee simple,

The House adjoining the above built on the same plan, is now under rent of five hundred and fifty dollars per annum. Terms will be made known by application to CHARLES L. BÖHME. May 29. dt3t

Twenty Dollars Reward.

RAN away from the subscriber, living at Westmoreland court-house, Virginia, a Negro Lad, named ISAAC, aged seventeen years; 5 feet 8 or 9 inches high. He is a likely young fellow, of a bright complexion, slender made, and very quick spoken. He had on when he went off, a brown coat and blue trousers, but it is probable he will change his clothing. He left this in company with a small white lad, by the name of William Short, who was an apprentice to the latter's business in this place, William Short is a slender made lad, of a thin visage and fair complexion, and suffers very much. They were pursued into the state of Maryland, as far as the Ferry opposite Accotink. William Short passes Isaac for the property of his brother, Thomas Short of Baltimore; and was heard to say on the road, that they were bound to that place. The above reward will be given for apprehending and securing Isaac, so that I get him again; and if brought home, all reasonable charges paid in addition. THOMAS SPENCE. May 29. dt3t