Mr. Harper. Why not, Sir?

Mr. Chevalier. Because I was too far off to hear any thing which was said, and my mind was otherwise occupied.

Mr. Randolph. Pray how long have you resided in the United States?

Mr. Chevalier. About 20 years.

Mr. Randolph. Have you been much in courts?

Mr. Chevalier. I have had very little to do with court business. I had a suit, and it was on that account that I happened to be in the court.

Mr. Randolph. Do you recollect any thing much taken in the conduct of the suit while you happened to be present?

Mr. Chevalier. Why, Sir, I recollect Mr. Hay's hunting up his books and getting away his papers, and that Judge Carter had to him, when he observed it, Sir, you may gush with your ink as much as you please, and I shall not interrupt you any more.

ROBERT GAMBLE *sworn.*

Mr. Harper. Were you at the river conference on the United States for the Virginia militia, in the month of May last? Were you a Representative?

Mr. Gamble. I was one of the jury, Sir, and I was in court when a petition was made for continuing the trial of Callender to the next term.

Mr. Harper. Do you recollect what Mr. Hay, in behalf of the court, said to the petitioner counsel?

Mr. Gamble. Yes, Sir, Judge Chase said he would postpone it for a week, a fortnight, a month or more, and I think he postponed it for more than a fortnight or six weeks, so long as the term would admit, without his going over to the next term.

Mr. Harper. Do you recollect what Mr. Hollins and Burwell were against having an adjournment?

Mr. Gamble. I recollect that he stated to the court that he had seen extracts in the newspapers that were alleged to be taken from the book called the Prospect Before Us, and on that occasion came he had made a declaration that if the extracts were faithfully copied from the work he was satisfied that it would come under the operation of the sedition laws. The Judge said that whether he had made up and delivered an opinion on the articles contained in the indictment, and he answered that he had neither read the indictment, nor heard it read; he therefore could not declare that he had formed any opinion upon it. The Judge said in that case he would pass over and continue it.

Mr. Harper. What was understood to have been the subject of the indictment?

Mr. Gamble. It was pretty well understood that the indictment was for libelous matter contained in the book called the Prospect Before Us. I did not know it myself, for I was taken at an evening, if I live as a juror, without any previous information. I had not been either in bed or the court all day before; but I had heard them talked of as being within the sedition laws; yet I was sitting in the court when I was heard Judge Chase declare, that Mr. Biffet's objection would not excuse the jury.

Mr. Harper. Did you understand that Mr. Biffet urged it as an objection to form an opinion?

Mr. Gamble. No, Sir, he merely suggested it to his counsel.

Mr. Harper. Then he did not rise to be heard on that account?

Mr. Gamble. No, Sir.

Mr. Randolph. You say that Mr. Biffet was positively informed the court that you had not made up your mind on the charges in the indictment, because you had not read it, and did not know it to be correct?

Mr. Gamble. I had never read or been the witnessed, at or since it, but not made up my mind in respect to any thing it contained.

Mr. Randolph. Had you made up your mind on the publication of the book called the Prospect Before Us, which which you believed the charges were extracted?

Mr. Gamble. Sir, I never read the Examiner; but continued that extracts out had I then been the book called the Prospect Before Us, although I should be prejudiced, in point of opinion on our side, we were compelled to take degree to read it nearly through.

Mr. Randolph. What induced you to read the whole after you retired?

Mr. Gamble. Mr. Biffet wished it to be read. The whole book exhibited a collection of the extracts.

Mr. Randolph. As that book is a lengthy production, perhaps you had read it before you left your seat and the court was read, might it not be have happened that you unknowing made up your mind as to the publication, and not as to the indictment?

An objection having been made to this question by Mr. *Martin*,

Mr. Randolph said he would withdraw it, but would ask the witness another question. Do you recollect any thing of an effort made to postpone the trial of Callender on the part of the counsel?

Mr. Gamble. I remember there was a short adjournment of the cause in the fifth instance, and that an offer was made by the counsel to postpone the trial for a month or more.

Mr. Randolph. Do you recollect what more was?

Mr. Gamble. I do not recollect.

Mr. Nicholson. Was the offer to postpone the cause made before the jury was sworn or after?

Mr. Gamble. I do not recollect at what time it was made.

Mr. Randolph. Did you understand that Judge Chase was to consider by itself you, Sir, as a juror on this trial?

Mr. Gamble. I had understood that I might be objected to, because I had spoken unkindly of Callender.

Mr. Randolph. Was evidence offered to show that you had done so?

Mr. Gamble. I acknowledged it myself, and the Judge said, notwithstanding, I was a good juror.

Mr. Randolph. Did you speak disrespectfully of Callender, and to declare to the contrary, what had you told?

Mr. Gamble. I had said that I thought him to be a very unworthy character.

Mr. Randolph. Did you not understand that you were to be objected to?

Mr. Gamble. I had heard that Mr. Burwell had made such his objection, and that it was intended to bring him forward as a witness to prove that this was on the morning of the day of the trial, and yet before I was sworn.

PHILIP GOOCH *sworn.*

Mr. Harper. Please to inform this honorable court whether you were present at the trial of Mr. Thomas Callender, at a circuit court holden at Richmond, in the year 1800?

Mr. Gooch. I was in court during a part of the time of that trial, I did not get in until the jury were sworn, I put before they were sworn, I believe I was not present at the whole of the trial.

Mr. Harper. What was the nature of that trial?

Mr. Gooch. I understood it to be an indictment for a libel upon the President. I understood Mr. Biffet to be on purpose from Amherst county, where I resided, to be prefent at it.

Mr. Harper. Please to tell you observe relative to the conduct of the court and counsel on that day, state what happened.

Mr. Gooch. When Mr. Biffet suggested to the court his wish to be informed whether it was that opinion that he was a proper person to form an opinion, Judge Chase said he would expressed an opinion on the extracts which he had seen, and declared that if correctly copied from the work called the Prospect Before Us, the author was within the pale of the sedition law. On this Mr. Biggerstaff, I recollect, was decided, and said he doubt as law, that he would not, and he would be formed an opinion on not delivered it all, and the Judge gave some reasons why he would not on a cause formed an opinion on it, and I think he said that if a person as murder was committed in the body of a county, which every man of sense ought to be punished with death and had to formed his opinion, it would in that case be justifiable or get a jury to try such an offender, if it were an objection, that a man had formed an opinion. I understood that he had concluded Judge Griffin on this point. The court was very crowded, and I had obtained a station just behind the judges, and had an opportunity of hearing in time degree every syllable that was said. Mr. Biffet was eventually sworn upon the jury. The cause proceeded, the witnesses were called and sworn; then opened the cause. I am unable to detail a his observations, nor is it necessary, as it is intended to be a journal, he said that the intention of the traverse was to be understood from the matter which had been extracted from the Prospect Before Us, and laid in the indictment. Mr. Hollins, the counsel and the witnesses on the part of the prosecution, but I do not recollect that any witness was sworn on the part of the counsel for the traverser in objection to the sedition; but I remember that when Col. Taylor was called upon testimony on the part of the traverser, that the court required his counsel to state what they intended to prove by him, and Judge Chase required the questions to be reduced to writing for that purpose. I remember that he determined that as this testimony did not go to prove the whole of the libel, it would not be admitted. He turned to Judge Griffin, and asked him if that also was his opinion; Judge Griffin said it was. Judge Chase said afterwards, in a pleasant manner, to the counsel for the traverser, "you know you ought to be cautious, you may see I believe you know that testimony of this kind ought not to be admitted, but perhaps you set to blind the people and to work up their minds to a state of opposition;" he then turned to the attorney for the district, and said he was prefied by the counsel to admit the testimony of Col. Taylor, and that he wished him to give his counsel that it should be received. The Biffet attorney told him that he could not; Judge Chase asked him a second time to accede to the reception of the testimony of Col. Taylor; the difficult attorney replied he would not; a being inconsistent with his duty.

Mr. Wirt then opened the cause on the part of the traverser; he made some allusion to the court's prohibiting the mode of defence, which the counsel for the traverser had adopted, but he was interrupted by the court, and was told that the decision of the court would be made for the present, that if they objected, they might file their bill of error, and it would be considered.

Mr. Wirt proceeded in the cause, and was interrupting to throw that the sedition law was unconstitutional, the court he interrupted him, and told him that what he said, he must be admitted to the court, but if he was going on that point, he must again be informed that the court would not suffer it to be urged. Mr. Wirt appeared to be in some agitation, but continued his argument, and when he came to that point, a second time, he was again interrupted by the court: "Did you not understand what you had told? said he was going on. Judge Chase again interrupted him and said "no, you are not going on, Sir, I will point out what you are about." I recollect also after the judge had made some observations, he stopped in writing, and he said he observed that as the jury had a right to consider the law, and as the conditions that the jury had a right to decide on the conditions of the law, Judge Chase replied to him, *a non sequitur*, Sir, and at the same time made him a bow in the Pretty Gentlemanly way, he place exactly in the order in which I have mentioned them, I am not positive, as I believe they did. Mr. Wirt, Sir, down, and the judge delivered a lengthy opinion. He said that the counsel will argue the law; they were called, and not before the jury, for it was not proper for the jury to argue the law point, or that the jury were competent to decide, whether the fedition law constitutional or not, but that they were not competent to decide whether the fedition law was constitutional or not, and he said I recollect, he said,