cused, will be brought to his trial, and if convicted, he will be punished according to the degree of the offence: what more does public justice require? But it is said, it is necessary to prevent future libels: if libels are published, while the prosecution is depending, they will be punished, on conviction, in proportion to the obstinacy of the offender. No man abhors more than I do, the base practice of libelling. It is a crime forbidden by the laws of God and man, and of a much blacker dye than many men seem to be aware of. All classes and descriptions of men, all parties, have in their turn, lamented and suffered by the uncontrolled licentiousness of the press. I am not without hopes that the evil will be lessened, that a remedy will be found, in the honesty and good sense of a majority of the people, aided by the wholesome chastisement which courts and juries will be called on from time to time to inflict. But in order to give those punishments their full efficacy, in the community, it will be necessary in judicial proceedings to temper firmness with liberality, never forgetting that humane principle, which, in doubtful cases, turns the scale in favor of the accused. I should have felt little difficulty in deciding the question before me, but for the case of Wm. Cobbet, cited by the attorney-general in his argument. Mr. Cobbet was, in the year 1797, bound with two sureties, in a recognizance for his good behavior, by the chief justice and present governor M'Kean, whose opinion has great weight with me, because I consider him as an eminent lawyer, zealously attached to the liberties of this country both civil and religious. I have not been able to obtain an accurate statement of the case of Cobbet, so far as relates to the binding of him to good behaviour. Judge Smith's notes only contain an account of the action on the recognizance tried in the Supreme Court. As far however as I have heard, it differs from the present case, in some material circumstances. I have never seen the warrant against Cobbet, but I have been informed, that he was charged in it, with numerous libels against different persons, of which on his appearance before the chief justice, he avowed himself to be the author. In the present case, Duane is charged with publishing two libels, against the same person, and he has not confessed that he is the author of either. As a judge, I know nothing that is not legally proved before me. I must not act on the supposition, that the defendant has published numerous libels because there is no oath to that purpose, and by our constitution, all warrants must be grounded upon an oath or affirmation. Upon the whole, the most that can be said with regard to recognizances for good behavior, is, that they are demandable or not, at the discretion of the judge. They differ from recognizance to keep the peace, in two important features; 1. Surety for good behavior, is more extensive in its nature, than security for the peace, & can be more easily forfeited, and, therefore, should be exacted with greater caution. 2. Surety of the peace, is demandable of right, by any individual who thinks himself in danger of bodily hurt, and will make the necessary oaths; but this principle has been applied to surety for good behavior. I will not say, that there are no circumstances, in which surety for good behavior ought not to be exacted in cases of libels, before conviction; on the contrary, I have no doubt but there are occasions, on which it may be proper and necessary to insist on it. But I am of opinion that it will be most agreeable to the spirit of our constitution, and most conducive to the suppression of libels, to adopt it as a general rule, not to demand surety for good behavior before conviction. Under these impressions, I must discharge the defendant, on his entering into a recognizance for his appearance at the next mayor's court.

FROM THE BOSTON CHRONICLE.

[Though the unhappy circumstances of Monday last may be considered as obliterating all subordinate considerations; yet in justice to Mr. AUSTIN, we are induced to republish his reply to the infamous publication of Selfridge. It was handed us after our post papers were struck off, and it only appeared in the papers circulated within the vicinity of the town. The fair ground on which the controversy was submited to the public by Mr. AUSTIN, will appear in a perusal of the following communication, which was written previous to any personal altercation on the subject. For the satisfaction of our distant friends we again insert it.

If any Editor should insert Mr. Selfridge's publication, it is requested the following may have a place.]

"Considering it derogatory to enter into a newspaper controversy with one T. O. Selfridge, in reply to his insolent and FALSE, publication in the Boston Gazette, of this day; if any gentleman is desirous to know the FACTS on which his impertinence is founded, any information will be given by me on the subject.

"BENJAMIN AUSTIN.

"Boston, Aug 4."

TO RENT,

On very low terms, FOUR convenient Two story brick DWELLING HOUSES, directly south of the six Buildings.

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T. H. GILLISS.

Washington city, Aug. 15—wif

WASHINGTON CITY.

WEDNESDAY, AUGUST 20.

The case of Seleck Osborne, oppressive as it is to him will, notwithstanding, be attended with some good effects.

It exhibits the dignity of virtue and talent in an admirable point of light by shewing their superiority to persecution.

It forcibly contrasts the humiliation to which this malignant feeling debases those who practise it.

It proves the excellence of our political institutions, which, by subdividing the nation into subordinate districts, & reposing power in distinct authorities, does not screen the manner in which this power is discharged from passing through the ordeal of national investigation, and thence receiving a more enlightened, liberal and virtuous judgement. In this case, although the punishment inflicted on Mr. Osborn cannot be mitigated or averted by an appeal to a superior tribunal, untramelled with the local prejudices of Connecticut, yet the conduct of his oppressors is already before a higher tribunal, which, from the millions of which it is composed and from their local situation, cannot materially err. Already have the people of America pronounced judgement on the tyrant and his victim, and fixed the seal of disgrace on the former, and the crown of honor on the latter. Yes, thanks to the virtuous feelings of an enlightened nation, the persecution of federalism has already raised Seleck Osborn as high in the esteem of dispassionate men as it has debased his jailor. Indignation prevails in every section of the union at this almost unprecedented persecution, & there is displayed a virtuous purpose to lift the independent Editor of the Witness above the frowns of local enmity by a liberal subscription to his paper. This will answer two good ends. It will be, in some measure, a reward for his virtues and services; and it will operate as an incentive to his exertions by extending their sphere.

To contribute to this effect subscriptions will be received for the Witness at the office of the National Intelligencer. The price of the Witness is one dollar per annum.

Swartwout is removed from the office of marshal of the New-York district, and already the whole federal pack of Editors are in full cry against the administration. As they do not pretend to know any thing of the motives which influenced this measure, and indeed disclaim all knowledge of them, we should feel some surprise at the vehemence of their denunciation, did they not habitually condemn every measure of the government, except in the solitary case of the appointment of a federalist to office. We should not, if we possessed the materials, undertake the futile task of enlightening understandings which thus resolutely and systematically judge without knowledge. It may, however, be proper, for the satisfaction of others, to state a few facts, in doing which we too disclaim all knowledge of the particular motives that dictated the removal of Mr. Swartwout. We think it would be well, if the constitution required the executive, on removing an officer, to assign his reasons. But so long as this is neither required by the constitution, nor by usage, we cannot justly complain of silence in this or other instances. We *may justly complain*, if an unworthy officer is suffered to remain in office, because it operates to the injury of the public; but we have no reason to complain so long as the successor discharges his duties faithfully. This is the only point in which the nation is interested. With regard to the duties of a marshal they are multifarious; and it ought to be recollected that in the present instance the removal may be for reasons altogether distinct from those that are connected with Ogden and Smith's trial.

Now for the facts.

The American Citizen has given the juries at full length summoned in the case of Miranda; from which statement it appears that the jurors were selected with studied partiality. We have indeed heard it affirmed that on the petit jury which tried the accused there was not a single democrat. Could this possibly have been the result of accident?

The accused were acquitted in the face of the strongest testimony.

The pleadings of the counsel of the accused made the question a political, a party question.

Every mind will draw its inferences from these facts.

We merely add the notice taken of this subject by the American Citizen.

"*Coleman's dilemma.*—On Wednesday we republished from the United States Gazette, a Philadelphia federal paper, an article stating that the President had removed Mr. Swartwout from office, *because*, as a witness in court on the trial of col. Smith, he would not "*accommodate his testimony on oath to the views and wishes of the administration!*" This slander was republished in Parson Lewis's paper, knowing at the same time, as he did know, that it was a vile slander.

"On opening the commission of Mr. Curtenius, who is appointed Marshal in the room of Mr. Swartwout, it appears that it is dated on the *fifth day of May*. This is surely a sufficient refutation and exposure of the traducement of the United States Gazette.

"Beaten off this ground, and accommodating himself to circumstances as they arise, Mr. Coleman has changed the mode of attack; for the administration must, at all events, be attacked.

"This excellent logician says that the commission *and* superbedeas being dated in May, Ogden and Smith must either be tried over again, or—mark the wisdom and energy of the man!—the commission is—what? Why—antidated! Bless me, how great! 'Tis equal to the high flights of Mr. H——'s genius.

"Mr. Jefferson it seems determined, in May last, to remove Mr. Swartwout from office, and a commission was accordingly made out for Mr. Curtenius. But, recollecting that the trials of Smith and Ogden were pending and that if issued the new appointment might be construed by malevolence into an attempt to influence some of the proceedings of the court, the commission was retained in the office of the department of state till the issues were known. It was then forwarded to this city. There was no formal supercedeas issued. Mr. Coleman is totally ignorant as to the issuing of a supercedeas. It is not the practice of the general government to issue one. Mr. Harrison might have told him so.

"Ogden and Smith are to be tried over again! Did stupidity ever before make such a remark? And why are they to be tried over again? Because the trial was a mock one? Why, says this great lawyer, who when in practice was the delight of the bar, because the commission was dated in May, and he might have added because Mr. Curtenius neither got it, nor was sworn in until August! Let Mr. Coleman tell his friends (for no one else will enquire) whether Mr. Curtenius was marshal before he received the commission and took the oath of office.

"He sees that I have taken this side of his dilemma; now I'll take the other.

"The commission is *not* anti-dated; I call on him to show that it is."

The federal prints are busy in the endeavour to impress the public with the belief that our affairs with Britain were in the fairest way of adjustment until the arrival of the non-importation act; since which they say they have taken a different turn. They even go so far as to advise us that dispatches have been received by the government to this effect.

That federalists should thus disclose the secrets of the cabinet is not at all surprising, since they have established their claim to being the best informed part of the community. For ourselves we lay claim to no official knowledge on this subject; but we have information derived from the most respectable private sources, that justify us in contradicting this statement in the most unqualified terms. This information warrants the belief, that so late as the middle of June the British ministry had not indicated any indisposition to an accommodation of differences, and that the non importation act, referred to, had excited no sensation adverse to such accommodation. Let it be recollected that our latest date from England merely announces the arrival of Mr. Pinckney at *Liverpool*.

Could we rationally expect an adjustment before the arrival of a minister, specially charged with aiding Mr. Monroe in the negociation, and with carrying, not merely the instructions of his government, but the sentiments of his nation? Under such circumstances Mr. Fox would naturally wait for Mr. P's arrival before he went into detail on the points of negociation; and it is probable that Mr. Monroe, from that delicacy which is well known to be a part of his character, would abstain from urging matters to a crisis. We cannot dismiss this topic without cautioning our readers against the gross & frequent misrepresentations of federal prints with regard to our foreign relations. Dispatches are unblushingly alledged to be received, without the least foundation, and their contents stated, without the least regard to truth.

HENRY INGERSOLL, whose name is in the list of prisoners taken on board Miranda's schooners, is a son of Mr. Jonathan Ingersoll of Stockbridge, in this county. He went to New York last November, to spend the winter in that city; and was among the inconsiderate young men, who rashly embarked with the Spanish adventurer. When he sailed he was under the age of 21 years. Before sailing he notified his father in a letter, that he had engaged in a hazardous secret expedition, which was "not authorised nor known by the government of the United States." He wrote again from Jacquemel in the island of St. Domingo.

Pittsfield Sun.

Hartford, August 13.

JOHN C. SMITH, esq. has resigned his seat in the House of Representatives of the United States.

Union, Aug. 6.

MR. THOMPSON, who is appointed to survey the route for the Federal road from the Potomac to the Ohio, arrived in this place on Tuesday evening last and proceeded next morning to the westward. The commissioners we understand are not to be out before September.

Norfolk, August 13.

Captain Bayton, of the brig Jupiter, from Grenada and St. Thomas, informs us, that when he left the former island, the 23d of last month, Miranda was at Trinidad recruiting. Capt. Lewis, late of the Leander, came passenger from Barbadoes to Grenada with capt. Bayton, and was to sail for New-York in the [illegible] June in 10 days.

Philadelphia, August 13.

NEUTRAL COMMERCE.

The following information, received from Halifax, by a letter of the 29th ult. from a source that may be relied on, is published for the information of the merchants of the U. S.

The *Golden Age*, loaded at Philadelphia, and was destined for Hamburgh—but in case that port was blockaded to proceed to Tonningen.

In the case of the *Golden Age*, the captors failing to establish the fact of any blockade of the Elbe having existed previous to the 16th May, the court directed restitution of the ship and such part of the cargo, as is not the produce of enemy's colonies in the West Indies, which latter is all held for further proof of property. The captors' counsel made a formidable stand on the much contested ground of this vessel being illegally employed in carrying the produce of the enemy's colonies to Europe, but the Judge in the present case overruled it, *because* the ship was not going to an enemy's port in Europe, and signified, that if she had been bound to an enemy's port he must have condemned her, and that part of the goods which had been purchased in the enemy's colonies—We hope Messrs.————, will be able to produce evidence, that the colonial produce imported by themselves was purchased from their own funds, transmitting attested copies of their letters upon the subject, and accounts current, between them and the parties, who were the shippers in the W. Indies.

Raleigh, August 11.

In consequence of the act passed by Congress at their last session, to authorise the state of Tennessee to issue grants, &c. the governor of that state has lately applied to our governor for the books containing the transcripts taken from the records in the office of our Secretary of State, by the Agent of Tennesse, under the authority of the act of our General Assembly, passed in 1803, authorising that state to perfect titles, &c. Governor Alexander, we understand, declined a delivery of these books, until the Legislature of this state shall have had an opportunity of acting on the late law of Congress, which is believed, in some of its provisions, to be a direct violation of the cession act of this state.

Charleston, Aug. 4.

On Saturday evening last, a little before 9 o'clock, a Lunar Rainbow was visible for upwards of 15 minutes.

From the Mercantile Advertiser.

GENERAL MIRANDA.

In a late English paper (Bell's Messenger) we find a long article on the character and views of Gen. Miranda. Our readers have been furnished with the more prominent parts of the character of this distinguished adventurer; but the following extracts, contain, we believe, a course of remark and observation, that will not be read with indifference:

"But what is the effect of the present system of government in Spain, which is decidedly arbitrary—a government, whose fundamental principle excludes all, but the privileged class, from the offices and honors of the state? ——What we say, is the effect of this system upon the other orders of the people? Why simply, that having nothing to look to as a reward, they have no spur to any extraordinary exertion. There is no effort in the absence of emulation, and no excellence in the absence of effort. The whole mind of the state is palsied; the great remain in indolence, because they can attain the ordinary objects of desire without exertion, and the lower classes will not toil, where their toil will not raise them from their destined obscurity.

"Such is the condition of the Spanish monarchy at this moment, with regard to the production of these eminent men whose aid it so much requires in this season of need. Will it not appear at most a paradox to say that Spain can only be preserved by a revolution? Yet it is only by this event that her latent powers can be called forth—that the dormant and not extinguished spark of her former national character can be re-animated. The season of peril and high reward will call this spirit forth. The necessity of the times will shake off those who are inferior to its demands. Rank and place—the slaves of a court or a minister—the generals of a parade——and admirals ex-officio, must then retire, and make room for men of more efficiency.

"The monopoly of Spain, and the regulation to which, in common with every other parent country, she has subjected her colonies, has long hung a heavy yoke upon the necks of the colonists. The weight of this yoke has not been alleviated by the sense of the superiority of the mother country. The colonists have not the consolation that their servitude is the tribute for their protection——as incapable of protecting as governing them, the mother country hangs a dead burthen upon her colonies. Like Anchises, in the fable, she is supported on the back of her children; but her chidren, unlike Æneas, are not much pleased with the weight. In the language of the same fable, travestied, "they care not how soon they shuffle off the old woman."

"Thus is it at present, and thus has it long been with Spain and her colonies. Her claim to their monopoly must be urged upon her former services, and not upon her present protection. But it is the persuasion of the colonies that this debt of former protection has been paid off by former servitude, and that the service of protection having ceased, the colonial redditus, the monopoly and subjection, should cease with it. In a word, that they should be no longer subject to a power, which can neither give them an intercourse of commerce to mutual advantage in peace, nor probable protection in war.

"The independence of North America gave birth to these principles—the French revolution has confirmed them. South America is now restrained within her obedience by two bars only—a very weak military force, and a militia already corrupted, being in fact but the country use.

"It was in this situation that Gen. Miranda conceived his design of effecting his favorite purpose.

"He promised Mr. Pitt that with ten thousand men he would scour South America, and effect her independence. Mr. Pitt listened to him, but there were two impediments—the state of our armies, and the positive refusal of Gen. Miranda to have any thing to do with the expedition, if he were not at least second in command. There was indeed a third—a doubt as to the policy of throwing Spain into the already overwhelming monarchy of France. If France hesitated to incorporate Spain, it was in the apprehension that England would immediately seize her colonies, if the colonies were become independent. Spain would in the same instant become a province of France.

"Gen. Miranda, however, received certain promises, which, had the late minister lived, would have been fulfilled. Mr. Pitt had a great mind. He was not to be daunted by inconsiderable dangers. We are persuaded that his views were latterly directed to Spanish America—but we cannot say that he intended to act as subordinate to the designs of Miranda.

"What has been the subsequent course of Miranda? He had a mind above servility; he accordingly adopted the singular purpose of attempting this boundless enterprise, the conquest of half a world, upon his own single resources."

Boston, August 14.

LATEST FROM EUROPE.

By the regular trading ship *Packet*, Captain *Scott*, in 41 days from Liverpool, we have received our regular files of London papers to the 1st July. From these papers it appears that negociations for a general PEACE in Europe, were in active operation. Private letters from London corroborate this intelligence so far as to suggest an opinion to their correspondents that the event was not improbable. We also find that the British funds had experienced a gradual rise from the first rumors of a pacific overture; and that the latest advices from the continent tended to keep them in a state of fluctuation.

No adjustment of our affairs with Gt. B. had taken place, nor had any circumstances occurred which indicated a belief that it would take place immediately.

The London Courier of 23d June, advises, "That Mr. Witherham had landed at Dover, with dispatches from M. Talleyrand, for Mr. Fox." To this article the same paper adds, "it is now we think, beyond a doubt, that a negociation for peace is going on, and that the negociation is carried on direct between Mr. Fox and M. Talleyrand. When they have agreed on a certain basis, each government will appoint negociators. Perhaps Mr. W. brought the necessary passports."

Lord Yarmouth had been sent by the British government to the French court, with dispatches. He arrived at Paris on the 18th June; but the tenor of his dispatches was not divulged in France, nor were they publicly known in London, yet such were the pacific hopes entertained in consequence thereof, that the French funds rose one per cent.

Mr Pinckney, the American ambassador to G. Britain, with his family and suite, arrived at London the 23d June last, from Liverpool.

A London paper of June 24th says, that the American funds had experienced a considerable depression for the five preceeding days.

Policies were opened at Lloyd's about 25th June, giving sixty guineas to receive one hundred, if peace shall be concluded with France before January 1.

Mr. Erskine, son of the lord chancellor, is stated to have been appointed Ambassador to the American states.

An opinion is still entertained, that the dispute between Prussia and Sweden will be accommodated through the interference of Russia.

From some recent manœuvres of the French cabinet, a war between Russia and Turkey is highly probable.

Gaeta still holds out; and the vigorous opposition which is made in this place, has occasioned an insurrection in the Neapolitan states which has excited considerable alarm to the French.

The evacuation of Cataro seems not to be credited in England. From this circumstance the British journalists indicate, that the business of the late warfare on the continent is not finally settled, by the contrasted powers engaged therein.

Mr. Fox was so much indisposed during the latter end of June, as to be unable to attend the duties of his office; and fears were entertained that he would not be able to appear in public during the sitting of Parliament.