

your people to desist: to which he made no reply at all. He walked about in the room for some time, and then went down stairs. I did not see any thing more till the prisoners were released. The only time I saw Mr. Fries, the prisoner, was a few minutes before the prisoners were delivered up. I walked out of the room and saw Mr. Fries upon the head of the stairs, speaking with the marshal: shortly after, the prisoners were requested to go down, but the minister staying a little while up in the room, there was a call made for him particularly, and therefore I went and requested him to go down. Shortly after, the armed men went off. I looked out of the window and saw Mr. Jarrett parading his light horse in rank before the door. He then gave orders to march, and they went off.

ATTORNEY. Did you perceive any thing of the prisoner after this?

WITNESS. No, that was the only time I saw him during the day.

You were one of the commissioners appointed to carry into execution two acts of Congress; one for assessing houses, and the other for laying a direct tax?

Yes.

Was there not, before this time, a general opposition to the execution of this law throughout the county of Northampton?

After I had received my commission, which was sometime in August 1798, I had received a letter from the secretary of the treasury, requesting me to take some pains to find out suitable characters to serve as assessors. I did, in consequence of that, write some letters to some of my friends, in the counties of Northampton, Luzerne and Wayne, which constituted my division: in Wayne and Luzerne, I found no difficulties whatever, but received a number of applications sufficient, and accompanied with recommendations. In Northampton county I was not so successful; I had but two recommendations from that county; it was therefore necessary for me, from the best information which I could obtain, to endeavour to find men of suitable characters in each township; and likewise to get a number of blank commissions, in case some of those appointed should refuse to accept of the office. I received information at Reading, at the time the board of commissioners met, from the commissioner in Bucks, that he had received information from a gentleman in Philadelphia (Mr. Chapman) that he had travelled through a great part of Northampton county, and that in every tavern where he stopped, this tax law was the general topic of conversation, and that great pains was taken to find out who the persons were that were friends of the government so much as to be assessors, in order to persuade them not to accept of the appointment. Although I could not believe it was the case at that time, yet I found it was the case afterwards.

Cross examination. Do you know this traveller?

WITNESS. No.

Agreeable to my duty, I gave notice to the assessors to meet me at a certain place. I should have first said that I appointed the assessors agreeable to the best information I could collect, I took one man from each township, such as was thought qualified for the business. I sent them their commissions, and with them notices to meet me at a time and place appointed in order to receive from me their instructions.

He then mentioned the names of the assessors, and the townships to which they were appointed.

I appointed a meeting of the assessors of the third district at Nazareth; on the 3d Thursday in November, two of them did not attend, and some of the others who did attend begged to be excused from serving. I asked their reason, and told them I could not very well excuse them, they told me that the people in their different townships were very much opposed to the law; that they thought it was dangerous for them to accept of it. I found that they, as well as the people, had a wrong idea about the law; and I was so happy that day as to prevail upon all those that wished to be excused accepting the appointment, upon explaining the law to them, to accept it. The next day I met the assessors of the second district at Allentown, where all attended but one. I had the same difficulty there as at the other place, and it was not without much difficulty that those who did appear, that they did accept of the appointment. I then left the blank commissions with Mr. Balliot, and requested him to appoint some persons in the room of Mr. Horne, who had refused. The Monday following met the assessors of the other district at Chestnut Hill township. Previous to that I had seen Mr. Kearne, who was the assessor, appointed at Easton; when I mentioned to him that he was appointed an assessor, he told me that it would not suit him to accept of it. I requested of him that he might name some suitable person, and qualified for it, and I would be willing to accept him. He mentioned Jacob Snyder, and told me he would notice Mr. Snyder to meet me with the rest. When I came there two of the assessors did not appear, and one from Hamilton did not appear willing to accept of it, but after a great deal of explaining and persuading, it was prevailed upon. Just as we were going, Synder came, he told me that he had received his notice, and that he was not willing to accept it; that the people were very much opposed to the law, and he did not very well understand it himself, but he thought he would endeavour to get some information, and that when he came there, the information he received was such, that he was determined to go after me, and accept of the appointment, if he were to ride 30 miles in order to accept of it, for that he had been wrong informed about the law. I then went up to Wayne county where I had no difficulty, except that one assessor told me that he was persuaded with difficulty to accept of the appointment. As I was going to Luzerne county, the assessor from Hamilton township, (Nicholas Michael) came after me, and told me that he had been obliged to fly from his house in the night to save his life, and begged of me to accept of his resignation; I told him I could not accept of it, but that I would see perfect justice done. At my request he went with me to Easton, where we went to see for Mr. Stearnes, attorney of the district, but not finding him at home, we went to Judge Trail, in order to take his deposition. He begged that I would grant the favour for him to consider of it till the next morning; I did, and next morning he came to me and begged me "Mr. Evers, for God's sake put me to jail, so that I may be secure of my life, for if I do not stand these people, I and my family shall be ruined. I told him that I would do no such thing, for that I had too much friendship for him; that I would give a few lines to the constable to request him to call a township meeting, and I would meet him in the township. I requested Mr. Henry to go there with me: I had reason to believe that this opposition arose from misrepresentation, which I supposed was given to the people by a few gentlemen, who had travelled through

the county a few days since. When we came to Hamilton township, there were about 60 or 70 persons assembled, three or four of them in uniforms, their arms was behind the door at the house of Mr. Hellers. I then told them that I was come as their friend, and without any design of taking the least advantage of their conduct in opposing the assessors: that I had come to read the law to them, and explain it. I did so, and pointed out the impositions practised on them. Mr. Henry assisted me as much as he could, but all to very little purpose. The assessor after this again begged me, for God's sake, to accept of his resignation. As there was a number of them that complained against the assessors. I proposed to them that though I had no authority to it, yet if I thought it would be a favour to grant them that indulgence to elect their own assessor themselves, I would grant him the appointment. They told me they would do no such thing, for said they "if we do this, we at once acknowledge that we will submit to the laws, and that is what we wont do." I then enquired for a suitable man, and John Huston was mentioned; who was likewise elected assessor under the county rates. I called him into a room, and requested him to accept the appointment, he told me it was impossible at the present time, but he should, whenever things appeared more favourable, so that he could go through, be willing to do it.

I hear that the business is now done.

ATTORNEY. Please to relate who were the persons that travelled through that county, and encouraged the opposition.

WITNESS. The last week in December, or the first of January I received a letter from Mr. Heckavelter, the assessor of upper Milford: by which, he informed me that he was stopped by a regular deputation from the township meeting, consisting of 3 men. I sent a line to Mr. Heckavelter, and wished him to give notice to Mr. Schymer, Mr. Moretz, and some of the leading men in the township, that I would meet them at such a time, and explain the business to them. When I came, in consequence, within 4 miles of the place, I was requested by a friend, not to go; for that the people were so violent, that if I did go I should certainly be killed: I replied to them that I would go, I was not afraid of any of them. I took Mr. Henry along with me; when we came there, I found about 60 or 70 persons collected at the house of John Schymer. I suppose about 20 of them had French cockades in their hats, red, blue and white. Mr. Schymer then took me into his own room; there were about eight or ten in the room. Mr. Schymer asked me if I had seen the petitions, he gave one of them to me, and requested that I would read it, which I did in the presence of another person; there were but two in the company that understood English. While I was reading, these two men began to shake their heads, they said it was not such a petition as they had been told. I then asked them whether the general opposition was not on account of the stamp tax, and the house tax; they said yes. I then told them there was not a word in this petition against the stamp act; they seemed to be altogether satisfied, and said that they had been made to believe it was. I then went into the next room, where the people collected: some of them appeared to be extremely violent and very abusive. I told them I had not come there to be abused by any body; that I had come there as a friend, to inform them of the law which it was important should be understood. There was a report among them that it was no law; I read the law to them, and explained it in the German language, and told them it was their

duty to submit to it. One of them of the name of George Shaeffer jumped up before me, and said, Mr. Eyerly, it is no law; I told them that if they did not believe me, they might enquire of Squire Schymer whether it was or not. Mr. Schymer told them it was a law; upon which Shaeffer replied, "admitting it is a law, we will not submit to it". He then farther said, here I am, take me to gaol, but you shall see how far you will bring me. Upon which a great many of them jumped up and said, yes, by God, if they shall only attempt to take any one to jail, we would soon have him out again. Some of them made use of very abusive language against the assessor, calling him a tory rascal and the like; and as the assessor had requested me to accept of his resignation because it was not in his power to go through with it, I proposed to them, that if they had any objections against the assessor, that they should elect one, and I would give him his appointment: to which some of the most sensible and most moderate replied, no, if it must be done Mr. Heckavelter shall do it, and some of the others said, we will do no such thing, if we do, we at once acknowledge that we submit to the law, and that is what we will not. I then went over to the tavern close by, with Mr. Schymer, when Mr. Heckavelter came to me, and told me that he was in danger; that there was three of the Shaeffers were going to give him a licking: I requested him to stand by me, and I would see him safe. We then went off.

Cross examination. Did they come up to beat him?

WITNESS. Yes they did, all three of them. Mr. Heckavelter told them he would not have any thing to do with them, and they charged him something respecting a liberty pole at Millars town.

Did they threaten to beat him on account of his going on with the laws as assessor?

No.

ATTORNEY. But it was no private quarrel was it?

WITNESS. No, Mr. Heckavelter told me it was not.

When was the liberty pole erected?

Two weeks before that, but after the dissensions arose.

Were these poles erected any where, but where this opposition prevailed?

With a few exceptions: there was one place where the law was fully executed, and some others that followed the example, where the law was executed.

Was the law executed at Millars town?

It was not executed there, nor at upper Milford till about two or three weeks ago at farthest. I then agreed to go to Millars town, where one of the Shaeffer's lived. Mentioning this to an assessor, (John Roming) he requested I would not do it; he told me that the people were so violent that he would not go upon his duties if any body would give him £.500 to do it, if he did, he must run the risk of losing his life. I then desisted.

ATTORNEY. The laws were not executed till after the army came up, and not before were they?

The witness was going on to say what he had been told, but hearsay evidence was inadmissible.

—I then went to Mr. Trexlers where I saw Mr. Bobst, who gave me information of Heidelberg, Wiessenberg, Lynn, and Low Hill: he told me that at a meeting at one of those places the people had drawn up a paper not to submit to the laws: he then told the people that they were

certainly doing wrong, and that they would bring themselves into trouble if they went on that way: upon which they (the people themselves) destroyed the paper. He said the same of Heidelberg. He likewise informed me that in the township where he lives it was impossible to execute the laws.

At what time were the laws executed in those four townships?

Since the troops have been there. He went so far as to say that all in the township opposed the execution of the law, except three or four.

Hearsay evidence stopped again by the council, because the constitution provides that the accused shall be confronted with his accusers.

Mr. Rawle contended, that, as he wished to shew the court and jury the *general* state of that country, the hearsay evidence of Mr. Eyerly in his official capacity as commissioner, to whom reports of the assessments were made, was admissible.

So far as explained the general temper was allowed.

WITNESS. —In Penn township the assessor did not meet us, he refused to accept the appointment, well aware of the difficulties that would occur, and a general rule was admitted to meet those difficulties. I received information from Mr. Balliott that he had found a man in that township who was willing to execute the office. At my request, he sent him a commission, but the man was obliged, before he took the oaths, to return it again, declaring it was impossible to do it. This was sometime in January. Sometime afterwards he wrote to me of another man who would accept. I requested him to sign his commission. I received information while the marshal, Mr. Balliott and myself were about the county, that as soon as the people in the township knew that he had received his commission they raised a mob.

When was Penn township assessed?

About ten days ago.

COURT. Had you not reason to believe that, owing to the opposition in that township the law could not be executed?

WITNESS. It could not.

Was there similar opposition in any other township?

In Moore township there was some opposition, but when the assessor was opposed he called a town meeting. That township has been assessed about two months.

Mr. Lewis insisted that if such evidence were allowed, it would be necessary to produce the commissions of these officers, and he could see no reason why themselves could not have been present as evidences on the prosecution, instead of that testimony coming through Mr. Eyerly.

Mr. Rawle contended that if it was necessary to prove commissions, there would be no end to the enquiry.

ATTORNEY. Were you present at any other meetings?

WITNESS. No.—On the first or second of March last, when the marshal came to Nazareth, and told me that he had process against a number of persons in Northampton county, he requested me to go with him: I went with him, first to Lehi township, where the marshal served process upon those people for opposing the assessments, without any difficulty: we then came to Bethlehem, and then to Emmaus: the first house the marshal had to serve in was a subpoena upon George Syder, where, after being abused by the house, we were sworn at and abused by him: he had a large club in his hand.

COURT. Did he abuse you before you spoke to him ?

WITNESS. Yes.—He called us rascals, highway robbers and the like ; the marshal told him he only had a subpoena to appear at Philadelphia to give testimony ; to which he answered, in German, he would be damned if he would go. The marshal finding he could do nothing with him, requested Daniel Schwartz sen. to read and explain it to him, and we left it with him to serve. We then went to Millars town to serve a warrant on George Schaeffer, but we were told he was gone to Philadelphia : we went to Seward's tavern. The marshal and myself then went to Shankwyler's where there was at least 50 assembled in the room. Not knowing Shankwyler, Mr. Balliott pointed him out, and the marshal took him : while the marshal was talking with Shankwyler, the croud inclosed upon us, and abused us very much, and in a very menacing manner, accompanied with an almost universal cry of strike, strike, strike, so that for some time we did not know what would be the consequence. The marshal this time was persuading Shankwyler to submit, telling him the consequence of opposition : he at first declared he would not, but at length he said he would do as Jarret did. Some of the people then said, that if Shankwyler was to be taken out of his house, they would fight as long as they had a drop of blood in their bodies. The marshal then turned round to the croud, when they were so violent, and told them that Mr. Balliott and myself were under his protection. I forgot to mention that while the marshal was talking to Shankwyler in the bar, one of the persons present tore the cockade from Mr. Balliott's hat, while he was turning round to speak to the marshal : Mr. Balliott did not for the present know but it was a blow some one had given him. They then made back a little. Having found it impossible to do any thing farther, Shankwyler promised to meet the marshal at Bethlehem. We then went out of the room, but before we came out of the house there was a terrible huzza in the room. I then sent for a constable at the request of the marshal, to go with him and show him the persons and places of those against whom he had process. I remained while he served the process' at Mr. Irexler's, and it was there we first received information that an attempt would be made the next day to rescue the prisoners. We arrived at Bethlehem that evening the 6th of March, and then the occurrences happened of which I have given testimony as far as I know.

Some conversation here occurred respecting the testimony of Mr. Eyerly where he said he had appointed assessors : Mr. Eyerly corrected himself, that he meant he had recommended them to the board. But Mr. Lewis said he should expect the records to be produced to the court, that the manner and legality of the appointments might be seen.

SAMUEL TOON, sworn.

Testimony translated by Mr. Erdman.

ATTORNEY. Where do you live when at home ?

WITNESS. At upper Milford in Northampton county.

Do you belong to any company of light horse ?

Yes, to captain Jarrett's.

What is your station ?

A trumpeter.

Were you requested by any body to go with a party to Bethlehem ; by whom, and at what time ?

On the 7th of March, about 8 o'clock I went to the house of Daniel Schwartz.

Did you go, or were you sent to Schwartz ?

I went of my own accord, because I heard that the light horse were to meet there, when I came, there was one of the light horse there, named Samuel, the son of Daniel Schwartz. I asked him who ordered the company together, and what they were about to do ? he said that John Fogle the lieutenant had directed them to meet at Guise's tavern, about 3 miles from Bethlehem, on this side : he then asked me if I would go along. I answered, no. Daniel Schwartz had another son named Daniel, who wanted to go along, but the old man would not allow it, because he had no regimentals or uniform.

ATTORNEY. What is meant by uniform ?

WITNESS. The cap and coat.—Old Schwartz then told his son that he should go to a neighbour, and should borrow his coat and my cap. I would not lend my cap, because I told him I might want it myself, if I could get an horse, as I told him I had it in my heart to go.

Do you know what they were going for, or was it mentioned at all ?

I did not know that morning what they were going for.—If that is all your excuse for not going, old Schwartz said he would lend me his horse, and give me a dollar in the bargain. His son, young Daniel he would not allow to go along, but he begging very hard, he would allow him to go as holler, to take care of the horses. They went, some of them as far as Guise's tavern, some of them were in regimentals, and some not. I and Schwartz's two sons went, and when we came to Guise's there was no officers.

How many went from Schwartz's house ?

Six : Henry Staeler, myself, Adam Stahlaker, and Schwartz's three sons.—When we came within half a mile of Guise's, we overtook a company of rîemen of about 30 strong. They had no officer with them. Stahlaker was one of the lieutenants, but did not meddle with the company, nor was he in regimentals, nor in arms. They waited about two hours for Fogle, the first lieutenant, but he did not come. Captain Jarrett was down at Philadelphia. When I found there was no one to take the command, I determined to go no farther : then there began a quarrel among them, some of them were willing to go, and some of them were not. Stahlaker and myself then proposed to go to Bethlehem, and we would bring them advice what was doing there, if they would wait an hour, and then they would know what was best to do. I then took off my regimentals, and put others on, belonging to my brother-in-law, the tavern-keeper. Some were willing to do this, some were not. They then went after me, and told me that I must put on my regimentals, and take my trumpet. I refused this, and told them, I would not go a step farther unless there was some officer who would take the command and answer for it. They then agreed to it, and chose Andrew Schiffert. He then said he would accept of it, if they would follow him, obey his orders, or his advice. They then went on to Bethlehem.

Did the number increase ?

The rifle passed by, but the number of horsemen did not increase.

How many horsemen were there ?

There were only about eight or nine at Guise's, but there were a great

number of our people on horseback, here and there one of them with a gun. When we were about half a mile on this side the bridge, we were met by four persons from Bethlehem.

Had you settled what you were going for?

I had no intercourse with any one of them on the subject, because I was always a good way before the troop.

Did you not hear at the tavern?

No, I did not hear any particular reason for going to Bethlehem.

Why did you go with them?

Because I was afraid of getting into trouble, and yet I was afraid if I went there.

Why afraid?

Because I supposed they would take the prisoners.

Why did you suppose so?

Because I heard here and there one or two say that they would not suffer the prisoners to go to Philadelphia with the marshal.

Did you blow the trumpet as you rode a head?

Yes.

What passed when you met with these four gentlemen?

These four men persuaded us to go back again, and there was here and there one that was willing to go back, among whom was Schiffart the captain: as they would not follow him, he laid down his commission again. They then went all in confusion, till we came to the bridge: all mixed one with another.

What did those people do who refused to go back?

There came one to them and told them that the two rifle men were prisoners, which irritated them very much, and they said they would go and get them; they would have them.

Was this before or after the gentlemen arrived from Bethlehem?

It was after they arrived, that they heard those two men were imprisoned?

What was the conversation between those deputies and the people?

I do not recollect much of their discourse, but I heard a good deal of altercation between them: they were determined that the prisoners should not go to Philadelphia, and that they would go to Bethlehem.

COURT. What prisoners did they say?

WITNESS. I do not know: they only said the prisoners. However these deputies brought them so far that they agreed not to go to Bethlehem.

ATTORNEY. Upon what terms?

The gentlemen told them they would bring themselves into great trouble, for an army would be marched against them. There was no conditions or terms made besides this. They then proceeded and chose some people to go with them to the marshal, to see whether he would give up these two men, and then they would return to their homes. They then requested me to go over as one of the deputies with two others: one of them was Yiesly, a rifle man. I agreed to go, provided they would remain there till we returned. We then went, but without any arms, but we were scarce over the bridge before a great part of the light horse followed us, and arrived at the tavern before we could come there.

ATTORNEY. What light horse was that?

I did not observe them all, for they rode very fast, but it was the company I belonged to.

Had any of the Bucks county people come up at that time?

Not any that I know of.—When I came to the tavern I did not want to go in, but Mr. Mohollan and the others took us into the marshal; but the greatest part of our company had come in, and therefore I could not tell what to say for them in their behalf. When I came to the marshal, he asked what was their design: I answered that I did not know; but Yicly demanded of him the two riflemen who were made prisoners, but I cannot say for certain whether he demanded any more prisoners of him. The marshal then read the orders which he had from judge Peters: we then went out of doors.

Did not the marshal deliver up these two men.

Not at that time.

Did you all go back to join your companies?

I cannot say whether the two others did or not. I remained where I was.—About half an hour after the rifle company arrived; marched round the house, and formed in rank before the house.

Cross examination. Was this before the two prisoners were given up.

I am not sure whether it was or not, because I do not know the time they were given up, for I went up in the room with Mr. Balliott and Mr. Eyerly.

Did any horsemen come with the riflemen?

There came now and then some horseman, some armed, and some unarmed, and they hurried into the yard.—When I saw them standing in a rank I went down stairs, and asked captain Staeler how he came over when he promised not to come over. His answer was, that the Bucks county people had come, and they all come over together. They first staid behind the house: the house was all in confusion.

ATTORNEY. What did they ask for, or demand?

WITNESS. I heard some of them say that they wanted the prisoners out, and that they would force themselves into the house. I came out of the house several times to pacify them, and so did Shankwyler come out twice to speak to them.

ATTORNEY. Did you see the prisoner at the bar?

WITNESS. Yes, I saw him once speaking with the marshal about half way up the stair case.

Did you see him come down and speak to the people who were in the yard?

As they wanted to go in by force, he told them they should wait a little, for that he would speak to the people inside a little more first.

Did you hear what he said to them afterwards?

No, he then went away, and they forced themselves in at the door. I with some others tried to keep them back all we could.

Did you succeed in keeping them out of the house at that time?

I succeeded in keeping them off, but one of them was very anxious to get in, and told the people that they should pull off their gloves, in order to feel the trigger, and cock the better.

Who was this?

It was Jacob Ingleman.—Staeler then formed his company in a rank. One Henry Hoover, who was standing in the entry after they had formed,

seemed to think the time too long, and said if they would only send eight men to him, he would soon have the prisoners. The people then got in, one after another, and the entry became almost full. I believe at that time the prisoner at the bar came and told them not to be afraid, but that they might now march on.

COURT. At the time Fries said that, were the men in or not?

'They were in the entry, and a great many people were there: I was in the back of the house, they then marched towards the stairs where the guards had left. The marshal was then quite alone, and he told them he would deliver up the prisoners. The prisoners then, came down stairs I believe, for I did not know them: I had not the least personal acquaintance with one of them.

Was Fries any way distinguished by his dress, or sword, or cockade?

I never was acquainted with Fries before: he had on then a great coat, a cocked hat, and a black feather: I did not see him with a sword.

Cross examination. Did you hear what passed between Fries and the marshal on the stairs?

No, I was standing below; I only saw him there.

Did Fries speak English or Dutch?

Sometimes he spoke English, sometimes German.

Friday, May 3.

ANDREW SHIFFERT, sworn.

Testimony translated.

Was you one of the armed party that went to Bethlehem on the seventh of March?

Yes.

To what company did you belong?

To Jarrett's company.

Inform the court and jury how you came to go, what your motive, and what the object of the expedition.

I was informed by John Hoover that all the light horse were to meet at Martin Ritter's at ten in the morning: I was not at home when he came, but I was informed of it. I then went over to Ritter's the next morning, (on the seventh of March) and when I came there, I asked what was to be done. Their answer was, that they were going to Bethlehem to release the prisoners.

COURT. What prisoners?

WITNESS. The prisoners from the marshal.

To what township do you belong?

To Salisbury. I told them that if they were to do this, they would

find what would be the consequences. The others said that if they got the prisoners clear that day, there would be nothing done, it would be all over: that if they came with arms against them it would be all at an end.

If who went with arms?

If the foldiers went with arms.

Did not you enquire who had appointed them to meet?

No.

Did you not ask when you were at Ritters?

No. At Ritter's I wanted to go home, but they would not let me, telling me that Fogle would be at Guise's tavern, whereupon I agreed to go so far with them. Coming there, Fogle was not there, and I and Sa-

Enuel Toon wanted to go home, for there was no officers there. They then agreed to choose an officer, when the choice fell upon me; I told them I would not go with them without they would obey my orders, and not say any more about taking the prisoners from the marshal. They professed to do so, whereupon we proceeded to within half a mile of the bridge, and there we were met by four gentlemen from Bethlehem, and as they repeated again that they would have the prisoners, I said I would have no more to do with them. They then went into Bethlehem, but I did not go with them, but in about two hours I went in to see what they were about: I staid this side of the bridge 'till then. When I got to Bethlehem I was informed that they had got the prisoners out. I remained there about half an hour and then rode home, so that I know not what happened.

Did you hear that the marshal had taken two men prisoners, at what time and where?

I heard that two men were disarmed: I heard it on this side the bridge.

Did you hear it while the rifle company, and the others were there together?

It was a person who came from Bethlehem that told of it, but I cannot tell who.

Was it before the deputation arrived?

I cannot tell, but I did not hear it before.

Had the Bucks county people come up before you left that place where you staid on this side of the bridge?

Yes, I saw them ride up at about two o'clock.

COURT: Was Jarrett's and Staeler's companies gone over the bridge when the Bucks county people went over?

The light horse were, but I am not sure of Staeler's.

Did you enter into conversation with the Bucks county people?

No, not any.

The evidence here was closed so far as related to the affair at Bethlehem: Mr. attorney then introduced the following, preceding and succeeding events to show the state of the country, and the prisoner's intention.

JOHN DILLINGER, sworn.

Testimony translated.

ATTORNEY. Where is your home?

WITNESS. In upper Milford, Northampton county, about six miles from Millars town.

Do you know of any rumour or report in your neighbourhood that the marshal was coming up to arrest some persons, before he came?

It was talked of, as suspected that some persons would be arrested.

COURT. On what account?

I can give no account of that. The report was that they would be arrested to be taken to Philadelphia.

Was it reported, or any proposition made among the people that if any body should be brought to Philadelphia, that it should not be suffered?

It was said, that if any person was to be arrested innocently, it would be very hard for such a man, and he ought not to be suffered to suffer. And further it was said that somebody had sworn against Shankwyler that he had two pistols and a sword on his table, and that he had sworn that if the assessors should come, he would shoot them. I and my neighbours

said that Shankwyler never owned a pair of pistols, nor did they believe any were ever there except a traveller brought them there. [He kept a tavern] I then heard that the marthal had arrested some persons at Millars town. The following day (6th of March) captain Staeler came to my house, and I asked him whether he had been in Millars town. He answered yes. I asked him whether it was true that Shankwyler had been arrested by the sheriff. (Because at that time the term *marshal* was not known to them.) Staeler answered, yes, and that he was to be the following day at Bethlehem, and asked me whether I would go to Bethlehem likewise, and told me that more people were going up to see, I said I should also like to go and see, provided the people would save themselves from getting into trouble. I then dressed myself to go away: Staeler asked me if I would not take my rifle with me.

COURT. Were you one of captain Staeler's rifle company?

WITNESS, No.

What company did you belong to?

To no one particularly; only the militia.—I then answered no, for what? He then informed me that there were a number of people to meet at Ritter's tavern, whence he heard they were to proceed to Bethlehem, and they would go there pretty early, to exercise a little, and that I should go in the ranks to make a show, because his company was not compleat.

COURT. Was it muster day?

No, but they had frequent meetings in order to exercise themselves. I then agreed that I would take my rifle so far as that. As I was dressing when he came, he asked me what I was dressing for: I told him that I was going to my mother in law, to fetch her some flax to spin; she lives in Bucks county, about a mile on this side of Conrad Marks's house. Whereupon, he (Staeler) desired me to tell young Marks that the light horse were going to Bethlehem, and that he should go likewise if he pleased. Before I came to Marks's, I saw a light horseman crossing the road into another road: when I came to Marks's I saw only his wife and children and a strange man there: I asked Marks's wife what light horse man that was; she answered it was her son; I asked where he was going: she said he was going over yonder where they were assessing houses, to go against the assessors. I then left the message Staeler directed me.

Did you go farther into Bucks than where your mother-in-law lives?

No. I entered into no other house than Marks's and my mother's.

What time of the day were you at Marks's?

About one o'clock.

Did you not mention to John Schymer, Esq. that the people would not stand by him, and that he would not be supported, when it was reported that a warrant was issued against him, but that if he remained firm, he would?

I do not recollect any such thing.

WILLIAM THOMAS, sworn.

ATTORNEY. Do you live in Bucks county?

WITNESS. Yes.

Did you go to Bethlehem on the seventh of March?

Yes.—On the fifth of March we heard that the assessors were going round to assess the houses in Bucks county: they had assessed a few of the houses about already: my brother was at Jacob Hoover's, and I was

where when he told me to tell two of our neighbours to let the assessors go round.

Were you not on the 6th of March desired to join the party going to Bethlehem?

On the 6th in the morning I was at Jacob Hoover's and he told me to go to Adam Broutler and Peter Coome to tell them to come to his house. On the road I met captain Kouder: he told me I must come along back again down to the mill, for his company was coming together there that day: when we came there, several were met, and they were beating the drum: part of them were armed. There were about 15 there in the whole. We then went to Jacob Fries's tavern; then the people said they went to see the assessors, but I don't know what for.

COURT. Where there any more at Fries's than those who came from the mill?

WITNESS. Yes there were a great many more, I think about thirty. John Fries and Kouder then sent some (two) horsemen named John Gettman and Conrad Marks, the former had a gun, to see if they could find the assessors.

ATTORNEY. What were they to do?

WITNESS. Why, their directions was, that if they could find them they should bring them to Quaker town, or to Jacob Fries's tavern. After the horsemen were gone, then the order was for the company to go to Quaker town.

Were the party pretty generally armed?

A great many were not, and many who were not had clubs. I cannot tell how many were armed, but the greatest part had either arms or clubs.

Was there a drum and fife?

There was when we were at Quaker town.—We all stood in a rank, and fired off, and hallowed huzza. One party went to Enoch Roberts's tavern, and the other to David Zeller's, and soon after we were there, the assessors came along. They were esquire Foulke, John Rodrick, and Cephas Childs. I was at Zeller's when they came along, and they all began to run out of the tavern. When I came out they had Foulke by his horse's bridle, and him by one leg, and they told him to get off. It was captain Kouder that had hold of him; then John Fries came up and told him to get off. Jacob Hoover came up, I think before Fries, and told Kouder to go away and not abuse the man, and he took hold of the bridle and spoke to him. Fries told Foulke to get off, he wanted to speak to him. Then George Mumbower came up, and stood at the back of the others, giving one of them a knock with the butt of his gun, and told them to pull him off; Jacob and John Hoover told them they should not abuse the man, for he would get off without. With that the esquire rode up with them to the shed, and got off. They then went into the tavern together. Then John Fries told him that he had forewarned them yesterday not to assess the houses, and yet they had come to day again; he then told him that he should show his writings, what he had done in the township. Which he did, and John Fries read them, and gave them to him back again. I then went into another room, and when I came out again, Childs, the other assessor, was sitting on the table, with five or six about him. When I came up to him, I told him that they should not abuse him, for I used to know him: at this time they were abusing him?

ATTORNEY. How were they abusing him ?

By speaking to him ; I do not recollect what they said, but they told him he should not have gone about when they had forwarned him the day before, and they made him promise that he would not come again till farther orders—till they knew how the law was. They told him they thought they had as fit men in their township as what he was, and they wished to choole a man in the same township if they must have it done. As to Rodrick, I did not see him.

ATTORNEY. Did you hear any cry of " fire " after Rodrick ?

WITNESS. No.

Did you see any gun snapped after him ?

No.

Did you see any thing relating to a travelling man named captain Seaborn ?

Yes, he was there, he was drunk, and some of them asked him whether he was for liberty or government, he said government : Peter Gobble said if he said that again he should be whipped. They were all pretty well drunk, but I was not drunk.

Was Fries drunk ?

I do not recollect ever seeing him drunk : Kouder was, and so might Fries for what I know, but I had known him some time, and knew he was a sober man.

Did you hear any talk about tories there ?

Yes, they talked of tories and stampers : Foulke was one they called a tory, and so were several others.—A young fellow then went in to strike Seaborn, but I told him he should not strike a man that was drunk : I knew him when he lived at the river. He struck him once or twice, but I told him if he struck him again, I would strike him. Then we went down to Jacob Fries's, and there captain Kouder told me that I should be at Marks' the next day, to go along with them to Millar's town. It was now dark, and I had not seen John Fries come then. He told the same to the rest of the company. I then went home and went to bed. After I was home about a quarter of an hour, John Gettman and John Fries's son came to our house, but I was in bed. Gettman had a gun at my house, (he was a gunsmith.)

What age was young Fries ?

About fifteen or sixteen.—I went next morning to Marks' tavern in consequence of a message they had left for me that night before with my mother. By ten o'clock we were all there.

Was John Fries there ?

Yes.

He named 13 more who were there.

Young Marks went off soon after sun rise to Millar's town to tell them we were coming. John Fries's son went with us, but his father's horse got lame, and he was obliged to go back with it.

Were all these people armed ?

Yes, all but Marks and old Kline.—The prisoner had his sword with him.

COURT. Had any one the command of the men ?

WITNESS. Yes. John Fries had the command but he did not command till he got to Bethlehem, he gave no orders on the road.

ATTORNEY. What was the substance of the conversation before you went from the tavern ?

Why, that they were going to Millar's town : I did not know that they were going to Bethlehem.

Did you hear any conversation about the intention of the march ?

Yes. That we were going to Millar's town, for should there be prisoners there, Marks said that he wanted us to show ourselves.

What were you to show yourselves for ?

I do not know what for.

Were you to assist to bring the prisoners down to Philadelphia ?

I do not know.

What was the intention of the Northampton people ?

Why, they had a mind to take the prisoners again : I understood that the night before at Fries's and along the road before we got there. About three or four miles from old Marks', we met young Marks ; he said it was not worth while to go to Millar's town, that the prisoners were up at Bethlehem, and that they had all gone there.

Who had gone there ?

The Northampton people—the light horse. Some was then for going back again : some, as they had come so far, was for going up to Bethlehem, to see what was going on there, so we went on.

Who told you to go on ?

Old Marks and John Fries said that as they were come so far on the road, they would go up and see what was doing there. Then we went on about a mile, and stopped at Ritters where they fed their horses : there was a liberty pole there. Then we went on to Bethlehem. When we came to the bridge, there the people had stopped, there was some riflemen and some light horse. Some asked the reason why they stopped there : they said they could not get over, the bridge was shut : then John Fries rode up, and asked whether they required toll or not ; they said, yes. Then he told them to count his men, and told us to follow him.

Did he speak generally ?

Yes.—The words he used was, now boys, follow me. I do not know whether he counted all or only his own men.

Did you hear any thing at that time of those men whom you found there having sent three men to Bethlehem ?

I heard of their having taken two or three men under guard.

Who paid the toll ?

I do not know, we did not, we were all mixed together.

Did you not hear of three men being sent forward ?

No, I did not.—I heard of their having taken some prisoners.

Had you heard before you come to the bridge of these two prisoners ?

No.

Did the whole party follow Fries over the bridge, or only the Bucks county people ?

I believe only the Bucks county people, without it was some few.

What became of Staeler's Riflemen ?

Why they came pretty soon after over the bridge.

You were all on horseback ?

Yes.

Did not the others come over the bridge at the same time it was opened for you ?

I did not look back ; all that I can say, when we got up to the tavern, they were pretty close after us.

What distance is it from Marks' to Bethlehem ?

About twenty miles.

When we got over the bridge, there were two men met us, and said we should not hurt them : Fries told them that he should hurt nobody without they hurt him first. Then Judge Mohollan came and spoke with him afterwards, but I do not know what either he, or Fries said. When we got up to the tavern at Bethlehem, the whole of Staeler's rifle-company were there. They marched round the house twice ; we did not stand in ranks, we were separate. They wanted one to go up and talk with the marshal, and they from Bucks and Northampton said John Fries was more fit to go up than e'er a man that was there. Then John Fries and one Hoover went up stairs. After a while Hoover came down, Fries staid up when he came down, he kept dashing and swearing, and said force should do : give him nine or ten of the best riflemen in the company, and he would storm the house ; a great many of them told him he should not do it, he said he would, Jacob Hoover, George Mitchel and Mr. Mohollan endeavoured to keep him off.

Did this Hoover belong to Staeler's company ?

I think he did.—Then Fries, when he came down stairs, he fetched some writing down with him, that he got from the marshal, which he read to the company. He said the marshal dared not give up the prisoners, and therefore that they would take them by force of arms. At this time the Bucks county people were separate from the others.

COURT. Who did Fries speak to ?

WITNESS. He spoke to the whole of them.—Then he asked, what shall we do now—take them by force of arms or how ? Several of them said, since they come so far now they would have them. Frederick Henry said since they were come so far, it was a damned shame not to have them. Then Fries went up stairs again, and said he would go and talk to them once more. When he came down again, he said that the marshal dared not give them up, without they took them by force of arms. They then told him that he should go and do something pretty soon, for it was getting late. Some of them said it was better to let Fries have the whole command of all the men. Then it was concluded to go into the house, and he spoke five or six times.

Was it agreed that Fries should have the whole under his command ?

I do not know. I only heard what that one man said, and he thought him the fittest person.

Did Fries hear this ? where was he ?

He was in the yard before the door, and near enough to hear it.

You did not hear him object to taking the command ?

I do not know whether he heard what that man said.—Then Fries, when it was concluded to go into the house said, For God's sake don't fire boys, till I am fired upon first : he said this three or four times over. Then we moved on to go in, he was before us.

COURT. How many followed him ?

I do not know, but a good many at last. I could not see who they were, the house was so full. Then Fries went up and talked to the marshal about half way up stairs. Henry told me that Fries was telling the marshal that if he did not give up the prisoners, they would fire on them, so that they should not see each other for smoke. After that, the door was opened, and I saw some of them come down.—Some came down while Fries was talking to the marshal.

Then they were not all down ?

There was some not down ; they called for them, and they came down.—Fries said he was glad Hoover did not go in along with him, because he was too much of a fool ; he thought this would not have done so well as it did : he did not want him there.

Did you retire from Bethlehem altogether when you had got the prisoners ?

Yes.

Did Jarret's troop go with you ?

I saw some light horse before us.

Did you see Fries go to the minister after he was released ?

Yes, he went to him in another room : he pulled off his hat to the minister, and told him he must thank him that he had got out, he said he was out, but *he could thank him for all.*

The marshal was again called to reconcile some seeming difference in the relation of the last conversation Fries held with the marshal, and of the prisoners coming down at twice.

The marshal said that the last conversation he held with the prisoners was at the foot of the stairs.—Mr. Fries declared that he would force his way up stairs, if I would not give them up ; I told him that this would be punished with the utmost severity, but that if he was determined to rescue the prisoners, he should not go up stairs, but that I would go up, and order them down. Finding myself not in a situation to resist his force, I went up and ordered them down.

Cross examination. Had any prisoners left the room before you went up stairs ?

No.

ATTORNEY. Had you any conversation with him afterwards ?

Yes, he returned and said that we had not given up Ireman, that I must deliver him up with the rest : I told him they were all gone : he then went out and returning again said he was there ; and went off. At that time all the prisoners went out.

Cross examination. Have you any recollection of what Thomas swears that Henry told him, respecting firing so that you should not see each other for smoke ?

No. I cannot be particular in that ; I cannot recollect it so as to give evidence upon it. There were many very serious threats, else I should not have given up the prisoners.

Cross examination. At any time when you were in conversation with Fries, did any of the prisoners come down stairs ?

No, not the Lehi prisoners : there might be others that would not submit, but none from the room in actual custody, not to my knowledge : if they did, it must have been while I was speaking to them in the crowd, it was possible for them to do it at that time.

Were they not guarded?

They were in the room, and that guard remained there till I went up ; it was placed there to prevent any person going up or down.

Cross examination. After this conversation with Fries, you went up stairs to order the prisoners down. Were they all there in the room at that time ?

I believe so, but I did not count them.

Well, upon your order did they come down ; and did you come down with them.

Yes, I came down with them.

ATTORNEY. When the prisoners came down stairs and you with them, do you recollect having a short conversation with Fries at the side of the stairs ?

Yes, but there was but a very short one.

Cross examination. Did you lead, or follow the prisoners in coming down stairs ?

I am not certain, but I believe I followed them.

GEORGE MITCHEL sworn.

ATTORNEY. Where do you live ?

I keep tavern in lower Milford township, Bucks county.

Inform the court whether there was any opposition to the house tax law in your township.

There was great disturbance and discontents respecting this house law ; it happened that there was a meeting advertised for the 8th of February, at the house of John Kline, to consult about the house tax law.

Were any names signed to the advertisement.

None that I recollect.—A number of the inhabitants met, it was pretty late in the day : they all seemed discontented, but they were in doubt whether it had passed into a law or not. There was something in the news paper of an amendment, which made them doubt whether it was in force. They formed an instrument of writing, but I cannot recollect the particulars of it. It was drawn up by John Fries ; I assisted him. We passed home after that. I had no particular conversation with any body after the paper was signed : it was signed by about 50 or 52 of the inhabitants.

Do you recollect whether captain Kuyder was directed to give any notice by that meeting ?

I do recollect something ; I think it was that captain Kuyder should give notice to the assessors not to come forward till they had informed themselves farther, whether it was a law or not.

Cross examination. Who put up the notice of this meeting ?

WITNESS. I am not sure : perhaps it was myself. John Hoover, and several, had talked about it, and we thought we would call a meeting.

Was Fries present when you agreed to call this meeting ?

No.—This was on Friday : on the Monday following James Chapman came to my house, and told me I should tell Jacob Hoover that he should give notice over the creek (I live nearly at the end of the township) that if they would choose an assessor of their own, they should be welcome ; and any man that was capable of the business would be admitted into the office. There was one Valentine Hoover came to my house that same day, he lives over the other side, and I told him what Mr. Chapman had

told me, likewise, I informed Jacob Hoover that day myself. Who opposed it I don't know, but it was reported that it was not adopted. Squire Foulke sent me word to advertise a meeting. Israel Roberts and Samuel Clark called on me and told me. They informed me that Mr. Foulke was of opinion that the people were ignorant of the law, and he would read it for them, and explain it to them: this was the purpose of the meeting. So we advertised the meeting to be held at my house.

What time was this?

Sometime in February toward the latter end. It was on a Saturday, and there were a great many of the inhabitants at the meeting, squire Foulke and Mr. Chapman attended it. The people behaved very disorderly; but I cannot recollect any of the conversation that passed. Jacob Kline came in and asked me what the meeting was intended for. I told him that I understood by squire Foulke, that the Germans were very ignorant of the law, and that he called them together, to read, and explain it to them; I desired him to try to pacify the people, and I believe he did his endeavour, but it proved in vain: at least they did not read the law. I did not understand that any body offered to read it, he thought it was in vain, there was such a clamour.

Did they say any thing to you?

After Mr. Chapman was gone, Marks asked me how I came to meddle with the advertisement.

Was John Fries at the meeting?

No.—I don't recollect any thing afterwards till the assessors came, which was the 5th of March. They took the rates of my house and my neighbours.

Who were the assessors?

Mr. Childs, Mr. Foulke, and Mr. Rodrick.—I went from home the rest of the day, and the next morning when I returned (sixth of March) I heard there had been an uproar about driving away the assessors. It was talked of that they were going to Millars town the next day. Hearing of such an uproar, I thought I had business at Millars town. so I concluded to go and hear what was going on: they talked they were going to meet the Northampions who were going for the relief of the Prisoners.

Did you know the names of any of the prisoners?

No.—So we came at Marks's; (7th of March) when we came there, there was a talk at Marks's house about going to the tavern above Emaus: Marks said his son would bring word. We went on then till we met young Marks, and he beckoned that we should halt, or go back, so we did; he said he had been up at Ritter's tavern, and they had started before he came there.

Who went with you?

He mentioned eighteen names.

Who were the commanders?

I do not know of any in particular who took the command.—Some wished to go to see Bethlehem, some to see the bridge, so they concluded to go on.

COURT. Did you hear John Fries say any thing about going on?

I cannot say who were for going on, and who were not. We were overtaken by several people going to Bethlehem on the road.

COURT. Were they armed or not?

None that I can recollect.—When we got to the bridge at Bethlehem, there were a great many armed men, and light horse, and two rode over the bridge towards us, from the other side. I did not hear the conversation that passed at the bridge; but after a while we went over to Bethlehem.

After you got to Bethlehem, what did you observe, respecting Fries?

There was a great many of the company that was formed before the house, who seem to speak out that they would have the prisoners. Fries went in, I saw him start to go in, but I did not hear who ordered him, or who desired him. A short time after, in the course of five or ten minutes, Henry Hoover came out to us, and said he was sergeant of their company, and he was chosen to demand the prisoners. He said he went up stairs, and somebody gave him a push, and had like to have tumbled him down stairs, and he came out in a great passion. He went on in a great rage, and I caught hold of him: he said if they would only give him ten men, he would storm the house. A short time after that, I observed Fries come out, and he said “silence” to the people there. He seemed to be as much among Staeler’s company as among ours. He then afterwards said, “Gentlemen, an officer of the United States says he cannot deliver up the prisoners, unless they are rescued by force of arms: so, he said, if you are willing, we will, I will go foremast, but if we do, I beg of you, none of you fire till they fire on us first, till I give the word, and if I drop, then you must take your own command.” He repeated these words, at least, once more. I heard nothing afterwards of the proceedings in, nor out of the house, that I recollect.

Was there some time after this, a meeting held at Marks’s?

Yes.

After the proclamation?

A meeting was held on the 18th of March.

What was the object of the meeting?

To choose a committee of the three counties of Northampton, Bucks and Montgomery.

Why these three counties?

Because there were none else in the proclamation.

What was the meeting held for?

To consult what was best to be done, and it was determined to leave it to the committee.

Was John Fries there?

Yes.

Did you put any question to him relative to the affair at Bethlehem?

No. After the meeting I had some conversation with him: while the committee was sitting I said to him: John Fries, you never intended to resist the law, did you? He made me answer, yes, I did.

What laws were you talking about?

We did not in particular mention any laws.

Was there a meeting after this at your house, and what time was that?

It was on Easter Monday, March 25.

What was the object of that meeting?

That was to appoint an assessor. The one that was appointed was to do the business, if he pleased, if not, the person they chose was to do it, or both together.

Was John Fries at that meeting?

At the beginning of it he was, but I do not recollect that he was at the time they gave in their votes.

Did he unite in the choice of the assessor?

Several did not wait because there was no opposition, and they thought there was no occasion.

Did he, or did he not express himself as much against the law as ever?

He said it would not suit him to vote now, as he had been against the law throughout.

Did not many of those who had been opposed to the law before, vote for the assessor now?

Yes.

Cross examination. At the meeting at Marks's, was it not generally agreed that there should be a submission to the laws?

Yes.—After the business was over, they made mention of it, but I do not know that they made any report of it.

Did not Fries, with all the rest, agree to the submission?

I cannot say.

COURT. Was there any agreement to do it?

Why, I believe the people never knew to the contrary but there would be a return made.

Cross examination. Was it not recommended to submit?

Yes.

And was it not agreeable to the meeting?

Yes, I believe it was; I heard no opposition to it?

ATTORNEY. Was not the return made in writing?

Yes.

Did not 'squire Richards propose that there should be a submission signed there?

No, I do not recollect any such thing.

Cross examination. Was it a general design of the meeting to conform and submit to the laws?

On the 15th of March we received the proclamation, and that evening I took it down to Frederick Henny's; William Thomas went with me: I read the proclamation to Frederick Henny, and he was agreed to submit; he made no opposition.

Cross examination. When Fries said it would not suit him to vote for the assessor, did he say he continued in opposition to the law at that time?

I don't know that he did, but he seemed rather opposed, at that time, to the laws or the appointment of an assessor.

Cross examination. Was this proclamation communicated to the meeting on the 18th of March?

Yes it was; after I had read it to Henny, I told him to take it to others. I thought it was proper to get a petition sent to the President.

JAMES CHAPMAN.

ATTORNEY. You are a principal assessor under the act for laying a direct tax are you not?

Yes, for twelve townships, (which he named).

How did the assessments go forward under your care?

I believe in all but lower Milford the assessments were carried into effect without opposition, or in a majority of the townships, except some

little threatenings. The assessor of lower Milford was taken sick soon after he got his instructions, and so did not proceed. His name was Samuel Clark: I called upon him afterwards, to know whether he was able to proceed or not: he thought he should be able in a few days: I had occasion to go to Newtown, and was several days from home, but found there was nothing done respecting it; I found the people had had a meeting, and there appeared to be great opposition to the rates being taken. The day after I returned from Newtown, Clark called upon me, and told me he thought it was not safe to go about, from the disposition of the people at that time. I told him that I would meet him the next day at George Mitchel's tavern in Milford, and meet the people to know what their complaints were. I met Clark at a house just by, and he told me he would be in at Mitchel's in a few minutes. I examined Mitchel, to know what was their complaints: Mitchel signified that the people were dissatisfied that the assessor was appointed without their having a choice: for they wished to choose for themselves. I told Mitchel if they would choose a man of character, I would use my influence with the commissioner to have him appointed, and I desired him to give notice of it to Jacob Hoover. I wrote to the commissioner stating the situation we were in, and told him what I had done, but he seemed not to be willing to indulge them with it.

COURT. Who was the commissioner?

WITNESS. Seth Chapman was commissioner for that district.—I told him it would ease the minds of the people if it were done. At length he consented, but seemingly with reluctance. However they never chose one.

Was it made known to the people?

I do not recollect that it was.—I met him at a meeting of the assessors which was held at the house of John Rodruck. On my return home I was told, I think by 'squire Foulke, that the township was advertised to meet at Mitchel's. He said if I would attend there he would meet me. I got there between one and two clock. Just as I got to the house, before I went in, I saw ten or twelve people coming from towards Hoover's mill, about half of them were armed, and the others with sticks. I went into the house, and twenty or thirty were there. I sat talking with some of my acquaintance that were well disposed to the law. Conrad Marks talked a great deal in German, how oppressive it was, and much in opposition to it, seeming to be much enraged. His son, and those who came with him seemed to be very noisy and rude; they talked all in German, which as I did not know sufficiently, I paid but little attention to them. They were making a great noise; huzzaing for liberty, and democracy, damning the Tories, and the like. I let them go on, as I saw no disposition in the people to do any thing toward forwarding the business. Between four and five I got up to go out; as I passed through the croud towards the bar, they pushed one another against me.

Was there any offer made to explain the law to them?

No, none while I staid; they did not seem disposed to hear it.

Cross examination. You did not say a word to them about it?

No, I did not. They did not mention my name the whole time of my being there, but they abused Eyerly and Balliott, and said how they had cheated the public, and what villains they were. I understood it was respecting collecting the revenue, but I did not understand near

all they said. I recollect Conrad Marks said that Congress had no right to make such a law, and that he never would submit to have his house taxed.

Cross examination. Fries was not there, was he?

No.—They seemed to think that the collectors were all such fellows; the insinuation was that they cheated the public, and made them pay, but never paid into the treasury.—After getting through the crowd to the bar, I suppose I was fifteen minutes in conversation with Mitchel: he said perhaps they were wrong, but the people were very much exasperated. Nothing very material happened, and I asked Mr. Foulke if it was not time to be going. So I got into the sleigh and went off; soon after they set up a dreadful buzz and shout. I stopped at Jacob Fries's tavern, and waited for Mr. Foulke, who soon came: Clark, the assessor was likewise there. After talking a little more on the subject, Clark still persisted in not having any thing to do with it, for he thought it was not safe for him. We thought it was best to give the other assessors notice, as their assessments were nearly finished, to meet us at a certain day to take the rates in that township. I then wrote to the other assessors, requesting them to meet at Quaker town, on the 4th of March. Rodrick, Childs and Foulke met me there: we waited till evening, but no others came; so we agreed to meet at my house next morning at 9 o'clock. We met, and I went with them to Milford, to Samuel Clark's, but he was not at home. It was thought best for me to go to see for Clark, as he was engaged in a moving. I went to Jacob Fries's tavern to wait for him; they went to Mitchel's to take the rates. Clark soon came: he told me he could not undertake to take the rates, for that he might as well pay his fine if it cost him all he had, for they were so opposed to it at any rate, that he could not think himself safe, for at least he should receive some private injury. Finding he would not do it I said no more. John Fries was coming up just then: he told me he was very glad to see me: he told me that he understood I had been insulted in their township at one of their meetings: he was very sorry for it: he mentioned 'Squire Foulke as well as myself: had he been there, he said, it should not have been done: I turned it off by this: that there was not a person among them that spoke a word to me. I told him I thought they were very wrong in opposing the law as they did: he signified that he thought they were not, and that the rates should not be taken by the assessors. I told him that the rates certainly would be taken, and that the assessors were then in the township taking the rates. I repeated it to him, and he answered "my God!" if I was only to send that man (pointing to one standing by) to my house to let them know they were taking the rates, there would be 500 or 700 men under arms here to-morrow morning by sun rise. He told me he would not submit to the law. I told him I thought the people had more sense than to rise in arms to oppose the law in that manner: if they did, government must certainly take notice of it, and send an armed force to enforce the laws. His answer was that "if they do, we will soon try who is strongest." I told him they certainly would find themselves mistaken respecting their force, he signified he thought not: he mentioned to me the troop of horse in Montgomery county, and the people at upper and lower Milford, and something about infantry, who were ready to join. He said he was very sorry for the occasion, for if they were to rise, God

knew where it would end: the consequences would be dreadful; I told him they would be obliged to comply: he then said huzza, it *shall* be as it is in France, or *will* be as it is in France, or something to that effect. He then left me and went off.

Cross examination. Did Fries appear to be intoxicated?

No, not that I know. I scarce ever saw him intoxicated.—A short time after he was gone, on the same day, the assessors came to Jacob Fries's tavern. We then ordered our dinners there, and I believe it was Childs undertook to take the rates of Jacob Fries's house. We had not gone out of the room after dinner, till John Fries came in, he addressed himself to 'Squire Foulke, telling him he was very sorry to see him there; he was a man that he had a great regard for, but that he was opposed to the law himself. "I now warn you, said he" not to go to another house to take the rates, if you do, you will be hurt." He did not wait for any reply, but turned himself about, and went off out of the room. I do not recollect any thing farther was said to him. He seemed much irritated. The assessors concluded to proceed upon their business.

Rodruck and Foulke agreed to go together, and Childs went by himself: this was an agreement between themselves.

Cross examination. Had Mr. Clark's appointment been vacated?

There had been no meeting of the assessors since Mr. Clark had refused, complaining that he found it inconvenient to proceed with the assessment.

Was this new arrangement communicated to the board of assessors at all.

No.

The council for the prisoners doubted the legality of the appointment of Mr. Foulke, since the law had provided that an assessor must be appointed by the board of commissioners, and not otherwise.

Mr. Chapman said it was established at the meeting at Rodricks, which was called in order to see what business had been done, and then an arrangement was made that in case of the inability or unwillingness of Clark to do the business in lower Milford, it should be done by the whole, and therefore it was done, without the place of Clarke being vacated.

Cross examination. Were there any minutes of the assessors kept?

There was no more than a memorandum.

ATTORNEY. When you had this conversation with John Fries, was it in any respect founded on the alteration of the assessors, or was it a general declamation against the law?

He did not mention any thing of that at all.

Saturday May 4th.

Mr. Dallas gave notice that he should expect the gentlemen engaged in the prosecution to produce the records of the assessors.

JOHN RODRICK sworn.

ATTORNEY. Were you one of the assessors under the direct tax law, appointed for lower Milford?

Yes.

Have you your warrant?

—Produced it. Dated November 5, 1798.

I suppose you took the oaths the law directed?

Yes.

Did you act as assessor in any other part of your district previous to going to lower Milford?

Yes.—There were twelve townships in our district, and there were six assessors to serve them.—He named them.—We were all six sworn at a meeting held at my house, by the commissioner, Seth Chapman: 'squire Foulke got his warrant afterwards; he was appointed, I think, in addition to Samuel Clark.—We met the commissioner on the 16th of February, when it appeared all the other townships were nearly done, except lower Milford; at that meeting all attended but Clark.—The principal assessor, James Chapman was likewise there. We were informed that lower Milford was not done, for Clark was afraid to go about. The commissioner told the principal assessor that he must inform the other assessors, that if any thing could be done in it, we must try to do it. We all agreed that we would.

Was Mr. Foulk appointed before this meeting?

Yes, and he was present at it.—Not long after this, we got orders from the principal assessor to meet him at Quaker town on the 4th of March, and to go the next day to get the rates at Milford. There were only three of us attended. We agreed to meet at the principal assessor's house the next morning, which we did, and thence we went to Clark's to have him to go with us: he was not at home, however we proceeded on, taking the rates, Mr. Childs, Mr. Foulke and myself. We had taken between 50 and 60 assessments when we came to the house of Jacob Fries.

Were the people at home when you took the rates?

All were at home, I think, except one, and there we left a notice. When we came to Jacob Fries's we met the principal assessor. After dinner, while we were sitting at the fire, John Fries came into the room: we had a room by ourselves. He said he heard we were come to take the rates of the township; we told him yes. He said he would warn us not to proceed, else we should be hurt. He said he was sorry for 'squire Foulke, and I believe Mr. Chapman he mentioned, for he always respected them very much. He said he was opposed to the law, and he would not submit to it. He then left the room. He seemed to be a little in a passion. We got on our horses, and proceeded at taking the rates: I and Foulke went together, and Childs by himself to some who we thought were quiet people. We proceeded on till about sunset, when we were going to the house of one Singmaster, and as we turned down a lane, out from the road, we heard somebody hallow to us: we stopped, and saw it was John Fries and five men more. We stopped, and they came walking towards us. John Fries was in the front. Fries said that he had warned us not to proceed, and we would not hear, and now they were come to take us prisoners. I believe I asked by what authority: with that he made a grapple at the bridle of my horse; I wheeled my creature round, and he just caught hold of my great coat, but he could not hold. I rode off then: after I had got about two rod, I turned my creature round again; and he was a little way from the rest. I told him I was surpris'd at his conduct, that he had behaved so. He began to damn and curse, and walked back towards the other men: he mentioned that if he had a horse, he would soon catch me.

ATTORNEY. Was he near his own house then?

WITNESS. He was about two or three miles from it.

I rode up nearer to those other men: they had stopped esquire Foulke: as Fries returned back to his men, he said, men, let Foulke go as we cannot get Rodrick; to morrow morning we will have him. I will have

700 men together to-morrow, and I will come to your house, and will let you know that we are opposed to the law. We then went and took the assessment of Singmaster's house. We had agreed before we left Jacob Fries's, that we would meet the principal assessor the next morning, to see what course we should take.

Cross examination. Was Singmaster at home?

Yes.—So we met: we said then that it was not worth while to attempt any thing more, we could not proceed on. James Chapman then wrote a letter to the commissioner to state matters. We then agreed to quit taking the rate at lower Milford at that time, as we thought we should not be able to do any thing. When we were going home through Quaker town (on the 6th of March) Cephas Childs rode before us. I and 'squire Foulke rode together. When we came to Quaker town, Childs turned into 'squire Griffith's: we found a great many people armed with guns, and with uniforms, so I said to Foulke, here is Fries, and his company. I said, we wont stop if we can help it: I rode through them, but when I had got half through them, they hallowed to me to stop; a great many hallowed, and came running on both sides the road, some with their clubs and muskets to strike me.

COURT. Did they strike you?

WITNESS. No, they did not, I rode quickly through them.

COURT. Did they strike at you?

I saw them running to come to strike.—I had passed Roberts's tavern, and when I come to Zeller's tavern, there was John Fries at the porch; he hallowed to me to stop, for I was going to pass by, and not to stop and give myself up: there was another man with me. They followed me to stop me: I stopped and wheeled my creature round, and asked Fries what he wanted. They damned me, and told me I should deliver myself up; I told him as long as he used such language, I would not. There was order then given to fire at me.

COURT. Who gave the order?

That I cannot tell, but there was two men standing close together at Zeller's door, they pointed their guns: as I saw that, I rode off.

Cross examination. Then, as you were so near, you can tell whether it was Fries or not who ordered them to fire.

I did not hear him.

How far were you from the porch?

Five or six rods.

Were Fries and you face to face?

The other company were still coming up at this time: they hallowed them to stop me. The last I heard was, they hallowed out to get horses to pursue me, but they did not pursue me.

Cross examination. Had Fries, or the other people the gun at this time that the order was given to fire?

I cannot say that Fries had any thing in his hand at that time, but the others had clubs.

COURT. How far was Fries from you at that time?

I do not know: perhaps five or six rods. There was an old man standing with him.

ATTORNEY. Have you seen that old man since?

Why, I thought I saw him, or some one like him the other day in the city. I believe I have seen him in the court since the court began.

Before you met with Fries, did you meet with any opposition that day in taking the rates for lower Milford?

Why they talked of giving us some, but still they gave it in: Nobody prevented us.

Cross examination. Who made out the lists for the rates taken by you?

Squire Foulke:—there were a great many Germans, so I enquired, and Foulke put it down.

When did you first know that the rates were not taken in lower Milford?

On the 16th of February.

Did you know of their being an intention of appointing Mr. Foulke before he was appointed?

I do not know.

Was Foulke appointed on account of Clark's absence, or merely to go into that township?

I understood he was appointed to assist Mr. Clarke: he was appointed by the commissioner.

CEPHAS CHILD, qualified.

Were you one one of the assessors under the act for the valuation of houses?

Yes.

In what county?

In Bucks.—He here shewed his warrant, and proved his qualification, dated November 5, 1798.

At the meeting at Rodrick's when we were qualified, we had our instructions given us by the commissioner: he informed us that there were six assessors to twelve townships, which we were all equally concerned in assessing, and it would be proper for us to point out which townships we would severally take. I think this meeting was about the latter end of December. I made some objections, because I could not talk the German language: they said that could make no difference, because we were at liberty to call the others to assist us. To that I assented, and we all agreed as to our districts: Milford and Richland were assigned to Clark. I took Hill-town and New-Britain. I agreed reciprocally with Clark to assist him, and he me, as he could talk German, and in Hill-town there were many Germans. This was agreed in the presence of the whole, and likewise Rodrick I made the same agreement with. I believe that this kind of arrangement was generally made by the whole, to assist each other. Accordingly Clark and myself fixed upon a day when I should come and assist him for two days, and another time was appointed for him to assist me. I had made some beginning in my own district before that day came. Before we separated, the assessor pitched upon an early day to make our returns of what we had done, in order to examine whether we had proceeded right or not. I went up to Clark's agreeable to appointment, and found he was not able to go on: I therefore attended to my own district.

ATTORNEY. Why was he not able to go on?

He was sick and unable.—We met to make our returns at Rodrick's: Everhard Foulke, I think, met with us, I know nothing of his appointment. This was on the 5th day of the Bucks court (6th of February.) Not having gone through our business, we were to meet on the 16th

again. Foulke, I understood at the former meeting, had been appointed. When we met, enquiry being made what we had done: Foulke told James Chapman that he dared not go into the township, for he understood that some threats were thrown out against him, and he rather wished that the people would appoint some other person, themselves, to do it. The commissioner did not seem to agree with it, but at last consented that if such could be done, he should not materially object: finally, he consented so far as to intimate to James Chapman, that if they should make such an offer, and appoint one, he would recommend him, if not, he said we must go and assist in that township. There were some proposals made who of us should go, excuses were made, and then the commissioner informed us that we were all enjoined as much to assess that township as our own. Upon which he told the principal assessor that if it did not go on, he was to write to us, and we were to attend to the call. I received a letter about the first of March, or the last of February from the principal assessor, that he had been to Milford, and it did not seem likely the assessments could go on, and I was ordered to meet the rest in Quaker town on the 4th of March. Accordingly, Foulke the principal assessor and myself met there. We had word from two others that they were not able to come. We concluded to call upon Clark to go with us, and divide the township so as to complete it in a short time. The next morning we met to begin the business, we went to Clark's but he was not at home. It was agreed then that we should go on with the rates, and James Chapman was to go to Jacob Fries's to wait for Clark. The first house we went into was Daniel Wiedner's, I went in first, and told him I was come to take down the rates, under the revenue act of the United States: he appeared to be very angry; I reasoned with him, telling him, if he wished to read the law he might: I told him the consequences of opposition, but he might have ten days to consider of it, and give in his account if he chose to take that time. He seeing me thus said, "take it now since it must be done," he gave me his account accordingly, and appeared contented. He said farther, "we have concluded not to take it, as we expect the act will be repealed." He meant they had concluded not to take till they knew what Congress would do with the law. I made reply to him that I believed that was already done, for I had seen a report of a committee of Congress, that it was inexpedient to repeal it, and it was not done.

COURT. Did he offer to read the law?

No. He made some remarks, but I told him it was very wrong. I cannot tell what he said in particular. One thing I think was, that the assessors were to have very extravagant wages. "It does not matter," he said, "you may as well give in my return." I did not get on my horse till I got up to Mitchell's where the other two assessors were. Wiedner went out a little before me, and he was there when I came, walking about, seemingly very angry; I again reasoned with him. Another objection he made was, that the houses of high value was to pay nothing, while smaller ones, and of small value was to pay high. I forgot to say that after the rates of Wiedner's land was taken he returned and said he had forgot, there was another piece of land: he then sat down with an heavy sigh and said. "They will play the devil with me; what shall we do." I asked him what he meant, he made no answer. I told him I hoped every one would be as well convinced as he was. I took several houses

in my way, and went to Jacob Fries's. As I was going in at the door, I met John Fries, who shook hand with me, told me he was glad to see me, and asked me to take a drink. He came in again after we had done dinner and said "I forbid you going to any other houses in the township; he then mentioned that Foulke and Chapman, or Rodrick were men he much esteemed. He said if we did go to any other houses, we should be, or would be, hurt. We then proceeded to assess. Where English people lived there appeared no objection, except at one place. The people there said, that if they did give in the account, there were some ordinary people in the neighbourhood, and they would be set on by them to do them an injury. That afternoon I went to David Roberts's: his wife seemed very anxious, and wished her husband had been there, for she said I should not go home alive. I went afterwards when he was at home, and he said he had no objection, only for his neighbours. After some conversation he said the people there had agreed not to let the rates be taken yet: he said they had already chosen an assessor in their own township: I told him I wondered they did not let him go on: he signified that he was a person of an obnoxious character, and therefore they did not wish to accept of him. In our return home, I called at 'Squire Griffith's: as I got off my horse, his wife told me that they were come there to take us, and that there were 40 or 50 men there, and she did not know what they were about. A little girl just after came in and said that they had hold of 'Squire Foulke's horse by the bridle, going to take him: I went to the window, and saw them all round him. I did purpose to go out, but at their persuasion I staid. The little girl came in again, and said they had taken Mr. Foulke into Enoch Roberts's tavern. After a short time Fries came over into the house where I was sitting: he took me by the hand, and I rose up; he said, Mr. Childs, you must go with me to my men, as we walked along he said "I told you yesterday that you should not go to another house, and if you did you would be hurt, and we are now come to take you prisoner, if we find that you will go on with the assessments." My answer was, we are obliged to fulfil our office, and we cannot do otherwise, unless we are prevented. I was endeavouring to inform him of the manner in which I had obtained the warrant, in hopes that I should prevail upon him to go on with the business, as Roberts had proposed, but he would not hear me. When we went into the house, he addressed himself to his men and me: "here are my men"—"here is one of them."

COURT. By this it appeared that he had the direction. Did he seem angry?

He appeared to be angry, but he did not appear to show any revenge to me, or to talk angry.—I do not recollect that I knew any one in the house, except the tavern keeper. Some of them soon began to use rough language. A person then came behind me, and caught me by the collar over the shoulder, and said, "damn you Rodrick, we have got you now, damn you, you shall go to the liberty pole and dance round it;" the house was then crowded as full as it could crowd, and they pushed me up so close, that I could not turn round sometimes for a considerable time: the person who caught me, seemed to wish to keep behind me, but he still kept hold of me: during this time I had several thumps, which seemed more with the knee than the fist. After some time he got to see my face: he damned me that I was not Rodrick, but that I was the other damned

son of a bitch that he saw sitting at Rock hill, he had mistaken me. A short time after this, a person came up to me and said "keep a good heart, and you will not be hurt." I turned, or endeavoured to turn to them and said, "I am not Rodrick, nor did I ever assess in Rock hill:" he said "you are a damned liar." With that there were still more of them came up, and pressed about me more, and more took hold of me. There was a good deal of talk, some in German, and some in English. I then told them that my name was Cephas Childs; that I was not a man known in the county, but I had no doubt many of them, though they did not know my face, knew my name: by that there was some who knew me there as Coroner of the county; that man then said "if he is Childs, he is no better than the other." He asked me where I assessed: I told him: a number of them asked how they liked it where I had been. I told them some of them had appeared dissatisfied in the first instance, but as I believed, every man almost in the townships where I assessed were satisfied, they again said I was a damned liar, for the people had told them that they would join them in the suppression of it, and my own neighbours would fight against me. I told them I thought I knew better than they; that if I was well informed they would not do so. Then they began again at me. Then they asked me if I had taken the oath of allegiance to the United States of America: I told them I had: they asked me when: I told them I could not recollect the time, but I knew it was as soon as the law required it of me: they asked me if I was a friend to the government of the United States; I told them I was: they then began to damn the government, and the governor, and shoved me about, many of them taking their Maker's name in vain: there then was a person who spoke very good English: they damned the house tax and the stamp act, and called me a stamper repeatedly: they damned the alien law and sedition law, and finally all the laws: the government and all the laws the present Congress had made. They damned the Constitution also.

What Constitution?

They did not mention what Constitution, whether of this state or of the United States. They damned the Congress, and damned the president and all the friends to government, because they were all tories, for that none were friends to the present government except tories. They asked me if I had been out in the last war: first I told them the law did not require me to go, and then I said I was under the tuition of my parents: they said they had fought for liberty, and would fight for it again. They said they would not have the government, nor the President, and they would not live under such a damned government: "we will have Washington;" others said "No, we will have Jefferson, he is a better man than Adams: huzza for Jefferson."

Who said so?

All of them.—They then insisted on my taking an oath of allegiance to them, alledging that if I did so, I should not be hurt. They insisted on it several times, till at length I had no way to wave it, and then I asked them what their government was. One answered Washington: I said I had taken an oath of allegiance to Washington's government already. They then said Jefferson; we will have none of the damned stampers, nor the house tax. So they went on. They said they embo-

died themselves to oppose the government ; they meant to do it, and that was their design in coming there.

Who said so, and what were the precise words ?

I do not know who said it, but the words were these “ We are determined to oppose the laws, and we have met to do it ; the government is laying one thing after another, and if we do not oppose it, they will bring us into bondage and slavery, or make slaves of us : we will have liberty.” And then they mentioned the number of men that had joined them, or lent them word that they would join them. They mentioned, some an hundred, some more, some less, that they had there would do it, besides, they had all Northampton county to a man would join them, except some Tories as they called them. Between Quaker town and Delaware river, I recollect they said they could raise 10,000 men if they should be wanted to oppose the sedition and alien laws. I cannot be certain, but I think he said (as he spoke in German) and fifty other damned laws. However I am not certain as to the number. They likewise said that General Washington had sent them account that he had 20,000 men all ready to assist them in this undertaking to oppose the laws. I begged them not to believe it, for it could not be, and somebody was endeavouring greatly to impose upon them : I thought I knew the situation of things better, and as for General Washington, I was sure he never would undertake such conduct as that.

JURY. Did they speak in the German language at that time, or English ?

A great many of them spoke in German, but one or two of them spoke very good English, but they were altogether Germans. This passed while I was in custody.

Cross examination. What do you mean ?

WITNESS. Why Fries took me in there and left me in custody and went away.

COURT. Did he order them to keep you in custody ?

Not that I know of.—They said Gen. Washington had certainly wrote to them so and so. One of them said he would be damned if it was not so, for he had seen the letter from Washington ; or something to that effect. During this time they were constantly pushing me ; one would come to my back and get his knee up : they would endeavour to push me on the stove, one or two had hold of my hips and endeavoured to throw me down, others seemed ready to lick me, and particularly after this conversation about Washington. About that time Captain Fries came toward me and seemed very much surprised : He said, Mr. Child, I understand some of my men have abused and insulted you. He really did appear to be very serious ; he said he would not allow me to be abused ; he appeared to be really distressed for the usage I had received, and if I would tell him who it was, he said he would make him behave himself. He then told me to come into the room. He said he respected me, and did not wish me to be abused. I told him I thought it hard that he should leave me amongst a parcel of intoxicated people. I do not particularly recollect what I said, but he told me he hoped I would not impute that conduct to him : I told him I was not much injured, and therefore hoped he would not think about it. He said his men were civil men, and seemed to wonder such a thing had happened. I think he then gave me something to drink. He took me into a room, the farthest side of which

seemed to be empty. When I got in there, he demanded my papers while I had been an assessor. While he was with me no person insulted me, indeed some of them, when he came forward into the room where I was pushed off, out of the way. I then told him all that I had done, and reasoned with him, but notwithstanding that, he insisted on my papers; I then told him I had no papers about me relative to the assessment.

Cross examination. Who were in the room at the time the request was made for the papers?

I do not recollect any body particularly, but there were a great many crowded into the room after me.—He insisted that I had the papers, I told him I had not got the papers, he said I had, and he would have them. I told him I had no papers about me, but what related to my office of Coroner. I was going to deliver up to him my county tax papers, but he said I had other papers, I said I had not. He then looked on those I had given him, and saw Hilltown at the top, then he said Hoho! my boys, we have got what we wanted, and then turned about and went away. He left the pocket book, taking the papers with him. There was a considerable huza made, and they most of them followed him out of the room. They were gone but a few minutes till they rushed in again as hard as they could rush, without Fries, and some got hold of me. They brought Daniel Weidner along with them: some had pistols, guns, clubs, &c. and some swords. They seemed very angry, and were pushing upon me, while some endeavoured to put them off. Weidner came up to me, and insisted on the return of the rate I took of him yesterday, he said he would have it. I desired him just to acknowledge to the truth, Did not he give it me freely yesterday: this while a person had hold of me, some of them stepped up and said it was fair. I then asked him, did I not say I would not take the measure of your house by force, but you gave me the rates with a free will? Yes, he said, but I was not forced, and therefore I want it again. Some of them then went out, and directly others came in and shook me very hard: one came in and threatened me, and said I should be shot; some brought in their guns and shewed them to me, and told me if I should be seen in Milford township on the business, I should be shot. Weidner went off. This person with the sword threatened a good deal.

ATTORNEY. Who was he?

He was called Marks, the elder. I believe him to be the same man I have seen here.—While I was in this conversation, William Thomas came forward and said he knew me, and that they should not abuse me. That gave me an opportunity of talking farther, and then I reasoned with them of the bad tendency of such conduct, and told them that I really thought if I had the law with me, I should persuade them to allow of it. One of them who had abused me before, came to me and acknowledged he had abused me, and was sorry for it, and wished me to forgive him. I think his name was Smith, but I am not sure. After passing some time in conversation, Fries came back again with the transcript, and delivered it me, and told me as near as I can recollect in these words; I must go home, and must never come back again to assess, or I should be shot, and insisted on my promising I would not do it. My reply was, that from the pains I had taken, I had left the township with a view of not returning to it, unless compelled by authority, and from their present treatment, if they ever caught me going back without that authority, I would

give them leave to shoot me. He then told me, Foulke and you may inform the government what has been done as soon as you please, we can raise 1000 men in one day, and we will not submit to it.

Did they say they were opposed to all the laws?

They said there were a number of laws they were opposed to, and one of those laws was now putting in execution, and they appeared to think if that was stopped, the others would be. This was how I understood it. The words were that they were determined to oppose the laws, and not let them be put into execution; there were so many laws coming on, it was time to stop them, and if they were known to oppose them, they expected the others would not be brought forwards.

Cross examination. Was Fries present when these words were used?

No.

Monday, May 6.

JUDGE PETERS (one of the Bench) *sworn.*

ATTORNEY. Will your honour please to give the Jury an account of the circumstances of your issuing warrants in Northampton county, and of circumstances within your knowledge previous to the examination of John Fries on the 6th of April.

WITNESS. The first time I heard officially of this uneasiness in the counties of Bucks, Northampton and Montgomery, was sometime in February, I cannot precisely recollect what time. I had heard of it before as a piece of news, but this was the first time I heard it officially: it was by depositions being sent to me by the attorney of the district (Mr. Sitgreaves) relative to a number of persons. After that I examined some witnesses relative to it, and upon the whole I concluded to issue my warrants against the parties charged. Being much engaged in the district court, the attorney of the district drew up the form of the warrants for my signature and approbation. We had concluded, by way of ease to the people, that these warrants should be drawn up in a form of order for the defendant to appear before some justice of the peace, or judge of the county in order to give bail for their appearance at the circuit court of the United States. Neither of us then knew of those insurgents, as it turned out afterwards to have got to such a head. But I doubted myself of the propriety of the form and substance of the warrants, because I thought that the justice, or judge before whom bail was taken, ought to be acquainted with the whole case, and ought to have the proof of the fact before him, on which the proof of the warrant was found. I had some doubt too, whether it was legally right for persons taken by my warrants to go before an inferior magistrate. For though a justice of the peace of any state has a right by the laws of the United States to take cognizance in the first instance of crimes against the United States, and bind over the offenders to the proper court, yet I did not think that, as such justice had not had the original cognizance of the matter, there would be a propriety in my ordering him to take secondary notice of it. While I was hesitating on this point, I received information of the length to which, at that time, this opposition to the law had arrived. I doubted very much, and this thought was afterwards clearly confirmed to me, whether the magistrates of those counties, and particularly Northampton, would choose to take cognizance of such offences, or would choose to do any business concerning them. There were two of

the magistrates, one of them a justice of the peace, the other a state judge, who had done themselves much honour in persevering so far as they did, in endeavouring to bring those criminals to justice. But finally it turned out that they were obliged to abandon even every endeavour towards executing this business. So that the law, and the public authority, so far failed as it respected that county, that the judicial authority of the United States became entirely prostrate. I found that some of the very persons who were charged before me were magistrates, and I wish I could say that they were the only magistrates who were engaged in this business. These were the reasons that induced me to alter the form of my warrants. I found that too many magistrates were concerned in flattering the prejudices of the people, and engaging in seditious practices, and encouraging the people in their mistakes for me to trust them, and I finally found that there were but two magistrates that could be depended upon, and they told me that they were insulted in the performance of their duty for the United States: of this I had good evidence. And farther: it arrived to such a pitch that I could not get one of these gentlemen even to issue a subpoena to examine witnesses, and save them the great trouble and expence of coming before me. This was the opinion of those two gentlemen; one of them wrote me, and the other informed me, that they were afraid to perform such an act. They could not only not get persons to serve the process, but they could not get the witnesses to appear before them. This I do not bring as a charge against any particular person, but as a reason why the warrants were thus issued. Another reason was that those people had taken up the fallacious notion that they would not appear before me, and therefore I thought it best, though this should not have been my leading motive, to convince them that every person in this district ought to obey a warrant issued by me, and appear at such time and place as I directed; the whole district being to be considered the same as a county in respect to a state.

The witness then produced the warrants, dated February 20, 1799. One of which was read.

The marshal wrote to me official statements at sundry times of the difficulties he met with, and at one time informed me that the prisoners had been rescued, by force of arms from his possession. The account he gave me it is unnecessary to state, being much similar to what has been given in evidence: He took some engagement from those prisoners, particularly those of Lehi township, that they would appear before me, which, the prisoners themselves told me, was cheerfully given. I understood from them, and other channels, that they several times attempted to come down before me and deliver themselves up, but they were prevented by persons who interrupted them, and would not let them come.

ATTORNEY. Was John Fries brought before you after you got up there?

Yes: I had previously issued my warrant against him.

Was this the examination he signed in your presence? [Showing the witness Fries's confession] which was as follows:

The examination of John Fries—6th April 1799.

The exanimant confesses that he was on the party which rescued the prisoners from the marshal at Bethlehem: that he was also one of a party that took from the assessors at Quaker town, their papers, and forewarned

them against the execution of their duty in making the assessments. The papers were delivered with the consent of the assessors, but without force; perhaps under the awe and terror of the numbers who demanded them, and were by this examined and delivered to the assessors. He confesses that at the house of Jacob Fries, a paper was written on the evening preceding the rescue of the prisoners at Bethlehem, containing an association agreement of the subscribers to march for the purpose of making that rescue, but he is not certain whether he wrote that paper: He knows he did not sign it, but it was subscribed by many persons, and delivered to the examinant:—He does not know where that paper is.—The examinant confesses also, that some weeks ago, he wrote (before the assessors came into that township) an agreement which he, with others signed, purporting that, if an assessment must be made, they would not agree to have it done by a person who did not reside in the township, but that they would choose their own assessor within their township.—A meeting has been held in the township since the affair at Bethlehem, for the purpose of making such a choice: the examinant went to the place of election, but left it before the election opened.—The examinant further acknowledges that his motive in going to Bethlehem to rescue the prisoners was not from personal attachment, or regard to any of the persons who had been arrested, but proceeded from a general aversion to the law, and an intention to impede and prevent its execution. He thought that the acts for the assessment and collection of a direct tax did not impose the quota equally upon the citizens, and therefore was wrong. He cannot say who originally projected the rescue of the prisoners, or assembled the people for the purpose.—The township seemed to be all of one mind; a man unknown to the examinant came to Quaker town, and said the people should meet at Conrad Marks's to go to Millar's town. The examinant says that on the march of the people to Bethlehem, he was asked to take the lead, and did ride on before the people until they arrived at Bethlehem.—The examinant had no arms, and took no command, except that he desired the people not to fire until he should give them orders, for he was afraid, as they were so much enraged, that there would be blood shed.—He begged them for God's sake not to fire, unless they had orders from him, or unless he should be shot down, and then they might take their own command.—That he returned the papers of the assessors which had been delivered into his hands, back to the assessors privately, at which the people were much enraged, and suspected him (Fries) of having turned from them, and threatened to shoot him, between the house of Jacob Fries and Quaker town.

JOHN FRIES.

Taken 6th April, 1799,
before RICHARD PETERS.

WITNESS. It is my constant practice to tell a prisoner that he is not bound to be evidence against himself: I did not make any promise or threats to extort it from him, but he chose to make a voluntary confession, which if they do not choose to do, I commit them without it. I am particularly delicate on this subject of confession, and I do not like to encourage it.

JUDGE IREDELL. The gentlemen of the jury will observe that the law requires a judge to examine a prisoner, and it is left quite at the option of the man to confess or not.

The council for the prisoner hoped, as it was a case of treason, upon which the law and constitution was extremely cautious how evidence was admitted, the jury would consider that proof of the overt act must be given by two witnesses independent of any confession the prisoner might make.

WITNESS. The prisoner appeared to me to be not at all disinclined : his manner was that of a man not having done any thing wrong, but perfectly collected, and possessed of his faculties. It was read to him afterwards, to which he accorded, and, thinking a part not fully enough explained, added the latter part.—I have now brought it to my recollection that there were three magistrates in that county, instead of two, to whom we were peculiarly indebted for assistance.

Cross examination. Were any others applied to besides those three ?

Some were, but we found much disinclination to do the business, and therefore thought it quite unnecessary to apply farther.

JUDGE HENRY, again called.

He was asked his situation, and the particulars of the opposition being such as either to disable, or affright the magistrate from their duty.

He deposed that he was an associate judge of the common pleas for the state. He issued a number of subpoenas about the 15th of January to make some enquiries respecting the opposition to the tax law : these were issued at the instance of Mr. Eyerly, one of the commissioners, as he and others could not proceed in the execution of their duty and particularly in Lehi township. The witnesses generally appeared much afraid at opening themselves : and he could say that among the people, there were many much opposed to the law. I agreed to meet a number of persons at Trexler's, commonly known as Trexler's town : there captain Jarrett appeared with a part of his company of light horse. Shortly after the arrival of Mr. Eyerly, Mr. Balliott and myself, the people seemed to be walking about, and looking in at the window, and seemed to make game at us, and mouths : I observed Henry Shiffert in particular ;—they were mostly in uniform.

ATTORNEY. Was it muster day ?

No : I understood it was the general conversation there that Jarrett meant to display his consequence, and to intimidate.

Cross examination. Who did you hear this from, was it from the light horse ?

No : I believe it was from Mr. Trexler.

ATTORNEY. Did the witnesses seem to be afraid ?

Yes, one man in particular appeared to be in great terror : when he was called up to give his testimony, he cried like a child, and begged for God's sake that we would not ask him, for that the people would ruin him when he returned home. Indeed all the witnesses were much agitated.

Did you or did you not discover a general opposition to the execution of this law ?

Yes, I did.

COURT. Was you not apprehensive of danger ?

Yes I was from the threats which were given.

Do you imagine there were any magistrates in the county that went so far as you ?

Yes, several of them.

Cross examination. How many witnesses did you take the examination of, at Trexler's ?

I think eight or nine.

Did they do any thing to injure you except make mouths at you ?

No, I sent for the captain, and requested him to keep his men in order, for all I wanted was to examine witnesses. There was no farther than insult offered to us.—The captain assured me, he would do all that lay in his power.

Cross examination. How far is Trexler's from lower Milford in Bucks ?

Ten or twelve miles.—From Lehi to lower Milford ? Thirty.—From Hamilton to lower Milford ? Thirty one.—From Bethlehem to lower Milford ? Sixteen. Upper Milford in Northampton, and lower Milford in Bucks join each other.

JACOB STERNHER, sworn.

Testimony translated.

ATTORNEY. Where do you live ?

In Macungy.

Do you recollect any talk in your township of the assessors coming there to measure houses ?

Yes, it was said that they were to measure them.

How long ago ?

They talked in the winter about it.

What was the talk in your neighbourhood respecting the conduct of Millar's town, when the assessors came there to measure the houses ?

I was told that one man (inadmissible)

What was the general talk ?

I never went into company, and therefore I cannot say what it was.

When were the houses measured in Macungy ?

About three weeks ago they begun to measure.

Do you know if any houses were measured before the army went up into that country ?

Not that I know of in that township.

Was you at Trexler's before judge Henry ?

Yes.

Did you hear any threats against judge Henry, Mr. Eyerly and Mr. Balliott by the people there ?

No, I did not.

Were there any there, who said they would come to harm, if they continued measuring the houses ?

No, I did not hear any.

Did you hear any of the people say, while those gentlemen were there, that the assessors should not come to measure their houses ?

Yes, I heard some people say that they were not willing to have their houses measured yet, and they wished it to be told to those gentlemen.

Was you not desired by the people in Millar's town to inform the assessors that they should not come into that township to make the assessment, or he would be hurt, or meet with an accident ?

Yes, a man told me to tell the assessor so.

Did the person say any thing about pistols and a sword?

Yes, he desired me to tell the assessor that there was a man there who had pistols and a sword.

Who did he say the man was?

He did not mention who.

Mr. CHAPMAN and Mr. CHILDS were called again at the suggestion of Mr. Dallas to be asked how the measurement of a house was taken?

It was always in every instance given by the owner, we never measured any houses. Size, length and breadth was told us, or the proprietor had ten days to send it in: we left a note for those people that were not at home.

Did the people who were at home in Milford mention the dimensions of their houses?

Yes.

Mr. Chapman proved the letter which was mentioned in his evidence to have been written by him to the commissioner.

Mr. Sitgreaves produced and read the warrants under which those persons at Bethlehem were held: also the commission from the President of the United States, appointing one of the commissioners under that act.

Mr. EYERLY again called.

Cross examination. How far did Fox live from lower Milford?

In lower Sochon township; about ten miles.

How were the principal and assistant assessors appointed?

At the time I received the notice from the first commissioner that was appointed in the commission, the commissioners were to meet at Reading on the 22d of October. After a board were met, every commissioner was desired to make a plan of his division, and to divide it into such a suitable number of assessment districts, as to have the law executed in a reasonable time: at the same time each commissioner was requested to make out lists of persons qualified for the office of assessors in each division. As soon as this was done, as the law gives a power to the Secretary of the Treasury to reduce the number of assessors if too large, the clerk made out a list, and sent it to the Secretary of the Treasury; a list was also entered in the Commissioners book. Some few alterations were made in some districts afterwards, but at the time the board was sitting. After this was done, the form of the warrant was agreed upon by the Commissioners, and ordered to be printed. They were then filled up, and every warrant signed by all the Commissioners. A rule was then adopted to call all the assessors together in each district, and the Commissioners was to meet and qualify them and give them instructions.

Mr. DALLAS. I presume a record was kept, where is it.

I do not know; it was left in possession of the clerk, he lives at Reading.

After the proclamation was issued by the President, was there not a meeting of the Commissioners with the assessors in some townships?

I do not know.

Has there, to your knowledge, been any resistance to the operation of the law since the issuing of the proclamation?

I do not know of any—I was in Philadelphia.

ATTORNEY. Was the country in a pacific state, except where the army marched.

No.—After the President had issued his proclamation I wrote up to the principal assessor in Northampton county, and to Mr. Elliot, to request

them to go on, and have their returns made in a certain time, and to give notice to all the other assessors so to do. I received answer an from Mr. Balliott that he had received information that it was impossible to do the business in the execution of the law.

ATTORNEY. Did you endeavour to get the business executed?

Yes.

Did you succeed?

No.

Did you attribute it to the neglect of the assessors?

No.

To JUDGE PETERS.

ATTORNEY. Did you not discover manifest signs of terror coming from the districts where the army had not marched?

WITNESS. Yes, in many instances, some very strong, it was even attempted to raise troops to oppose the army if they went up. There were one or two instances of testimony given to me that troops were endeavoured to be raised, and nothing, I believe, but the rapidity of the progress of the troops prevented its execution. I did believe that unless the army had gone through the whole country, there would have been the most atrocious instances of violence.

Did not some of the witnesses give their testimony under great reluctance, owing to fear?

Yes, I had, in some instances, to state the protection of the United States, and their determination to lay hold of persons who should threaten, in order to stimulate them: some said, after they had given their testimony, that they were afraid to go home. I can really say, that, in general, they were the most unwilling witnesses I had ever examined. I got evidence that some of them were forming associations for actually opposing the troops. One man was even afraid because I was in his house, asking for some refreshment, as, he said, he should be suspected for harbouring me; however, after I had expressed my own security, he seemed satisfied.

Mr. Dallas gave notice that, though they wished to give as little trouble on the part of the defendant as possible, yet he should produce two or three witnesses in order to shew that this indisposition, which was manifested to permit the assessment, was owing to the uncertainty those people were in, of the real existence of the law, and that the prisoner himself had declared that it was no law, and that they had no idea of opposing Congress by force of arms, but that they wished for time, in order to ascertain its real existence, and if the law was actually in force, that they wished, agreeable to their former custom, to appoint assessors from their own respective townships: also we mean to show that Fries was perfectly acquiescent after the proclamation, and that Mitchel was entirely mistaken as to the expressions said to be used by Fries at the meeting at Conrad Marks's. However, as we wish to have time previously to examine the witnesses we mean to bring, we shall not be able to produce them at this stage of the trial.

Mr. RAWL, then opened the constitutional definition of treason, as consisting of only two parts: "levying war against the United States, and aiding the enemies of the United States." As it is only the first of these species of treason the prisoner is charged with, it is only necessary to at-

certain what is meant by levying war against the United States. Mr. Sitgreaves has stated that, levying war against the United States consisted, not only in a broad sense of rebellion openly manifested, with an avowed intention of subverting the government and constitution of the country, but also with force of arms, or by numbers sufficient for that purpose, to cause an impression of terror: these, either one, or all together, used to prevent the execution of the laws, or of any particular law of the United States from motives, not of a special but of a general nature—is treason. This position I believe is perfectly correct, and has already received the sanction of a court of the United States, respecting the insurrection in the western parts of Pennsylvania. See 2 Dallas 348. Mitchel's case—This doctrine is laid down in terms short and concise, and is such as is founded on the particular authority of all the writers on English law.

Page 355. Bradford—attorney. The design of the meeting was avowedly to oppose the execution of the excise law; to overawe the government; to involve others in the guilt of the insurrection; to prevent the punishment of the delinquents, &c.

Patterson (Justice)—The first question to be considered is, what was the general object of the insurrection? If its object was to suppress the excise offices, and to prevent the execution of an act of Congress, by force and intimidation, the offence, in legal estimation, is high treason; it is an usurpation of the authority of the government; it is high treason by levying war. Taking the testimony in a rational and connected point of view, this was the object. It was of a general nature, and of a national concern.

Let us attend, for a moment, to the evidence. With what view was the attack made on General Neville's house? Was it to gratify a spirit of revenge against him as a private citizen, as an individual? No:—as a private citizen he had been highly esteemed and beloved; it was only by becoming a public officer, that he became obnoxious, and it was on account of his holding the excise office alone, that his house had been assailed, and his person endangered.—They were arrayed in a military manner; they affected the military forms of negotiation by a flag; they pretended no personal hostility on General Neville; but they insisted on the surrender of his commission. Can there be a doubt, then, that the object of the insurrection was of a general and public nature.

Page 340. Patterson (Justice) in the charge against Rigol.

With respect to the intention, there is not, unhappily, the slightest possibility of doubt: To suppress the office of excise, in the fourth Survey of this state; and particularly, in the present instance, to compel the resignation of *Wells* the excise officer, so as to render null and void, in effect, an act of Congress, constituted the apparent, the avowed object of the insurrection. Combining these facts and this design, the crime is *high treason*.

This you will perceive, gentlemen of the Jury, is not preventing the execution of *all* the laws, or *all* the authority of the government, but of “*an act of Congress.*” It is an usurpation of the authority of the government, and thus it is levying war, and is *high treason*. Taking it in this point of view, this was the very object of the insurgents at Northampton, and was of a public, of a general, and not of a private or special nature. In the case I referred to, the prisoner acted different from the prisoner at the Bar; he acted in a subordinate station; he does not appear to be a first character in that treasonable enterprize.

Gentlemen, the law thus laid down by the court upon that occasion, was derived from the English authorities to which I shall now refer you. 4. Blackstone, p. 81. defines that branch of treason of which we are now treating—"Levying war against the King (substitute here the U. States for King) is, pulling down all enclosures, meeting houses, prisons or brothels"—Although bawdy houses are illegal, yet by any individuals not authorised, taking the authority which alone is vested in the government, it is an usurpation of the authority, and the act being of a general, and not of a special nature, is *treason*. Lord Chief Justice Hale, whose name will ever be endeared by the piety, the humanity, and the sound legal learning which characterised him, has a chapter upon this subject of levying war against the King. 1. Hales pleas page 105. He says to march with colours flying, drums beating, &c. if on a matter of a public or general nature, is high treason, but if on a private quarrel or for a private purpose, it is not treason. Treason in levying war, by this definition, consists of two sorts. First, marching expressly, or directly against the King's forces: secondly, interpretatively, or obstructively; doing a thing of a general nature. Page 133. If to pull down a particular inclosure, it is only a riot, but if to pull down all inclosures, it is levying war against the King, because it is generally against the King's laws.

Foster, p. 211. Insurrections in order to throw down *all* inclosures; to alter the *established law* or change religion, to enhance the price of *all* labour or to open *all* prisons—all risings in order to effect these innovations of a *public and general concern by an armed force, are, in construction of law, high treason, within the clause of levying war.* Insurrections; likewise, for the reformation of *real or imaginary evils of a public nature, and in which the insurgents have no special interest,*—risings to effect these ends by force and numbers, are, by construction of law, within the clause of levying war.

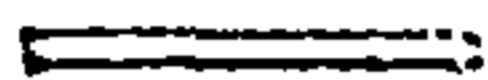
1. Hawkins, Chap. xvii. Sect. xxiii. p. 37. is much to the same effect. Douglass, 570. in the case of Lord G. Gordon. The case there on the part of the prosecution was an attempt to force the repeal of an act of Parliament, and this was called high treason, although the defendant was not convicted. Keyling p. 70. on the case of Messenger, Appletree and others, and 75, *ibid.*

It will probably be said by the defendant's Council that this should be simply considered as a rescuing prisoners from the custody of the Marshal, and that is not treason, and that a number of crimes of a less degree must be committed in order to make it treason, as Arson, Burglary, and Murder. But I would observe, that when these crimes are committed, one or more of them, they are not component parts of treason, but they lose their qualities and their name in the absorbing crime—*treason*. So when general Nevil's house was burnt, it was said only to amount to Arson: to that it was answered by Judge Patterson, were it not for the treasonable purpose with which this was done, it would be so, but the guilt rose to treason in the intention. Admitting it is a crime, and worthy of a punishment, the question is, whether, or not, it must be considered as one of the means made use of to obtain the end in view. 1. Hale 133. If a man break open prison, except where a person is convicted for treason, it was ruled to be only a great riot: if several were rescued thereby, it was a riot and rescue, except those persons rescued were

convicted for treason, and where it was without any particular view to the persons themselves, and where the prisoners were unknown, then the rescue becomes a part of the treasonable act, and that, with other facts constitutes the person guilty of treason: In 4 Blackstone you will find an answer to what Mr. Dallas said this morning ought to be in favour of the prisoner: to wit, an ignorance of the existence of the law.

Suppose every man who would profess himself ignorant of the existence of a law was exculpated from the observance of it, or from the consequences of breaking it, to what would that doctrine lead! It would be for the interest of every man who wished to oppose a law, to keep himself under the shelter of this want of knowledge, in order that he might sin with impunity—without knowing it. This is a mistaken fact, and an error in point of law. I make these observations, not because I suppose that the defence will be seriously set up, or that, did it exist, you would be in the least guided by it, but under the impression that when you come to examine all the facts, you will discover that it was not so.

Unless these points which I have laid down are controverted, I shall not trouble you with more points of law, and shall leave the observations I am farther to make, to a later period of the case.



M R. D A L L A S.

May it please your Honors :

GENTLEMEN OF THE JURY,

IT has become so uncommon in the state of Pennsylvania to be employed in a cause, upon the issue of which the life of a fellow creature depends, that, I am confident, the court and jury, as well as the council on both sides, are prepared to give a solemn, candid and patient attention to the present investigation. It is, gentlemen, a question of *Life or Death*; and if what we have heard is true, that the prisoner is a husband, and a father, it is a question whose importance extends beyond his own life, to the existence and well-being of a miserable family. If I should manifest therefore, an extraordinary solicitude to secure the attention of the jury, as long as the occasion shall require, these considerations would, I think, furnish a sufficient excuse: yet, permit me to add to my justification another remark. It is not only the life of John Fries, and the well-being of his family, that are at stake on this trial; but, we all know, that the impressions made on your minds, and communicated to the public by your verdict, may reach the lives and families of many more unhappy men now under indictments for a similar crime. I must confess, that I feel agitated by the prospect: for, if it appears so awful, so interesting, as it evidently does, to the court and audience, how must it affect us who are the council for the prisoner, charged with the developement of every principle and of every fact, that can tend to an acquittal? As it relates to the Council for the prosecution, the difficulties are comparatively small. They have had an opportunity amply to explore all the facts; to calculate the effects to be produced, and to point their testimony precisely to the object of the charge. We, who are council for the prisoner, are ig-

norant of the man and of his connections. Till you were impannelled, we knew nothing of the evidence to support the prosecution; and could, therefore, be little prepared to encounter and repel it. Besides, in all our enquiries for the means of defence, as well as in our examination of the witnesses, we have been embarrassed by the foreign language in which the parties have spoken. That some of you, however, as well as the opposite council understand the German, has been a source of consolation to us; for, it is your province to decide on the facts.

But these are not the only obstacles which we have to encounter. I am sure I shall not be misunderstood when I say, that the prosecution appears to be strongly marked with the authority and influence of government.

It is, I grant, incumbent upon the government to exercise its powers for the punishment of crimes; but it is essential to a fair discussion of every accusation, that the acts of the government should not be estimated as proofs of the prisoner's guilt. Thus, though you find by the proclamation of the President (which, doubtless, he thought, with a wise and upright intention, was required by the extraordinary circumstances of the times) that the disturbances in Northampton were deemed overt acts of treason by his advisers; and though this denunciation was followed by the march of a considerable army for the express purpose of subduing and apprehending the traitors; you will recollect, that you are to decide whether treason has been committed, from the evidence of the witnesses, and not from the opinions of the government. Again: great inconveniences have been experienced by many meritorious citizens, who relinquished the pursuits of business, and the pleasures of domestic life, to assist in the suppression of the insurgents; but you will not allow the irritation and resentment proceeding from this source, to transfer from your judgments to your passions, the determination of the cause. Far be it from me to contend that outrages have not been committed, which are disreputable to the state or society at large, and to the character of Pennsylvania in particular; or to endeavour to shelter from the punishment of the law, the instigators and perpetrators of such offences. Every citizen is interested, and is bound to assist in detecting, prosecuting, and punishing the offenders; but every citizen, let it be remembered, is still more interested, that even the greatest criminals should only be punished in the manner and to the degree which the law prescribes. However we may differ on speculative points of politics abroad, however we may be disposed to approve, or to disapprove, the measures of administration, and however we may controvert or assist, the constitutionality, or the expediency, of particular laws, all party spirit, all personal animosity, must be abandoned when we are called upon to act as ministers of justice; or we shall, in the indulgence of a moment's vengeance, overthrow those barriers which are our own security, and the pledge of safety to posterity.

Whatever you may have thought, whatever you may have said, whatever you may have heard, in other scenes, must now be obliterated from your minds. The character of private citizens, with all the privileges of private opinion and feeling; is here exchanged for the character of public functionaries, with all the restraints of law and justice. Your opinions as private men, will only be regarded according to their intrinsic merit; but your verdict as a jury will be forever obligatory, bearing all the authority of a precedent.

Though, then, a proclamation has issued, an army has marched, and popular resentment has been excited, we claim an unbiassed attention; and circumscribing your view of the subject to the evidence, we confidently expect a fortunate result. What has happened in England upon a similar occasion, we think will happen here. The British Privy Council announced a traitorous conspiracy to the British Parliament. The British Parliament declared that the party recognized and confirmed the charge of high treason and thus the whole weight of public authority in that country, legislative and executive, instituted a prosecution, which was, afterwards, conducted with the greatest zeal and talents—with such zeal and talents as the present prosecution has displayed. What was the event? A jury (that inestimable palladium) without fear, and without favour, examined and pronounced that no treason had been committed. I allude to the recent cases of Horné Tooke and Hardy.

I shall, I presume, be excused, if I intimate to you some other disadvantages under which the prisoner's case labours; for, it is not merely necessary to produce evidence, to explain, extenuate, or refute the charge; we must guard your minds against any previous bias, any latent pre-determination to convict. The accused gentleman, and his companions, you will recollect, are not upon their trial among persons, with whom they have been accustomed to live. This is a disadvantage, which every candid man will acknowledge. They are to be tried, likewise, by a jury, selected and returned by the marshal, the very officer who has been personally insulted, and whose appointment depends on the will and pleasure of the executive magistrate—that magistrate by whom the offenders have already been described as traitors. I mean not to cast the least reflection upon the laws of Congress, nor upon the officers of the government; but to make a general remark on the defective state of our judicial institutions. The conduct of the marshal has, indeed, been highly exemplary throughout the transaction; and when with such powers he returned such a jury as I have the honor to address, he manifests an impartiality and independence of character, that entitles him to the respect and plaudits of his country. Nor is it here that the prisoner's disadvantages terminate: but I hope, I believe, that never 'till this day was the Press employed in a base and sanguinary attempt to intimidate the jury and council from a faithful execution of their duty in a capital case! Since, however, the jury have been summoned; nay, since the court have been sitting upon this very trial, there have been the grossest, the most insidious practices in a public newspaper, to warp your sentiments, and to deprive the unfortunate prisoner of the benefit of the best talents, which the bar of Pennsylvania can afford. On the other hand, a gentleman, whose abilities we all respect, and whose long residence in the offending counties must greatly facilitate the progress of the prosecution, is associated, without censure, and certainly without being answerable, in the duties of the attorney of the district. While our ignorance of characters, and circumstances perplexes the defence; his accurate information and experience enable him to probe every witness to the quick, and forcibly to combine and interweave all the incidents of the transaction. But his motives are pure: for, if he does arraign; if he does convict; if he does punish; it is because his patriotism and public spirit enable him to soar far beyond the little affections of a neighbourhood.

Gentlemen, in this situation we appear before you as advocates for the prisoner. I declare that as far as my mind is capable of being impressed by a sense of duty, I feel a terror lest any thing should be left undone, or unsaid, which is essential to the cause: and, therefore, complicated as the discussion must necessarily be, accept, I pray you, my sentiments under the following heads.

First, I will endeavour to establish such points of law, as seem to me to be applicable to the facts which have been given in evidence.

Secondly, I will consider the general state of the discontents, and how far the rescue at Bethlehem was connected with the previous disturbances.

Thirdly, I will take a review of the conduct of the prisoner in particular.

I. With respect to the crime of treason, I hold the constitutional act in my hand by which it is defined. The gentleman who opened this prosecution, has very justly said, that the words of the definition were borrowed from a statute very much admired in the English code; but I do not think that he has very justly added, that, because the United States have borrowed the language of the statute, they have, also, adopted all the inferences and expositions of the British courts. It appears, indeed, that Lord Hale (I. Vol. p. 132) thought, that even the English courts had carried their decisions on the statute too far, and emphatically warns the judges from proceeding further in the dangerous doctrine of "constructive treasons." Speaking of past cases, he says "those resolutions being made and settled, we must acquiesce in them, but, in my opinion, if new cases happen for the future, that have not an express resolution in point, nor are expressly within the words of 23 Ed. 3. though they may seem to have a parity of reason, it is the safest way, and most agreeable to the wisdom of the great act of 23 Ed. 3. first to consult the parliament and have their declaration, and to be very wary in multiplying constructive and interpretative treason, for we know not where it will end." It should be premised, that in that celebrated statute of 25 Ed. 3. on which is founded our definition of treason, there was a provision made, that if the overt act charged, or the crime supposed to be committed, did not come, specifically, within the words of the statute, the judges should not pronounce it high treason, but must refer it to the parliament. Hale, the great and good, applauds the provision; and when he says, that the courts have gone far enough, does not the strength of his expression imply, that they had gone too far?—"Be very wary in multiplying constructive treasons, for we know not where it will end." Now, it is said, that because we have brought the words "levying war" from the English statute, we, therefore, adopt all the interpretations of the English courts; but I deny the proposition, because I think it is dangerous as well to the policy of our constitution as to rights of individuals. In the same statute of the 25 Ed. 3. there is another crime, called compassing the king's death; and levying war has been construed to be an overt act of that species of treason. Hence the gentleman will find that there is some confusion in the English books on the doctrine of levying war, considering it sometimes as a substantive and independent of treason, and at other times considering it merely as evidence of a traitorous design against the life of the monarch. It is impossible to conceive, indeed, any thing more absurd than constructive treason, as it has been applied to compassing the death of the king.

Any man who should use a single expression, a loose word, among friends, or enemies, that could be tortured, by the most circuitous process, into any thing like a wish for the king's death, was termed a traitor. In Blackstone's Commentaries, it is mentioned, that an innkeeper, ludicrously declared that his son was heir to the crown; meaning that he was heir to the tavern, which had the sign of a crown; yet, the expression was construed into treason, and the man suffered as a traitor. In another instance, the king killed a deer belonging to one of his poor subjects, who upon the first impulse of his resentment, wished the deer, horns and all, in the king's belly; and the man was also hanged as a traitor. So far will construction go, and, in such a manner may a man's life be endangered! If constructive treasons are admitted in this country, no man will be safe: It may destroy my life; it may destroy your's.

In England this species of treason is considered in two lights; levying war against the person of the monarch, and levying war against his authority. I wish you to know precisely upon what footing this distinction prevails in England, because I shall ask you presently, what species of treason ought to be considered as adopted by the principles, as well as the terms of our constitution. Levying war against the person of the monarch consists in any attempt to dethrone him; either with a view to change the government, or merely to supplant the person who administers it. The act is unequivocal, and meets the common sense of every man. But levying war against his authority, is so indefinite, that any thing and every thing may be made treason; the intemperance of a mob, as well as the hostility of an army. Independent of all technical reasoning, then, let me ask you, upon the suggestions of common sense, whether you perceive more in the recent occurrences than a great riot; a lawless disturbance of the public peace, a daring rescue? Was there in the mind of any man, till the denunciation contained in the proclamation of the President, and the march of the army, an idea that treason had been committed? Till then, the guilt in obstructing the *execution* of the laws was not denominated treason, nor was the punishment expected, death!

In order, however, to examine this point of law more minutely, and to apply it to the facts, let me observe that from the English books (whose authority, however, is not implicitly admitted) two general propositions are to be collected:

First, The *intention* must be to levy war.

Secondly, War must be *actually* levied *against the government*.

When I say, emphatically, that the *intention* must be to levy war, I mean that the intention, free of all constructive matter, must be to commit that description of crime, which the gentleman concerned for the prosecution calls "levying war." Without that precise intention, however criminal the intention may be in other respects, the offender cannot be guilty of treason. A man, or a mob, may intend to commit a crime; a man may be armed, or a mob may be arrayed, for the purpose; and the utmost force may be used to accomplish it; but it is no treason, unless the intention was treasonably to levy war: though it may be arson; or it may be riot, &c. If the avowed object is to subvert the government; to drive Congress from its legislative function; to seize the President, &c. and instead of the established order of things to introduce anarchy, or monarchy, the act would be plainly and unequivocally within the meaning of levying war.

It is true, that the English books go further ; and consider an attempt by force to obstruct the execution of *all laws*, or to compel *the repeal* of a particular law, as a constructive treason within the description of levying war. But the obstruction of *all laws* is, in fact, an attempt to subvert the government, and to compel the repeal of a law, is a very different thing from a temporary interference with its *execution*. Conceding therefore, as far as the English authorities go, and as far surely, as the interests of our government can require, there is no precedent of a constructive treason to warrant a conviction in the present case ; the opposition was not directed against all laws ; nor was there any force employed to compel a repeal of the obnoxious Act. In *Foster* 211, as read by Mr. Rawle, you will find the reference is particularly made to the case of forcing the repeal of a law, or laws, &c. and not a word about opposition to *the execution* of a particular law. What, then were the origin and character of the late rising of the people ? Was it not an opposition given to certain officers merely from a doubt of the existence of the law ; or till the people had ascertained whether other counties conformed to the assessments, or till the inhabitants of townships were indulged in appointing their own assessors ? Let me ask you, whether these characteristics are within the scope of the law of levying war ? Remember what Hale says, "Do not let a parity of reasoning allure you ; be very wary that you do not add to the catalogue of constructive treasons. Judge Blackstone too, has been quoted by Mr. Rawle (Vol 4. p. 81) where he speaks of treason as an "attempt to *reform* religion, or the laws ;" but I intreat your attention to the distinction which the passage itself is calculated to establish. Every one knows that the term *reform* the laws, means *repeal* the laws. The current of Legislative power is uniform. Those who *make*, can alone annul a law, and if a reformation is produced, it must be by applying to the legislature. If the application is made with force, or menaces, the English writers declare, and we may safely allow that it would be an act of levying war. But where is the analogy between that case, and the case of resisting a subordinate officer, while executing his part of a particular law ?

Now gentlemen, I challenge the prosecuting council to say, in what part of the evidence it has appeared, that these insurgents went further than to declare that the law did not please them ; that though they did not mean to compel Congress to repeal it, they had some doubts, and wished to ascertain whether it existed or not ; to know whether the country in general had submitted to it ; to know whether General Washington was not dissatisfied with it, and to see whether they could not get the assessor appointed by themselves. Under these impressions many irregularities occurred, but I ask the adverse council to point out if they have discovered through the whole course of the business, any insurrection existing, any traitorous design, till the meeting at Bethlehem ; or whether till that moment the people of Northampton could be said to have been guilty of any crime ?

We are told that the case of the western insurgents in 1794, is in point ; and that the decisions upon the trials that then took place, are precedents on the present occasion ; but, with great deference, I declare that it seems impossible to bring cases more dissimilar into view, where violence has been committed in both. At this stage of the argument however, I

I shall only remark, that whatever may have been the language of the judge, who then presided, I am sure the attorney of the district will be good enough to recollect, and candid enough to state, that the opposition, though in its origin, excited against the excise law, was conducted with the avowed purpose of suppressing all the excise offices, and compelling Congress to repeal the act. See 2 Dallas Rep. 346.

Let us for a moment, gentlemen, trace the motives of the people, by looking at their conduct not at large, but in the lawless scene at Bethlehem. What did they do? why they rescued the marshal's prisoners; but the moment they had effected the rescue, did they not disperse? Their whole object then was consummated; for, I must presume that they contemplated nothing farther, as I see them attempt nothing more; and yet the time was very favourable to accomplish a more extensive design, if it had ever been meditated. Men intending to compel, by every hostile means, the repeal of a law, when they had in their hands the obnoxious agents of that law (Mr. Balliott, Mr. Eyerly, the marshal and others) would hardly have let the moment pass without some effort to triumph in their advantage. It was, indeed rumoured to be their intention to dispatch Mr. Eyerly; but where does it appear? Was he not compleatly in their power? Was he not constantly in their view, though he incorrectly says that he was constantly out of their view? No: I repeat that the rioters having accomplished the rescue, dispersed; and will you, under such circumstances, in a case of life and death, determine that they came to commit treason? rejecting the plain fact, and adopting a constructive inference? But if they proceeded no farther than I have stated, let us again look to the law of England, to define their crime, as distinguished from treason; and you will not cease to bear in mind that *you* must establish the distinction. Hales pleas vol. 1 p. 133—4. Bacon's abridgment vol. 6. p. 513—4—5.

Foster Sect. 2. 210 "risings to maintain a *private* claim of right, or to destroy *particular* inclosures, or to break prisons, in order to release *particular* persons have not been holden to amount to levying war within the statute.

Upon this principle a rising of the weavers in London, to destroy all engine-looms, machines, &c. did not amount to levying of war—for the judges considered it merely as a matter of private quarrel between men of the same trade, about a particular engine, which those concerned in the riot thought detrimental to them."

Now, if we should be fortunate enough in the course of this business to show that, however criminal these people may be, yet, that taking it altogether, their intention was only to acquire information, to see what really was the state of the country, and to procure township officers of their own appointment: if so, though they achieved the rescue, we have done with the indictment for treason; the verdict must conform to the evidence, and the judgment to the verdict. That the offence is an aggravated misdemeanour, I will not deny; but it ought to be distinguished from Treason; and, I think, I shall soon evince that it never was within the view of our legislature to consider it as the treason contemplated by the constitution. Give me leave, then, to ask (and I beg, gentlemen, as this is a matter of construction, that you, who are to fix the intention, will give candid attention) whether the facts prove more than the breaking open a particular prison, in order to rescue particular prisoners? Was not the matter of a

partial, local nature, to make a particular, and not a general rescue; for which a particular prison (if it may be so described) was violated? And as to the previous opposition what was it more than a partial obstruction of particular officers, to prevent in a particular township, *the execution* of a particular law. At Kline's the people said to the ex-assessors, "we will not let you come into our township 'till we know whether it is a law or not; and if we must be assessed, it shall be by assessors of our own township." A gentleman in behalf of the prosecution has told us, that we are to receive as authority all the adjudications given to the term "levying war" in England: But if I can produce an authority higher than the English parliaments, or the English courts to prove that the present case ought not to be included in the description of treason, I presume he will not reject it because it is American: I mean the authority of our own legislature. Before, however, I turn to the act of Congress, I will attract your attention, gentlemen, by one proposition. If the legislature has explicitly classed an offence under a particular head in the penal code, it is inconsistent and absurd to search for it, and punish it under another head. For instance, if the legislature has declared that rescuing prisoners, not under sentence of death, should be punishable only with fine and imprisonment, it would be inconsistent, by arguing, in a circle, that a rescue with force and numbers, is a combination for the purpose of preventing the execution of a law, and that such a combination is treason, by levying war. 1 Hales pleas 151. Keyling 75. Foster p. 200. Sect. 7.

If the offence to which I refer had been treason, it would not have consisted with the wisdom of the legislature to make it a misdemeanour: and on this ground it is, that I now ask you to reflect, which species of levying war, the direct or the constructive, was within the view of the framers of our constitution? Did they not intend to exclude every description of constructive treason? But to proceed; if I can demonstrate, that every thing which has occurred of a criminal nature, from the commencement of the business, to its consummation, and regarding every previous discontent as tending to the particular rescue at Bethlehem (which is the utmost the opposite council will pretend) has been considered by the legislature of the United States, (whose acts I repeat, are entitled to more respect than all the British authorities, parliamentary or judicial) as high misdemeanours, and not as treason; then I am entitled to insist, that the constitutional provision does not embrace the case; or if it does embrace the case that Congress, possessing the power to declare the punishment of treason, has limited the punishment of one species of the offence at least, to fine and imprisonment. Listen to the act, "If any person or persons shall knowingly and wilfully obstruct, resist or oppose any officer of the United States in serving, or attempting to serve or execute any mesne, process, or warrant, or any rule or order of any of the courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer, or other person duly authorized in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall, on conviction thereof, be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars." Shall it be contended then, that obstructing the marshal, who was employed in serving process, constitutes the crime of treason! If it did so, there was no kind of necessity for this law.

There an ingredient in the whole of the conduct, while obstructing the marshal in the service of his process, that is not embraced in this legislative description? But let us take another step: the process is executed, the prisoners are apprehended, and actually in the custody of the marshal; and if it is treason, under the Constitution, to take them out of his custody, would Congress be justifiable in treating the offence simply as a misdemeanour? And yet such absurdity is imputed to the national legislature, since in the 23d section of the same law, it is enacted, that "if any person, or persons shall by force set at liberty, or rescue any person, who shall be found guilty of treason, murder, or any other capital crime, or rescue any person convicted of any of the said crimes, going to execution, or during execution, every person so offending, and being convicted thereof, shall suffer death: and if any person shall, by force, set at liberty, or rescue any person who before conviction shall stand committed for any of the capital offences aforesaid; or if any person or persons shall by force set at liberty, or rescue any person committed for, or convicted of any other offence against the United States, every person so offending shall, on conviction, be fined, not exceeding 500 dollars, and imprisoned not exceeding one year." Thus, if a malefactor was actually under the gallows when rescued, the rescue would have been but a capital offence; and the same consequence is now attempted, where the persons rescued had been admitted to their parole, and were in custody of the officer, merely upon mesne process. It was a matter of honour that made them resign themselves to his custody, and it was, in effect, a matter of form that he kept them in custody: for, we find, that as he took their parole to meet him at Bethlehem, so at the moment of the rescue, he took their parole to meet him in Philadelphia, which they have all punctually done.

Here then you find, gentlemen, that we have two of the prominent features of this case reduced to the form of positive law: to wit, the obstruction of the marshal in the service of his process, and the rescue of prisoners from his custody. But there is another circumstance to which I would wish, likewise, to lead your attention. You find there was an indisposition to allow a particular class of officers to make the assessments; and the people urged, that if it was to be done, it should be done by their own assessors. In this important point, therefore, the particular officers, and not the law, form the object of resentment and opposition. On this distinction, I have the respected authority of Mr. Bradford, the late attorney general of the United States, for asserting that the offence was riot, not treason. In his argument in the *United States v. Mitchel* (2 Dallas Rep. 354.) he states that "an opposition was lately made to the appointment of a particular judge, in Millin county, and he was forcibly driven from the bench. But the offence was prosecuted merely as a riot, upon this principle of discrimination, that the design was not to prevent the governor from appointing any judge, but only to displace an unpopular individual." So even if the unpopular assessors, instead of being forewarned not to enter the township, had been forcibly expelled from it, the offence would not have been treason, but riot.

I am arrived, however, to the last and conclusive evidence of the sense of Congress upon this subject: from which it will be proved that the same cautious, and in respect to punishment, the same benevolent, legislature, had considered all that the ingenuity of any gentleman can suggest as