

all. The Court had declared the evidence of Mr. Giles to be material, not only in express terms, but by a partial postponement, and inferred that the trial ought not to take place until his personal attendance could be procured.

*Mr. Hay* then asked the attention of the Court to other reasons, which satisfied his own mind, that the motion ought to be granted.

The laws and customs of the State of Virginia were in favor of the motion. In this State when an indictment for misdemeanor is found, the party is not arrested and brought into court, but a summons issues returnable to the succeeding court. In the interval the party has time to collect and prepare the materials for his defense. It was true, as to himself, that he had long ago formed a determination to appear in behalf of the first man who should be indicted in this State for a libel under the sedition law. He had formed this resolution because he was convinced, after the most mature deliberation, preceded by a calm and temperate investigation of the subject with gentlemen who differed from him in political sentiment, but were of the first characters for talents, that the second section of the sedition law was unconstitutional. But he had never supposed the trial would take place immediately after the prosecution was commenced, and therefore, though he was ready to discuss the question concerning the "rights of the jury to decide the law of the case," and the question concerning the constitutionality of the law, he was not ready to state and to comment on the evidence on which the traverser relied. This had been already asserted to the court. But there was another point worthy of notice. He was not ashamed to acknowledge, he said, that he was but little acquainted with the doctrine of libels. Happily for the repose of people, no instance had occurred in this State which had turned the attention of professional men to that subject. In the little time, therefore, that had elapsed since the traverser had been arrested, he had not had leisure to examine a point which appeared to him to merit some consideration.