

JUDGE CHASE. I desire to know what you intend to prove by the witness.

*Mr. Hay.* We intend to examine Colonel Taylor to prove that he had avowed principles in his presence which justified Mr. Callender in saying that the President was an aristocrat; that he had voted against the sequestration law, and the resolutions concerning the suspension of commercial intercourse with Great Britain, by which he defeated every effort of those who were in favor of those beneficial measures which were well calculated to promote the happiness of their country.

JUDGE CHASE. You must give me a statement in writing of the questions you intend to be put to the witness.

*Mr. Nicholas.* The traverser is at least entitled to every indulgence which had been shown to the attorney for the United States; this requisition had not been made of the attorney, when he introduced witnesses on behalf of the United States, nor was it according to the practice of the State courts. I wish the witness to state all he knew that would apply to the defense of our client. I do not know what the witness would precisely prove, but if the court insist upon it, I would furnish a statement of the questions which I should first propound, but request that I may not be considered as confined, in the examination of the witness, to the questions so stated.

JUDGE CHASE. It is right to state the questions intended to be propounded to witnesses, in all cases, and the reason is extremely plain. Juries are only to hear legal evidence, and the court are the only judges of what is or is not legal evidence, to support the issue joined between the parties. To say that you will correct improper evidence, after it shall have been given, is improper, because illegal evidence, once heard, may make an undue impression, and, therefore, ought not to be heard at all by the jury; and the attorney for the United States had, in opening the cause, stated the purpose for which he introduced the witnesses.

JUDGE CHASE, having received a statement of the ques-