

to them, whether they have the right to determine the law, as well as the fact. In Virginia, an act of the assembly has adopted the common law of England; that common law, therefore, possesses in this state all the energy of a legislative act. By an act of Congress, the rules of proceedings in the Federal courts in the several states, are directed to conform to the rules of the states in which such court may be in session; by that act of Congress, it is therefore provided, that the practice of the courts of Virginia shall be observed in this court. To ascertain your powers, therefore, as a jury, we have only to refer to the common law of England, which has been adopted in the laws of this state, and which defines the powers of juries in the state courts. By the common law of England, juries possess the power of considering and deciding the law as well as the fact, in every case which may come before them. I have no doubt but I shall receive the correction of the court, if I am wrong in these positions. If, then, a jury in a court of the state would have a right to decide the law and the fact, so have you. The Federal Constitution is the supreme law of the land; and a right to consider the law, is a right to consider the Constitution. If the law of Congress under which we are indicted, be an infraction of the Constitution, it has not the force of a law, and if you were to find the traverser guilty, under such an act, you would violate your oaths.

JUDGE CHASE. Take your seat, sir, if you please. If I understand you rightly, you offer an argument to the petit jury, to convince them that the statute of Congress, entitled, "An act, etc.," commonly called the Sedition Law, is contrary to the Constitution of the United States, and, therefore, void. Now I tell you that this is irregular and inadmissible; it is not competent to the jury to decide on this point; but if you address yourselves, gentlemen, to the court, they will with pleasure hear any reasons you may offer, to show that the jury have the right contended for. Since I came into the commonwealth, I understood that this question would be stirred, and that the power of a jury to determine the validity