spirit of the agreeement, a discussion and decision of the principle, was alone contemplated.

In this view of the case, the only point to exercise the discretion of the Jury, will be (not whether any interest shall be allowed upon the judgment, but) from what period the interest shall begin to run. The judgment being made absolute by the agreement, a reasonable time should, perhaps, be allowed for a trial, as contemplated by the terms of the agreement; but when the trial in *January* 1793, had fixed the right of *Moore* and *Johnson* to the debt, as assignees of *Vance*, *Caldwell* and *Vance*; and when *Caldwell* himself had acquiesced, in the verdict, by paying what he thought due, without demanding an indemnity; the Court cannot perceive any legal, or equitable, ground, upon which the right of interest should be longer suspended.

Upon the whole, we think, that interest ought not to be allowed, upon the sum fixed by the judgment of *January* 1791, until the decision in *January* 1793; but that the interest ought to run from that period. Although *Caldwell* himself asked no indemnity, on the payment which he made, we shall think it proper, in aid of the executors, to direct an indemnity against the attachments to be given, before the amount of the verdict, on this occasion, is paid.

Verdict for the plaintiff. (1)

E. Tilghman, *Lewis*, and *Dallas*, for the plaintiff.
Ingersoll, and *M'Kean*, for the defendants.

The Commonwealth *versus* Gibbs.

THIS was an indictment, on the 17th section of the election law (4 *State Laws*, *p.* 342. *Dall. edit.*) which provides (among other things) that "if any officer of the election shall be "threatened, or violence used to his person, or interrupted in "the execution of his duty, every person who shall be guilty of "such intimidation, threats, violence, or interruption, being con-"victed thereof, shall be fined and imprisoned for the same, at "the discretion of the Court, not exceeding six months imprison-"ment, nor exceeding one hundred dollars fine."

The facts were briefly these: Mr. *Beckley*, the prosecutor, was appointed a judge, at the general election in *October* 1801. Mr. *Gibbs*, the father of the defendant, presented his ballot, but before accepting it, Mr. *Beckley* insisted, that he should answer the following questions: 1st. Did you, at any time during the

(1) The indemnity was given to the satisfaction of the Judges, and the executors paid the amount of the verdict into Court. Thus terminated in 1802, a suit commenced, in fact, twenty years before, in 178[illegible]

American

1802. *American* war, join the *British* army? 2d. Or take an oath of allegiance to the king of *Great Britain*? 3d. Or were you attainted of treason against the *United States*, or the state of *Pennsylvania*? Mr. *Gibbs* declined answering the questions; and (after some altercation) his son, the defendant, shaking his fist at *Beckley*, said, "I will see you to-morrow."

Two grounds of defence were taken by *Ingersoll* and *Lewis*: 1st. That the judge of the election was not in the performance of a duty, when he proposed such questions to an elector. The act of assembly declares who may vote; and as to the enumerated requisites to constitute a right of voting, the voter's oath, or affirmation, may be demanded. After the repeal of the test laws, every citizen, who had not been attainted, had a right to vote. But the questions are not pointed to the qualification designated in the act; the answers to those questions might tend to criminate the voter himself; for, if attainted, he would still be liable, (notwithstanding the treaty of peace) to the corruption of blood, under the old state constitution, the treaty of peace not operating as a reversal of the attainder; and no lawyer ever suggested, or would assert, that a man's vote could be rejected, unless he answered questions thus tending to the exposition of his own guilt. 1 *Styl. Pr. Rep.* 675. 3 *Bl. Com.* 268. 363, 4. *Doug.* 572. *Salk.* 153. 4 *State Trials*, 747. 2d. That it is material, on the present indictment, to prove that the defendant acted with design to influence unduly, or to overawe the election, or to restrain the freedom of choice: whereas it is evidently the case of a son interposing, to protect an aged and infirm parent from insult; and his actions, as well as words, were the mere ebullition of sudden passion.

Reed and *Dickerson*, for the commonwealth, admitted that no answer could be exacted, which would expose a man to penal consequences; but they insisted, that the answers to the questions proposed (though in the affirmative) would not, at this day, involve the voter in any jeopardy of life, liberty, property, or penalty. The answers could only prove him (if in the affirmative) to be an alien; and an alien may certainly be compelled to disclose his foreign birth. *Park.* 164. The questions were calculated to ascertain a fact, on which the right to vote depended. None but citizens can vote. Now, although every man (even a native of *America*) had a right to chuse his party in the revolutionary war (1 *Dall. Rep.* 53.) yet, if he took an oath of allegiance to *Great Britain*, or joined her armies, he determined his election; and in neither of these cases, any more than in the case of an attainder, could he vote at our elections, as a qualified citizen. If, then, the judges of the election acted within the limits of an official discretion, in proposing the questions, the lifted

lifted fist, and threatening words, of the defendant, bring the case clearly within the description and punishment of the law.

The COURT delivered a full and decided opinion, in the charge to the Jury, that the questions, proposed by the judges of the election, were illegal; that Mr. *Beckly* could not, therefore, be considered in the execution of his duty, when he insisted upon an answer to those questions; and that, consequently, the defendant was not liable to an indictment, under the election law (however he might otherwise be charged) for resisting, in the way that he did, the demand upon his father, to answer questions tending to criminate himself.

Verdict, not guilty.

The Commonwealth *versus* Franklin *et al.*

IN *August* Session 1801, of the Court of Quarter Sessions, the grand jury of *Luzerne* county presented the following indictment:

" *Luzerne* county *ss.*

" The Grand-Inquest for the body of the county of *Luzerne*, " upon their oaths respectively do present, that *John Franklin*, " *Elisha Satterlee*, and *John Jenkins*, all late of the said county, " yeomen, on the first day of *August*, in the year of our Lord one " thousand eight hundred and one, at the county aforesaid, and " within the jurisdiction of this Court, unlawfully did com- " bine and conspire, for the purpose of conveying, possessing, and " settling, on certain lands within the limits of the county afore- " said, under a certain pretended title not derived from the au- " thority of this commonwealth, or of the late proprietaries of " *Pennsylvania* before the revolution, to the evil example of all " others in like manner offending, contrary to the form of the " act of general assembly of this state in such case made and " provided, and against the peace and dignity of the common- " wealth of *Pennsylvania*, &c.

" And the Jurors aforesaid, upon their oath aforesaid, do " further respectively present, that the said *John Franklin*, *Elisha* " *Satterlee*, *John Jenkins*, and *Joseph Biles*, all late of the coun- " ty aforesaid, yeomen, on the first day of *August*, in the year of " our Lord one thousand eight hundred and one, at the county " aforesaid, did combine and conspire for the purpose of laying " out townships, by persons not appointed or acknowledged by " the laws of this commonwealth, to the evil example of all " others in like manner offending, contrary to the form of the " act of assembly of this state in such case made and provided,

" and