

that purpose, to be at Natchez between the 5th and 15th of December, there to meet Wilkinson; there to determine whether it will be expedient in the first instance to seize on or to pass Baton Rouge. The people of the country to which we are going are prepared to receive us. Their agents now with Burr say that if we will protect their religion and will not subject them to a foreign power, in three weeks all will be settled.'

"There is no expression in these sentences which would justify a suspicion that any territory in the United States was the object of the expedition. * * * *

"There certainly is not in the letter delivered to General Wilkinson, so far as that letter is laid before the court, one syllable that has a necessary or a natural reference to an enterprise against any territory in the United States.

"That the bearer of the letter must be considered as acquainted with its contents, is not to be controverted. The letter and his own declarations evince the fact. * * * *

"After stating himself to have passed through New York and the western states and territories, without insinuating that he had performed on his route any act whatever, which was connected with the enterprise, he states their object to be 'to carry an expedition to the Mexican provinces.'

"This statement may be considered as explanatory of the letter of Colonel Burr, if the expressions of that letter could be thought ambiguous.

"But there are two other declarations made by Mr. Swartwout, which constitute the difficulty of this case. On an inquiry from General Wilkinson, he said, this territory would be revolutionized, where the people were ready to join, and that there would be some seizing, he supposed, at New Orleans.

"If these words import that the government, established by the United States in any of its territories, was to be revolutionized by force, although merely as a step to, or a mean of executing some greater projects, the design was unquestionably treasonable, and any assemblage of men for that purpose would amount to a levying of war. But on the import of the words a difference of opinion exists.

"Some of the judges suppose they refer to the territory against which the expedition was intended, others to that in which the conversation was held. Some consider the words, if even applicable to the territory of the United States, as alluding to a revolution to be effected by the people, rather than by the party conducted by Colonel Burr.

"But whether this treasonable intention be really imputable to the plan or not, it is admitted that it must have been carried into execution by an open assemblage of men for that purpose, previous to the arrest of the prisoner, in or to consummate the crime as to him; and a majority of the court is of the opin-