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FIVE DOLLARS PER ANNUM | MONDAY, AUGUST 24, 1807. | PAID IN ADVANCE.

TRIAL of Col. A. BURR.

Saturday, *August* 15.

It is proper to observe that on Thursday three of the jury, who had been summoned on the second Venire, were discharged by the court, viz. general Pegram, because he was then engaged in military business; Mr. Lewis, because he owned no freehold in the state of Virginia; and Mr. William Moncure of this city, on account of his indisposition. It was understood before the rising of the court that the marshal was to summon three substitutes, and that the prisoner would accept them.—Of course the Venire which was this day brought into court, was complete, and consisted of 48.

Benjamin Tate was excused from serving, on account of his indisposition.

Henry Randolph wished to be discharged, because he was engaged in collecting the public revenue. The court would not however admit the validity of the excuse.

The Venire was then called over, in the following order:

Jacob Michaux, Powhatan.
William Randolph, Surry.
John Edmunds, Sussex.
George Minge, Charles City.
William L. Morton, Charlotte.
Christopher Anthony, Goochland.
John Darricot, Hanover.
Washington Truehart, Louisa.
Martin Smith, Prince Edward.
Benjamin Fate, City of Richmond.
Christopher Tompkins, do.
Benjamin Branch, Dinwiddie.
Thomas Branch, Chesterfield.
James Sheppard, City of Richmond.
Gabriel Ralston, do.
Micajah Davis, Bedford.
Reuben Blakey, Henrico.
Miles Selden, Sussex.
Walter Blunt, Sussex.
Richard N. Thweatt, Petersburg.
John Fitzgerald, Nottoway.
Robert M'Kim, City of Richmond.
Benjamin Graves, Chesterfield.
Wm. M'Kim, City of Richmond.
Robert Hyde, do.
Thomas Miller, Powhatan.
Thomas Branch, Chesterfield.
Robert Goode, do.
Henry Randolph, do.
Miles Bott, do.
Henry Bridgewater, do.
Edward Hallam, City of Richmond.
Anderson Barrett, do.
Henry Coleman, Halifax.
Edmund Baily, City of Richmond.
Holder Hudgins, Matthews, William H. Hudgins, do.
John Price, Henrico.
Isham Godwin, do.
William S. Smith, do.
George Blakey, do.
Gray Carrol, Isle of Wight.
Isaac Medley, Halifax.
Richard Curd, Henrico.
Edward Mumford, Powhatan.
Samuel Allen, Buckingham.
John M. Sheppard, Hanover.
John Curd, Goochland.

There were seven absentees.

Mr. Burr then observed, that the pannel was now reduced to 40; and as it would be exceedingly disagreeable for him to exercise the privilege of making peremptory challenges to which he was entitled, he would lay a proposition before the opposite counsel, which would prevent this necessity. He would select eight out of the whole Venire, and they might be immediately sworn and impannelled on the jury.

The Chief Justice suggested the propriety of placing those eight at the head of the pannel.

Mr. Hay had no objection to this arrangement. It would be easy for him to examine the qualifications of the eight who were selected, when they were once known.

William S. Smith then requested to be excused, on account of his indisposition.

Mr. *Burr* observed that Mr. S. was one of those whom he had selected; but he would be sorry to impose such a burden upon any invalid.

Mr. S. was discharged.

When Christopher Anthony was called, he observed to the court, that he had uttered some expressions since he came to town, which he had been told would certainly disqualify him from serving.

Mr. *Burr.* Perhaps they were used through levity. Do you think they would be sufficient to warp your judgment?

A. No.

Mr. *Burr.* Then, sir, you are not disqualified.

Mr. *M'Rae.* State the tenor of those expressions.

A. When I first arrived here, I met with an intimate friend, to whom I observed, that I had come to town with a hope of being placed on this jury; and that I would use my exertions to hang Col. Burr.

Mr. *M'Rae.* Did you say so, knowing that such expressions would disqualify you?

A. I did not; for I never expected to be put on this pannel.

Q. Were you serious?

A. Far from it. I spoke in the utmost spirit of levity.

Q. Have you been in the habit of reading the newspapers

A. I have.

Q. Have you read gen. Eaton's deposition?

Messrs. *Burr, Martin* and *Wickham* arose and objected to the question.

Mr. *Martin.* You have no right to disqualify any juryman for us.

Mr. *M'Rae.* We too have rights.

Chief Justice. Certainly the counsel for the U. S. may challenge for cause.

Mr. *M'Rae.* We are entitled to the same rights, which the opposite counsel have exercised as to the former Venire. When the jurymen were successively called before the court, did the opposite counsel in every case challenge for cause? Did not the prisoner make some general observations that were intended for the ears of the jury; in which he spoke of his right of challenge, and requested every juryman who was conscious of prejudice, to object to himself? Did they not, in several cases without exercising the right of challenge, previously enquire of the jurymen, whether they had no declarations to make? Did not the counsel for the prosecution suggest some doubts about the propriety of this course? And did not the prisoner reply, that no juryman ought to lock up in his own bosom the prejudices which he had conceived, and that he ought to declare them himself? Did not Mr. Botts frequently interrogate the jurymen, whether they had nothing to state? Mr. J. Baker's case will be particularly recollected; for that gentleman positively replied, that he had no observations to make until he had been challenged; and not until this step had been taken, did any declarations fall from Mr. Baker. We wish to pursue the same course now, that was adopted on that occasion. We wish to challenge no juryman for cause, until they have previously made declarations of their state of mind. The same justice is due to the U. S. as was awarded to the prisoner: and they have the same right to know whether a juryman is as perfectly impartial in relation to the prosecution as to the prisoner. As to the jurors themselves, they would certainly be willing to give all the information in their power.

Mr. *Hay* was willing to take the persons selected; for he entertained no doubt of the integrity of the gentlemen who were summoned. He was willing to take them, provided they should be asked by the bench, whether they were conscious of any cause, which should disqualify them from serving. If they themselves were satisfied, he should be also satisfied. No man on this pannel who had definitively made up his mind, would conscientiously think to lay his hands on the book and solemnly avow himself an impartial and qualified juryman.

The Chief Justice understood then, that these selected eight were to pass without challenge, unless they challenged themselves. If the court were required to say, as seemed to be the wish of the prosecution, that any impressions were sufficient cause for challenge, he would ask where would this inquisition stop, or where could they obtain a jury?—"Gentlemen, (turning to the jury) if any of you have made up and declared your opinion on the case, you will say so, before you come to the book."

Mr. *Burr.* The law presumes every man to be innocent, until he has been proved to be guilty. It is therefore the duty of every citizen who serves on this jury, to hold himself completely unbiassed; it is no disqualification then for a man to come forward and declare that he believes me to be innocent.

When Christopher Anthony was called to the book, he stated that he was in court the other day when the first Venire was investigated; that it would be extremely unpleasant to serve on the jury, after having formed the very same opinions which he understood had disqualified others. Mr. A's objections were overruled.

Mr. M. Sheppard. I too feel myself disqualified from passing impartially between the U. S. and A. Burr. From the documents that I have seen, I have believed and do still believe, that his intentions were hostile to the U. S. It would be inflicting a wound on my own bosom, to be compelled to serve under my present impressions. Mr. S. observed, that considerations of a private nature had also borne upon his mind: for he had a child at home extremely sick.

Mr. Burr. Notwithstanding Mr. Sheppard's impressions, I could rely upon his integrity and impartiality. As to his private considerations, I do not wish wantonly to wound his feelings. I must request him therefore to sit down for a moment, until we shall ascertain whether we can make a jury without him.

Mr. Hay. Has the court understood the extent of Mr. Sheppard's declarations?

Chief Justice. If the prisoner's counsel wave the right of challenge, there is an end of it.

James Sheppard was then called; who made no declarations.

Reuben Blakey. I have made up no opinions either way, positively on this subject.

John Fitzgerald. It is incumbent on me to state to the court, that I have formed and delivered an opinion unfavorable to Col. Burr. My opinion has been founded upon the depositions of Generals Eaton and Wilkinson, and other newspaper publications; and it is, that Col. B's intentions are hostile and treasonable against the U. S. On which account I am very unwilling to serve, lest I should possess that bias upon my mind which is unbecoming a juryman. Mr. F. was requested to sit down for a few moments.

Miles Bott. From the affidavits of Gens. Wilkinson and Eaton, my opinion has been compleatly made up for several months past.

Mr. Martin. I suppose you have only taken up a prejudice, on the supposition that the facts stated were true.

Mr. Bott. I have gone as far as to declare, that col. B. ought to be hung.

Mr. Burr. Do you think that such declarations would now influence your judgment?

A. Human nature is frail. Nor can I positively say.

Q. Have you lately declared them?

A. Within a few months. I do not feel myself a competent juryman.

Mr. Burr. It will be seen, either that I am under the necessity of taking men prepossessed against me or of having another Venire. I am unwilling to submit to the further delay of other tales, and I must therefore encounter the consequences. I will take Mr. Bott, under a belief that he will do me justice.

Four jurymen then having been selected, the three following were sworn:

Messrs. James Sheppard,
Blakey, and Bott.
Mr. C. Anthony was affirmed.

When Henry Coleman was called, he stated that he had conceived and expressed an opinion that the designs of Col. B. were always developed in mystery and always inimical to the U. S. and when informed by the public prints, that he was descending the river with an armed force, he had felt as every friend of his country ought to feel.

Mr. Burr. If, sir, you have completely prejudged my case.

Mr. C. I have not. I have not seen the evidence.

Mr. B. That is enough, sir. You are elected.

Mr. Hay then suggested to the court, the propriety of not swearing all the jury this day; as it would subject them to the inconvenience of an unnecessary confinement in their own room to-morrow (Sunday.) Would it not be better for Mr. Marshal (the clerk) to swear three only out of the remaining four? The court might then impannel the whole on Monday and proceed immediately to business.

Mr. Burr had no objections to this measure; but hoped that the court would enjoin them not to hold any conversations on the subject of the trial.

John Curd upon being called, stated that he had no prejudices for or against the prisoner; but that he was bound in candor to inform the court, that he was afflicted by a disorder (a palpitation of the heart which might interrupt and delay the progress of the cause.) *Excused.*

Isham Godwyn had formed and declared an uniform opinion of Col. Burr's guilt. If he was impannelled, he should be so, under a strong impression that Col. B. was guilty of treason.—— *Suspended.*

Samuel Allen had for several months made up an opinion unfavorable to the prisoner. *Suspended.*

Benjamin Graves gave a long history of his domestic and family engagements to excuse himself from serving. He was asked whether he could not make some arrangements of this business between this time and Monday, calculated to remove all the inconvenience of his serving. Mr. G. could not positively say.

Mr. Burr then observed, that the two jurors who had been selected, might be sworn: the other two might be selected on Monday. And Messrs. Coleman and Bott were accordingly sworn.

Mr. Burr hoped that the Marshal would direct all the necessary preparations to be made for the accommodation of the jury, who would be confined to their own chamber after Monday.

Col. Thomas Branch was then excused from serving for a reason similar to general Pegram's.

The Chief Justice requested the jury and the remaining members of the Venire to attend on Monday at 12 o'clock; and enjoined them to hold in the mean time no communication on this subject with the world.

Mr. *Hay* stated, that he was satisfied from some expressions which he had heard from Mr. Mumford at the moment of his summons, that the prisoner would himself object to him.

Mr. *Burr* was satisfied with the attorney's word. And Mr. M. was accordingly discharged.

Mr. Burr was sorry to be importunate; but he was under the necessity of mentioning once more the letter of the 21st Oct. He wished to know whether the attorney had yet found it amongst his papers, or whether he could point any other means for obtaining it.

Mr. Hay had gone through two bundles of papers transmitted to him by Mr. Rodney: but he had not found it. There were other papers which he was yet to examine. He had however a copy of the original letter.

Mr. *Burr.* Where is this copy from? From Washington or from Gen. Wilkinson?

Mr. *Hay.* It is from Gen. Wilkinson. He has however written from the original.

Mr. *Burr.* I shall not accept of his copy. But I will state this proposition to the attorney. If he does not find this letter by Monday, will he consent that I obtain a *subpoena duces tecum?*

Mr. Hay. I have no objection.

Chief Justice. I suppose an order may be made to issue a *subpoena duces tecum* addressed to the attorney general for the U. S. in case the letter is not found.

Mr. Hay. I have no objection.

A desultory conversation ensued between Messrs. Hay and Botts, on the arraignment of H. Blannerhassett.

Mr. Hay was averse to interrupting the jury after it had been once impannelled for the trial of Mr. Burr: he was therefore anxious to have Blannerhassett immediately arraigned, and if possible, to have some day fixed for his trial.

Mr. Botts did not think it possible for the court to fix on a particular time for trial; or for the attorney to furnish any means for calculating it. Mr. Blannerhassett was not prepared for trial: but he was then preparing a brief for the information of his counsel; which might enable them to give a definitive answer on this subject.

Mr. Hay was willing to grant them any accommodation they might require. At all events the court would only have occasion to meet one hour sooner on some day, for the arrangement of this affair.

Mr. Botts promised that he would notify the attorney some day in the next week, for this purpose.

The court then adjourned till Monday 12 o'clock.

MONDAY, AUGUST 17.

Charles Lee, Esq. appeared as counsel for the prisoner.

Dr. Bennett, of Mason county, a witness on behalf of the U. S. was called and recognized.

Mr. Hay stated some little difficulty which had occurred between Mr. Botts and himself. He had furnished the prisoner with a list of the names of such witnesses, with their places of residence, which had been in his possession. He had likewise proposed and and Mr. Botts had consented, that all such witnesses should be examined, whose names should be furnished to the prisoner before the commencement of the trial. He had furnished the names of three on Saturday, viz. Messrs. Neil, Goodwin and Jones: which Mr. Botts did not think ought to be accepted, because they were not furnished previous to the trial. For his own part, he did not think that the trial could be said to have commenced before the jury were sworn and impannelled.

Mr. Botts denied the existence of any such agreement between Mr. Hay and himself; and entered into a long statement to show that Mr. Hay was mistaken. For the truth of his assertions he appealed to the record of the court. However he would agree as a matter of voluntary motion and grace to the introduction of these 3 witnesses.

Mr. Hay solemnly expressed his belief in the accuracy of his statements—but as he was at liberty to introduce these three witnesses, he would let the subject rest, where it was at present.

The names of the selected jurors and of the venire were then called over.—After which John M. Sheppard and Richard Curd were selected to complete the pannel and sworn.

The following is therefore a complete list of the Petit Jury:

Edward Carrington,
David Lambert,
Richard E. Parker,
Hugh Mercer,
Christopher Anthony,
James Sheppard,
Reuben Blakey,
Benjamin Graves,
Miles Bott,
Henry Coleman,
John M. Sheppard,
Richard Curd.

Proclamation then having been made in due form, the prisoner standing up—the clerk read the copy of the indictment, and afterwards addressed the jury in the usual form.

VIRGINIA DISTRICT.

In the Circuit Court of the United States of America, in and for the fifth Circuit and Virginia District.

The Grand Inquest of the United States of America, for the Virginia District, upon their oath do present that Aaron Burr, late of the city of New York and state of New York, attorney at law, being an inhabitant of and residing within the U. S. and under the protection of the laws of the U. S. and owing allegiance and fidelity to the same U. S. not having the fear of God before his eyes, nor weighing the duty of his said allegiance, but being moved by and seduced by the instigation of the Devil, wickedly devising and intending the peace and tranquility of the said U. S. to disturb and to stir, move and excite insurrection, rebellion, and war against the said U. S. on the 10th day of December, in the year of Christ, one thousand eight hundred and six, at a certain place called and known by the name of Blannerhassett's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, unlawfully, falsely, maliciously and traitorously, did compass, imagine and intend to raise and levy war, insurrection and rebellion against the said U. S.—and in order to fulfil and bring to effect the said traitorous compassings, imaginations & intentions of him the said Aaron Burr, he the said Aaron Burr afterwards, to wit: on the said 10th day of December, in the year one thousand eight hundred & six, aforesaid, at the said island, called Blannerhassett's island as aforesaid, in the county of Wood aforesaid, in the district of Virginia aforesaid, & within the jurisdiction of this court, with a great multitude of persons whose names at present are unknown to the Grand Inquest aforesaid, to a great number, to wit: to the number of 30 persons and upwards, armed and arrayed in a warlike manner, that is to say, with guns, swords and dirks, and other warlike weapons as well offensive as defensive, being then and there unlawfully, maliciously & traitorously assembled gathered together, did falsely and traitorously assemble and join themselves together against the said U. S. and then and there with force and arms did falsely & traitorously and in a warlike and hostile manner, array and dispose themselves against the said U. S. and then and there, that is to say, on the day and in the year aforesaid, at the island aforesaid, commonly called Blannerhassett's island, in the county aforesaid of Wood, within the Virginia district and jurisdiction of this court, in pursuance of such their traitorous intentions and purposes aforesaid, he the said A. Burr with the said persons so as aforesaid, traitorously assembled and armed and arrayed in manner aforesaid, most wickedly, maliciously and traitorously did ordain, prepare and levy war against the said U. S. contrary to the duty of their said allegiance and fidelity, against the constitution, peace and dignity of the said U. S. and against the form of the act of the Congress of the said U. S. in such case made and provided.

And the grand inquest of the U. S. of America, for the Virginia district, upon their oaths aforesaid, do further present that the said Aaron Burr late of the city of New York, and state of New York, attorney at law, being an inhabitant of, and residing within the U. S. and under the protection of the laws of the U. S. and owing allegiance and fidelity to the same U. S. not having the fear of God before his eyes nor weighing the duty of his said allegiance, but being moved and seduced by the instigation of the Devil, wickedly devising & intending the peace & tranquility of the said U. S. to disturb and to stir, move & excite insurrection, rebellion and war against the said U. S. on the eleventh day of December, in the year of our Lord one thousand eight hundred & six, at a certain place called & known by the name of Blannerhassett's island, in the county of Wood & district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms unlawfully, falsely, maliciously and traitorously did compass, imagine and intend to raise and levy war, insurrection and rebellion against the said U. S.; and in order to fulfil and bring to effect the said traitorous compassings, imaginations and intentions of him the said Aaron Burr, he the said Aaron Burr afterwards, to wit: on the said last mentioned day of December in the year one thousand eight hundred and six aforesaid, at a certain place commonly called and known by the name of Blannerhasset's island in the said county of Wood in the district of Virginia aforesaid, and within the jurisdiction of this court, with one other great multitude of persons whose names at present are unknown to the inquest aforesaid, to a great number, to wit: to the number of thirty persons and upwards, armed and arrayed in a warlike manner, that is to say, with guns, swords and dirks, and other warlike weapons, as well offensive as defensive; being then and there unlawfully, maliciously and traitorously assembled and gathered together, did falsely and traitorously assemble and join themselves together against the said U. S.; and then and there with force and arms did falsely and traitorously and in a warlike and hostile manner array and dispose themselves against the said U. S. and then and there, that is to say, on the day and in the year last mentioned, at the island aforesaid, in the county of Wood aforesaid, in the Virginia district, and within the jurisdiction of this court, in pursuance of such their traitorous intentions and purposes aforesaid, he the said Aaron Burr with the said persons so as aforesaid, traitorously assembled and armed and arranged in manner aforesaid, most wickedly, maliciously and traitorously did ordain, prepare and levy war against the said U. S. and further to fulfil and carry into effect the said traitorous co-