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FIVE DOLLARS PER ANNUM FRIDAY, AUGUST 28, 1807. PAID IN ADVANCE.

This is to give notice, that the subscriber of the city of Washington in the district of Columbia, hath obtained from the Orphan's Court of Prince George's county in the state of Maryland, letters of administration on the personal estate of Thomas Ducket, late of said county deceased. All persons having claims against the said deceased are hereby warned to exhibit the same with the vouchers thereof, to the subscriber on or before the first day of October next, they may otherwise by law be excluded from all benefit of the said estate. Those indebted to the deceased are desired to make immediate payment.

ALLEN B. DUCKETT, Adm.

City of Washington, March 18—tf

☞ All claims forwarded by mail must be post paid.

RAMSAY'S LIFE OF WASHINGTON.

IN the press, and in a few weeks will be published by E. S. THOMAS, of Providence, R. Island, late of Charleston, S. C. and for sale at J. March's book store, George Town.

The Life of

GEORGE WASHINGTON,

Commander in Chief of the Armies of the U. States of America, throughout the war which established their Independence, and first President of the United States.

BY DAVID RAMSAY, M. D.

AUTHOR OF THE HISTORY OF THE AMERICAN REVOLUTION.

This work will be published on the following conditions:

1st. It will be comprised in one volume, octavo, of about 400 pages, on a fine wove paper.

2d. It shall be ornamented with an elegant engraved Head of Washington.

3d. The price to Subscribers, in boards, will be two dollars and fifty cents; to non-subscribers, three dollars.

4. No money will be required until the books are ready for delivery.

On the merits of a work, coming from an author so celebrated in the annals of literature as Ramsay, suffice it to say, that the manuscript has been read by several gentlemen of great literary acquirements, and pronounced to be "a piece of elegant classic Biography."

Subscriptions received at J. March's book store, High street, George Town.

Where are just received a new collection of books in every department of literature.

July 15.

New & Valuable BOOKS.

JUST received, and now opening, at D. RAPINE'S Book store on Capitol Hill, a Choice and Valuable Collection of BOOKS and STATIONERY, which he will be happy to dispose of to his friends and customers on the most reasonable terms—amongst which are:

The Novice of St. Dominick, by Miss Owenson, author of the Wild Irish Girl,
Saint Clair, or the Heiress of Dermond, by the same author,
Warren's History of the American revolution, 3 vols.
Montgomery's Poems,
Roberts on Frauds,
Sugden's Law of Venders,
East's Reports, vol. 7th,
Peter's (judge) Maritime Law,
Henning and Mumford's Virginia Reports,
Domestic Cookery,
Sidney on Government,
Aitkin's Geography,
Workman's do.
Geographical questions,
Sporting Anecdotes,
Nautical Almanacs for 1808—9
German Theatre, 6 vols.
Jess' Surveying,
Sacred Classics, 9 VOLS.
Sevigne's Letters, 7 VOLS.
Sully's Memoirs, 5 VOLS,
Pope's Homer, 4 VOLS.
Graylia's Italian Dictionary.
Young's Centaur.
Lady's elegant tortoise-shell combs, ornamented and plain.
Spectacles and Morocco cases.
Watch seals and keys.
Fashionable paper hangings and borders.
Reeves' water colors.
Mathematical Instruments.
Chamber Lamps and wicks.
Japaned Ink.
Durable do.

A large assortment of writing & letter paper—hot pressed and plain.

QUILLS, sealing-wax, wafers, pen knives, &c. &c.

Dr. Rees' Cyclopediae,

Vol 5th, Part 1st, or the 9th half volume, is just received and ready for delivery, those who have not had ALL the preceding vols. WILL oblige by sending for them.

Aug. 7 tf.

CHARLES H. VARDEN,

Merchant Taylor

New Jersey Avenue, near the Capitol.

RESPECTFULLY informs the gentlemen of the district of Columbia, he has imported by ship Eliza ANN lately arrived at Philad.

A choice assortment

Of Extra Superfine cloths, Bennets, Velvets, and Cords, Cassimeres, single and double milled Sattin cloths, fashionable Spanish Orleans and Toilenets, rich silk Moleskin velvets, silk and sattin Florentines, with a variety of other articles suitable for the season.

N. B. Ladies habits, regimentals, and navy uniforms made in the first stile of fashion.

Richard Harwells celebrated patent parallel Suspenders, can be had on the same terms as at his manufactory.

November 12—tf

TRIAL OF COL. A. BURR.

Tuesday, August 18.

WM. EATON'S EVIDENCE.

(Concluded.)

Questioned by the Prosecution.

Mr. Wirt. Was there any conversation between you and the prisoner, in which you spoke of the odium attached to the name of usurper?

A. That conversation was excluded by the opinion of the court, as relating to the central project.

Mr. Hay. Did you mean to state that the *honorable indemnity* proposed to you by the prisoner was to be included in this plan?

A. I understood it to be included in the permanent rank and emolument to be assigned me; in his full confidence, that he should erect a government of which he was to be the chief.

Cross-questioned.

Mr. Martin. Do you recollect when you arrived in Washington?

A. I said that I did not recollect particularly. But the principal part of these conversations must have been between the middle of February and the latter end of March.

Q. Was there any particular conduct calculated to put an end to Col. Burr's importunities?

A. Yes. At some of our last interviews, I laid on his table, a paper containing this toast which I had given to the public:—The United States—Palsey to the brain that should plot to dismember, and leprosy to the hand that will not draw to defend our union.

Q. Where was that toast drank?

A. I cannot say. This question was made to me from authority. It was sent with other toasts I had corrected, to a paper at Springfield. I laid this paper on Col. Burr's table, that he might see it; and I have reasons to believe that he did.

Q. Was it drank at any distant place? At Philadelphia?

A. I do not recollect. I thought at first it was Philadelphia; but I had received many hospitalities throughout the union; many of my toasts were published; and in the hurry of passing and repassing, I have completely forgotten.

Mr. Burr. Do you recollect when you left Washington?

A. About the 5th or 6th of April?

Q. Can you not be certain where this toast was drank? At Washington or at Philadelphia?

A. I am certain it was not at Washington, because I gave another there when called upon.

Q. Did you say, that all those conversations happened between the middle of February and the last of March.

A. No: I did not say so. I said the principal part of these conversations.

Q. You say that this toast was printed at Springfield?

A. I did.

Q. Have you in your possession a paper containing that toast?

A. I have not here.

Q. You mentioned something about a communication which you made to the President through the post master general. Look at that paper. Is that your signature?

A. It is; and I must give a short account of that paper. Mr. E. then mentioned that the notes on the two first pages were drawn up by Mr. Granger, from conversations which had passed between Mr. G. and a Mr. Ely, on certain communications made to Mr. Ely by Mr. Eaton, respecting Col. B's plans—that he had seen Mr. Ely at Northampton, at the session of the court of common pleas, at a time when they had first heard of the building of boats on the Ohio. The notes on the last page in Mr. Granger's writing, and subscribed by himself, were from subsequent conversations between him and Mr. G.

Mr. Burr. You spoke of accounts with the government. Did you or the government demand money?

A. They had no demand on me. I demanded of them.

Q. Did they state in account a balance against you.

A. I expended money for the service of the U. S. when employed in my agency at Tunis; an account of which being presented to the accounting officers of the treasury, they, I was told, had no legal discretion to settle it. As there was no law to authorise this adjustment, I did refer to the Congress of 1803 4 A committee had reported on my claims favorably as I had supposed. I repaired, however, to the coast of Barbary, and when I returned, found that new difficulties had occurred to an adjustment. Leaving out the sums which I had advanced, the government had a balance against me. The last session of Congress has provided for the payment, and the commissioners have settled it.

Mr. Martin. What balance did you receive?

A. That is my concern, sir.

Mr. Burr. What was the balance against you?

Mr. *E.* (to the court) is that a proper question, sir?

Mr. Burr. My object is manifest. I wish to shew the bias which has existed on the mind of the witness.

Chief Justice saw no objections to the question.

Mr. *E.* I cannot say to a cent or a dollar; but I have received about 10,000 dollars.

Mr. Burr. When was the money received?

A. About March last,

Q. You mentioned Miranda. Where did you understand he was gone to.

A. On the benevolent project of revolutionizing the Spanish provinces.

Q. What part of them?

A. Carraccas. I had some reason too to know something of that project: because I too was invited to join in *that*. He too was to have been a little Emperor; he might have been troublesome to us; and of course when I asked you what was to be done with him, you observed, "hang him."

Q. Did you understand I was to do all at once; to execute the central project too as well as those in the West?

A. I have no objections to answering that; but it will be nothing in your favor. When Col. B. was speaking of a central revolution, not much was said about his revolution in the west.—Had the other been effected, I doubt much whether you would have been willing to have separated that part.

Q. You spoke of a command.

A. You stated, what I have already mentioned, that you were assured, from the arrangements which you had made, that an army would be ready to appear, when you went to the waters of the western country. I recollect particularly the name of Ephraim Kibby. You asked me about his spirit.—You asserted that his brigade was ready to join you, & that the people also in that country were ready to co-operate. You spoke of your riflemen, your infantry, your cavalry. It was with the same view, you mentioned to me that that man (pointing to Gen. Wilkinson just behind him) was to have been the first to aid you; and from the same views you have perhaps mentioned me.

Mr. Martin objected to the witness interposing his own opinions in this manner.

Mr. Hay. Some allowance is to be made for the feelings of a man of honor.

Mr. Eaton bowing apologised to the court for the warmth of his manner.

Mr. Burr. You spoke of my revolutionizing the western states.

A. Your line was to be the Alleghany mountain. You were certain about Kentucky and Tennessee; but expressed some doubts about Ohio—I well recollect that on account of the reason which you gave; that they were too much of a plodding industrious people to engage in your plans,

Q. How was this business to be effected?

A. I understood that your agents were in the western country; that the commander in chief was ready to cooperate with his army; and that these with the adventurers that would join you, would compel the states to a separation. Indeed you seemed to consider New Orleans as already yours, and that from this point you would make conquests and consolidate your empire.

Q. Was it after all this, that you recommended me to an embassy?

A. Yes; and because I thought it the only way to avert a civil war.

Q. Did you communicate your recommendation to me?

A. Yes; you seemed to assent to the proposition.

Q. What had become of your command?

A. That I had disposed of myself.

Q. Did you understand that you had given me a definitive answer?

A. No: after you had developed yourself, I determined to use you until I got every thing out of you; and on the principle that "when innocence is in danger to break faith with a bad man, is not fraud but virtue."

Q. Did you think that your proposition as to a foreign embassy which was so incompatible with my own plans, would be received by me with indifference; had I abandoned the project?

A. You seemed to me to want some distinguished place: as to the mode, you were indifferent: and you seemed to acquiesce in the plan of a foreign embassy.

Mr. Hay. You said that you received about 10,000 dollars from the government. The act of Congress did not give you a definitive sum.

A. The act of Congress gave the accounting officers the power of settling with me, under the inspection of the secretary of state, under whose department I had served, and the settlement was accordingly made.

Mr. Eaton was followed by *Commodore Thomas Truxton*, who was introduced to shew the *intentions* & the turn of mind of the prisoner, about the beginning of the winter of 1805 -6.

The Messrs. *Morgans* were then called to carry on the regular chain of events, but one of them being absent,

Peter Taylor, (Blannerhassett's gardener) was introduced; to prove the overt act on Blannerhassett's island.

On Wednesday, the examination proceeded.

Col. G. Morgan, gen. J. Morgan, and *Mr. Thomas Morgan*, (the father and two sons) from the neighborhood of Pittsburg, Pennsylvania; were introduced also to shew the turn of mind of the prisoner, about the latter end of August, 1806; when he visited col. Morgan's house on his way to the western country. They were followed by

Jacob Albright, who had been a workman on Blannerhassett's island, and who deposed as to the overt act; and

William Love, who had been H. Blannerhassett's groom.

In the course of Love's examination, the important question was suggested, how far testimony could be introduced for the purpose of proving facts without the district of Virginia; which question was reserved for a subsequent discussion. The examination on this day was closed by the testimony of

Mr. Dudly Woodbridge, who had been H. Blannerhassett's Partner in a store at Marietta (O.) and who gave a particular history of the building of the boats on the Muskingham and the laying in the provisions.

On Thursday, *Mr. Burr* observed, that the nature of the overt act had been seen from the evidence before the court—and that the prosecutors had even acknowledged that they should not prevent the overt act by *actual hostilities* and he himself was not *present* at the time this overt act was said to have been committed. If they were mistaken in these points; if it was shown that they had grossly mistaken the decision of the supreme court, it were better to save the time of the court, the expense and inconvenience, by arresting the progress of his prosecution. Some discussion ensued upon the propriety of taking up the argument, which was waved for the present, when

Simeon Poole, who had been on the Ohio side of the river opposite to Blannerhassett's island on the evening and night, when the boats departed; and

Maurice Belnap and *Edmund P. Dana*, who were at the same time on the island, were respectively examined. The examination was then suspended, to make way for an argument on one of the points suggested by Mr. Burr.

Mr. Wickham opened the argument and spoke 4 hours, until 4 o'clock, when the court adjourned.

The discussion will this day be resumed.

The two following appear to be the propositions supported by the prisoner's counsel: 1. That the accused not having been *present*, at the time of the overt act, no evidence can be adduced to prove his *connexion* with that overt act. 2. That an overt act not being proved, the prosecutor entirely fails.

JUDGE MARSHALL's OPINION.

On the routine of Evidence, delivered on Tuesday the 18th.

Although this is precisely the same question relative to the order of evidence, which was decided by this court, on the motion to commit, yet it is now presented under somewhat different circumstances, and may, therefore, not be considered as determined by the former decision. At that time, no indictment was found no pleadings existed, and there was no standard, by which the court could determine the relevancy of the testimony offered, until the fact to which it was to apply, should be disclosed.——There is now an indictment specifying the charge which is to be proved, on the part of the prosecution, there is an issue made up, which presents a point to which all the testimony must apply and consequently it is in the power of the court to determine, with some accuracy, on the relevency of the testimony which may be offered.

It is contended in support of the motion which has been made, that, according to the regular order of evidence and the usage of courts, the existence of the fact on which the charge depends, ought to be shown, before any testimony explanatory, or confirmatory of that fact can be received. Against the motion it is contended that the crime alleged in the indictment, consists of two parts: the fact and the intention, and that it is in the discretion of the attorney for the United States, first to adduce the one or the other; that no instance has ever occured of the interference of a court with that arrangement which he has thought proper to make.

As is not unfrequent, the argument on both sides appears to be, in many respects correct. It is the most usual and appears to be the natural order of testimony to show, first the existence of the fact respecting which the enquiry is to be made. It is unquestionably attended with this advantage; there is a fixed and certain object to which the mind applies with precision, all the testimony which may be received and the court can decide with less difficulty on the relevancy of all the testimony which may be offered. But this arrangement is not clearly shewn, to be established by any fixed rule of evidence and no case has been adduced in which it has been forced by the court, on the counsel for the prosecution.

On one side it has been contended that by requiring the exhibition of the fact in the first instance, a great deal of time may be saved since there may be a total failure of proof with respect to the fact; and this argument has been answered, by observing, that should there even be such failure, they could not interpose and arrest, the progress of the cause; but must permit the counsel for the prosecution to proceed with that testimony which is now offered.

Levying of war, is a fact, which must be decided by the jury. The court may give general instructions on this, as on every other question brought before them, but the jury must decide upon it as compounded of fact and law. Two assemblages of men not unlike in appearance, possibly may be, the one treasonable and the other innocent. If, therefore, the fact exhibited to the court and jury, should in the opinion of the court, not amount to the act of levying war, the court could not stop the prosecution—but must permit the counsel for the U. S. to proceed to show the intention of the act, in order to enable the jury to decide upon the fact, coupled with the intention.

The consumption of time would probably be nearly the same, whether the counsel for the prosecution commenced with the fact or the intention, provided those discussions, which respect the admissibility of evidence would be as much avoided in the one mode as in the other. The principal importance which viewing the question in this light, would seem to attach to its decision, is the different impressions which the fact itself might make, if exhibited at the commencement or close of the prosecution.

Although human laws punish actions, the human mind spontaneously attaches guilt to intention.—The same fact, therefore, may be viewed very differently, where the mind is prepared by a course of testimony calculated to impress it with a conviction of the criminal designs of the accused, & where the fact is stated without such preparation. The overt act may be such as to influence the opinion, on the testimony afterwards given, respecting the intention; & the testimony respecting the intention, may be such, as to influence the opinion on the testimony, which may be afterwards given respecting the overt act.

On the question of consuming time, the argument was placed in one point of view by the counsel for the defence, which excited some doubt. The case was supposed of only one witness to the overt act, and a declaration that it could be proved by no other.—The court was asked whether the counsel would be permitted then to proceed to examine the intentions of the accused, and to do worse than waste the time of the court and jury, by exposing, without a possible object, the private views and intentions of any person whatever.

Perhaps in such a case the cause might be arrested, but this does not appear to warrant the inference that it might be arrested, because the fact proved by the two witnesses did not appear to the court, to amount to the act of levying war. In the case supposed the declaration of the law is positive, and a point proper to be referred to the court occurs, which suspends the right of the jury, to consider the subject, and compels them to bring in a verdict of not guilty. In such a case, no testimony could be relevant, and all testimony ought to be excluded. Suppose the counsel for the prosecution should say that he had no testimony to prove the treasonable intention: That he believed confidently the object of the assemblage of men on Blannerhassett's Island to be innocent: That it did not amount to the crime of levying war: Surely it would be a wanton and useless waste of time to proceed with the examination of the overt act. When such a case occurs, it cannot be doubted that a nolle prosequi will be entered, or the jury be directed with the consent of the attorney to find a verdict of not guilty.

It has been truly stated that the crime alledged in the indictment consists of the fact and of the intention with which that fact was committed. The testimony disclosing both the fact and the intention must be relevant. The court finds no express rule stating the order in which the attorney is to adduce relevent testimony, nor any case in which a court has interfered with the arrangement he has made. No alteration of that arrangement therefore will now be directed.

But it is proper to add that the intention which is considered as relevant in this stage of the enquiry is the intention which composes a part of the crime, the intention with which the overt act itself was committed—not a general evil disposition, or an intention to commit a distinct fact. This species of testimony, if admissible at all, is received as corroborative or confirmatory testimony. It does not itself prove the intention with which the act was