performed, but it renders other testimony probable which goes to that intention. It is explanatory of or assistant to that other testimony. Now it is essentially repugnant to the usages of courts, to the declarations of the books by whose authority such testimony is received, that corroborative or confirmatory testimony should precede that which it is to corroborate or confirm. Until the introductory testimony be given, that which is merely corroborative is not relevant, and of consequence, if objected to, cannot be admitted without violating the best settled rules of evidence.

This position may be illustrated by a direct application to the testimony of gen. Eaton. So far as his testimony relates to the fact charged in the indictment, so far as it relates to levying war on Blannerhassett's island, so far as it relates to a design to seize on New Orleans, or to separate by force the Western from the Atlantic states, it is deemed relevant and is now admissible.—So far as it respects other plans to be executed in the city of Washington or elsewhere, if it indicates a treasonable design, it is a design to commit a distinct act of treason, and is therefore not relevant to the present indictment. It can only by showing a general evil intention render it more probable that the intention in the particular case was evil; it is merely additional or corroborative testimony, and therefore if admissible at any time, is only admissible according to rules and principles which the court must respect, after hearing that which it is to confirm.

The counsel will perceive how many questions respecting the relevancy of testimony, the arrangement proposed on the part of the prosecution will most probably produce. He is however at liberty to proceed according to his own judgment, and the court feel itself bound to exclude such testimony only, as at the time of its being offered, does not appear to be relevant.

THURSDAY, AUGUST 13.

Sketch of the arguments on the qualifications of an impartial jury (concluded.)

Mr. Wirt said, it were to be wished that in this case, a jury could be got of such pure materials as Mr. Martin desired—whose minds were as pure as the unsoiled snow on Diana's lap. But does experience justify such a hope?—The case does not exist, and the law does not require it. Mr. Martin's authorities are elementary; they are abstract; and not precisely applicable to points of practice. They are general phrases: they deal only in generals—but were these books even to be trusted—and did not their generality exclude them from familiar use; you will find that when they specify, they express a particular reference to the person of the accused. To show that these elementary principles are not completely pursued in the English courts, he would refer to Tooke's case, p. 9. Any enmity, and familiarity, is in Reeves a sufficient cause for rejection: but in Tooke's trial, Mr. Thompson's intimacy with Mr. T. for 34 years was said by the judge to be no good ground of exception. But let us select another case in our own country. It is important that the rules of law should not be continually shifting on the waves of uncertainty, in order that a man may know how to steer his course. Well, now what says the case of Callender in a particular point? When Mr. John Bassett had objected to himself, because he had already made up his mind on the point of libel, he was overruled. But turn to the English laws of libel and what is the principal point there? Is it who is the author? Is it on that point that the brightest beams of eloquence are shed? No. But it is on the question whether it is a libel or not. Then in the language of Mr. Botts, was not Callender cut off from more than half his defence? Let us draw an analogy between the two cases. These jurymen might have said, that the assemblage of men on Blannerhassett's island was high treason: but they know not whether col. B. was there. Here this case and that of Callender would be strikingly parallel. In both cases, the great facts would be fixed in the mind of the juror—and the only thing that would remain, would be to trace them up to the individual accused. But the present case falls far short of that. These jurymen say, that from newspaper publications they have taken up some impression, as to Burr's treasonable intentions; but not one of them says, that the meeting on Blannerhassett's island was an act of treason.—In another point Callender's case was a stronger one than this. It was ridiculous for J. T. Callender to have attempted to counteract the conviction, that lay against his crime. Mr. Bassett's opinion was formed upon the book itself—and there was no other evidence to produce. But in this case, jurymen have seen nothing but the evidence in the newspapers; and they say there is conflicting evidence as to the fact of treason. If then you would strip col. B. of half of his defence because a juryman has made up half of his mind—how much more was J. T. Callender stript of his! The kind of jury that Mr. Martin contends for, is impossible to be obtained from the very nature of things. Necessity has often given the law in other cases; and perhaps it must in this.—This is not the only case, where a purely impartial juryman must have dropt from Heaven or from some of the planets. Look at the English Rebellions of 1715 and of 1745—when the question of the Pretender and the house of [illegible] was so warmly agitated.—The [illegible] were [illegible] with it; all [illegible] zeal and enthusiasm [illegible] not only [illegible] fought for it; and that in so small a kingdom, that the very clang and the din of the battle of Culloden rung to the other confines of the country. Is this a case in which an impartial jury could have been expected? And yet the rebels were tried by british jurors; tried by jurors, who had been perhaps arrayed in battle against them. Perhaps those who fought for the monarch in the fields of Culloden, were the very men who decided on the trials for treason. Mr. Martin's rule is a good rule, when it flourishes in the mind of a good man; it is a good rule for Utopia and Arabia happy; and look to the trials of '94 in Ireland; when men who had fought at the battle of Wexford; when men at the very focus of public illumination were to sit on the trial of Archibald Hamilton Rowan. Could such men have gone into the jury box as if they had never seen the books on which these charges had been predicated: as if they had been men dropt from another planet? From the plains of Culloden and Wexford, from London and Dublin let us come back to our own thresholds. He who could peruse the public prints of North America, for the last 12 months with adamantine indifference; he who could read the depositions of Eaton and Wilkinson without some interest;—cannot be a man. No man could do it that has a soul, that can grace the bosom of a man. I appeal to the bench, whether there is that base frigidity of character in the inhabitants of North America. Look at this very pannel; have they taken no impressions?—Mr. Wirt embraced a variety of other points, which our limits do not permit us to detail; and in a strain of eloquence, which it is impossible for us to transfuse.

Mr. Wickham observed, that the remarks of the gentleman last up, reminded him of a Roman Epigram on a lady, who was so completely covered by the decorations which enveloped her, that she was the least part of herself. It was precisely so with the gentleman's argument. It was so perfectly enveloped in figures and graces, that the argument constituted the least part of itself; and it was only by lifting a flounce here and a furbelow there, that you could catch a glimpse of it. The gentleman has hurried us to England, and to the battle of Culloden, with as much ease as if he had waved the wand of a magician. He has compared the judicial decisions in that country at the period of the rebellion with the case now agitated before this court; without having attended to the natural points of distinction between them. Every man in England could reason upon the cause of the Pretender. The basis of this decision was a chain of historical facts, recorded in books, which reason could appreciate and prejudice could not distort. Such a case would have been precisely similar to the one now before the court, had this too been founded on the annals of history or on matters of fact. Had it been established that gun boats had descended the Ohio; that Col. B. had had several engagements with Gen. Wilkinson; and had then been brought before this court for trial; the jury would have decided upon these facts, and not upon their own prepossessions. But where are the established facts in this case? The President has declared that of his guilt there can be no doubt. Yet the President is but a man and liable to deception. General Wilkinson too is a witness; but his credibility may be hereafter impeached; and the supreme court has already decided that his testimony is not relative to the charge of treason. This whole tale then resolves itself into Gen. Eaton's deposition; of which though we may not be disposed to say it is untrue, we may at least assert that it is marvellous. Is this accusation then founded on historical facts? Is there a single document to support it? No—not one. How then can the gentleman pretend to institute a parallel between this case, and the case of the rebellions of England?

If it be no disqualification for one juryman to have entertained an opinion of Col. B's treasonable intentions, it can be no disqualification for 12 of them. What then would be the situation of his counsel? The jury are impannelled: their minds made up as to the treasonable designs of Col. B. With what attitude could his counsel stand before such men to vindicate his innocence—Would they pretend to operate upon marble?—They might as well at once abandon the cause of their client.—These impressions too, respecting Col. B's intentions would directly contribute to influence their judgments as to the overt acts said to have been committed. These impressions do directly bear upon the overt act; because the intention is the first step towards the act itself, and renders it more probable that that act will be committed. What is most probable is soonest believed to be most likely to happen; and the man whose judgment is therefore made up as to the intentions of Col. B. cannot be said to be impartial on any one point in the cause. Let the case be supposed of six jurymen whose mind is decided as to the intentions; and six others as to the overt act. How could the counsel pretend to address them on either of those points? If they wished to argue on one of them, they must abandon it; because six of the jury are adamant: If they turned to the other, they would meet with equal prejudice and equal resistance.—It was like the case of the Abbess and the Nun, recorded in Tristram Shandy: where it would be a sin for either of them to pronounce a certain word entire; but by splitting it into two pieces, they completely removed all the sin of the transaction. One of them could then articulate the *Bou*, and the other the *ger*.

As to Callender's case, had Mr. Bassett concluded that Callender was the author of the libel? Had he decided upon his intentions? Or upon the guilt of publishing it? No.—Did the council who appeared for him pretend to deny that it was a libel; or did they not rather voluntarily step forward for the sake of disputing the constitutionality of the law and the authority of the court under which he was arraigned? Did Mr. Randolph himself, in the House of Representatives, deny that it was a libel? And let it be recollected, that this very decision of Judge Chase was overruled in the Senate of the U. S. by a majority of 18 to 16? And yet Mr. Hay has now quoted it as law.

Mr. W. then expatiated upon Mr. Hay's definition of an impartial juryman. The sense of the majority of any country was to be considered as the criterion of impartiality and truth. What a vast saving of trouble would result from this new principle. Instead of a student's poring over the black letter in his own closet, in search of principles and tests; he need only go about to this barbacue and that horse-race, to take the common sense of mankind. A lawyer would perhaps consult his M'Nally, or his Reeves: but Mr. Hay would go about collecting the sense of the nation. Is there then to be an *appele nominal*, as there has been in France, when the French people were asked "are you for Napoleon being king of the French?" But this argument proves too much. Were a man to declare colonel Burr guilty not only of a treasonable intent, but of a treasonable act, could he be considered as an impartial juryman, because he happened to coincide with the public opinion? It is in fact impossible to know what that opinion is. Opinions are continually fluctuating: What is law under the administration of John Adams, is not so under the administration of Mr. Jefferson.

Mr. Wirt has found fault with elementary writings, and asserts that they are not always the tests of truth. It is true that they are not always so: but they are most generally so considered. Some elementary books, such as Lord Coke's, are of inestimable value. As to the variation which Mr. Wirt has pointed out between one of the elementary principles of Reeves and the court's decision in the case of Horne Tooke, a reference to the report of that trial would clearly shew that this case had not been accurately represented to this court. Thompson, the juryman, was not in court; he had exercised the discretion of absenting himself, and it was said by way of excuse, that he had been long and intimately aquainted with the defendant. It was to this point that the judge spoke, when he said that it was no excuse. No excuse for what? Not from serving on the jury, but for not attending the court.

Mr. Wirt here interrupted Mr. W. and submitted it to every candid mind which had most candidly stated the passage. Mr. Wirt then read it and commented at some length. A long and desultory conversation occurred on this point; after which Mr. Wickham observed, that he had but one more remark to offer: that he had come here to try the defendant on the law and on the fact, and not on public rumor—but that this trial would be nothing but mockery, if it were to be submitted to the decision of a prejudiced jury. Why did the framers of our constitution attempt to secure the privilege of an impartial jury? Was it not known to them, that the period would at length arrive, when some individual would be marked out as the victim of popular and political jealousy? And was it not from such a case, that the constitution had originally forbid the legislature to change the law of treason—and that a subsequent amendment was introduced, still further to fortify and to secure the privileges of the accused?

Mr. E. Randolph (at the request of the court) read Judge Chase's answer to the article of the indictment, which arraigns his decision in the case of Mr. Basset: Mr R. then observed that he had not intended to have interfered in this discussion; because he expected that the objections which would be offered to have been made to particular individuals only; but he had since seen, that a most serious blow was meditated at the whole system of jury trial. Whether Heaven or accident had given us this illustrious boon; it was certainly our most solemn duty to preserve it pure and perfect. Vain would be all this parade, if a judge would calmly sit upon the bench, and connive at its violation. If the courts do not defend this right, could it be truly said that any man was safe in his own habitation?—Mr. R. said that some analogies had been stated between the present and other cases. Other gentlemen had introduced Burglarly and Murder; and to this catalogue he should add the crime of uttering false money knowing it to be false. If a juror should assert that he knew not whether the accused passed the money; but that he was certain he must have known it to be false; there could be no doubt of his being a biassed and incompetent juryman. Mr. R. expatiated at some length upon the case of Tooke, and upon the authorities quoted from Hawkins; and attempted to shew that Hawkins had contradicted and confuted himself; that instead of advocating the pure and more liberal doctrines of his own day on the subject of juries, he has appealed to the reign of the Tudors, when not a spark of liberty existed. He concluded by solemnly conjuring the court to preserve the privileges of the jury trial free from violation; he would appeal to the volume of human nature; he would almost appeal to Mr. Hay's great tribunal itself; whether any man could decide a case fairly & impartially on one half of which his mind was already made up.

PROSPECTUS.

THE Subscriber has long been impressed with an opinion, that a newspaper which should concentrate important statistic facts, display national improvements, (particularly those arising from canals and turnpikes) exhibit the advantages of labor saving machinery, and careful agriculture, in short that a paper which should regularly have a specific portion of its columns devoted to political economy, would be useful to his country, as tending to convince his fellow citizens of truths, of which all may not be sufficiently aware are essential to render the United States independant, respectable and happy.

Such an idea has frequently been canvassed among the friends of the subscriber, and as they agreed with him as to the advantages which might be diffused thereby, they have often urged him to commence such an establishment. Many difficulties originating in his ignorance of the mechanical parts of the business and other causes, long rendered such an attempt however desirable impossible, yet he never ceased anxiously to hope, the day would come when he might be enabled to undertake it—this anxiety has been tenfold increased by the late daring and profligate attack on the Chesapeake which the necessity of disseminating by means of a newspaper (the most popular of all modes) such information, as might tend to free us from the shackles of foreign nations and promote within our own territory the consumption of our own wheat, barley, hops, cotton, flax, hemp iron, pitch, tar, turpentine beef, pork, as well as a number of other raw and manufactured articles, thereby securing to our own agriculturalists (the best support of our country) a sure stimulus and efficient reward for their labor, has been felt and acknowledged by every true friend to the United States. Under these impressions, the subscriber proposes to commence such an establishment, and should a constant view of the importance of agriculture and the arts, induce one individual in addition to our Franklins, Rittenhouse's and Fulton's, to emulate the perseverance and talents of a Brindley—a Bolton, a Bakewell, an Arkwright or a Parker, or lead one of our wealthier countrymen to extend to the most important objects of political economy, the useful liberality of a Russel, a Coke or a Burdett, it will be attended with infinite advantages to the U. States and richly repay the labors of the Editor.

On these accounts the subscriber has determined to move his establishment to Washington city, emphatically denominated the Heart of the Union, as likely soon to become the seat of science and the nursery of the arts.

Some time then in September next will be published the 1st number of a weekly newspaper, entitled,

The Washington Expositor,

OR

WEEKLY REGISTER.

Having it is believed surmounted the difficulties hitherto experienced by the subscriber he has compleated such arrangements, as will enable him, to present to his patrons a correct sheet in a handsome dress, which will contain

1st. Statistical facts particularly such as relate to national improvements, navigable canals, and turnpike roads.

2d. Facts respecting the practice of husbandry, including reviews of, and extracts from the best books, which can be procured on that important subject.

3d. Views of the various mechanic improvements by which labor has been economised.

4th A constant tendency to support the great distinguishing principles of federal America, viz. The right of every man who pays a tax or carries a gun in defence of his country, to the enjoyment of an equal suffrage, the right of every man to the free exercise of his own religious opinion, as well as, that his house should be his castle, free from obstruction of search.

With such views the Expositor will be printed on a GOOD WHITE PAPER, of a ROYAL size, with handsome type.

The price to subscribers will be 3 dollars per annum.

As considerable labor and expence will be connected with this establishment, no paper will be forwarded to any subscriber without an advance of the subscription money.

In order to afford room for as much information and amusement as possible, after the first insertion, every advertisement will be published in a supplemental sheet.

All subscribers to the Alexandria Expositor who have hitherto paid with regularity, will be supplied with the contemplated paper, except special orders are received to the contrary.

Articles of intelligence, essays on general policy and the various circumstances connected with political economy, advertisements, &c. will be thankfully received at the office.

Letters relative to the business of the paper must be addressed Post Paid to the Expositor Office Washington city, otherwise they will not be taken up.

Subscriptions will be received at the Office in Washington city, and Mr. Milligan's Georgetown.

The scheme of the paper, being detailed, it is only necessary to add, that when it receives adequate patronage, it will be rendered a semi-weekly paper, and to request of such Editors, as approve the plan, to give this Prospectus a few insertions and thereby oblige their fellow-citizen,

RICHARD DINMORE.

August 27, 1807.

MONEY LOST.

ON Sunday the 23d inst. was lost between the Eastern Branch lower Bridge & the City Bank a ONE HUNDRED DOLLAR NOTE on the Bank of Baltimore one FIVE dollar note believed to be on the Bank of Alexandria, & one ONE dollar note believed to be on the Bank of Maryland—all wrapped in a bill of the size of Whiskey, and covered over with a piece of brown paper. TEN DOLLARS reward will be paid to every person who shall find and deliver the said notes to Thomas Hughes opposite the Bank, city of Washington.

August 26.—3t.

WASHINGTON CITY.

FRIDAY, AUGUST 28.

APPOINTMENT.

ARCHIBALD MINTHORNE COCK, of New-York, Commercial Agent for the Island of Martinique.

Observations on the conduct of Great Britain—Continued.

IT has been asserted, and, by many, believed, "that the government of France has an indisputable title to the culpable pre-eminence of having taken the lead in the violation of neutral rights; the first instance, on the part of the British government (referring to the order of the 8th of June, 1793) being said to be nearly a month posterior to the commencement of the evil by France," (referring to the decree of the French Convention of 9th May, 1793). These are the words, in which that charge was once brought against the French government, by the writer of a series of papers in the Gazette of the United states, entitled, "The Warning," and signed "Americus." Those papers are manifestly written by a person very minutely informed concerning the transactions of our government, and have been generally so considered.* It is proposed to show, he is greatly mistaken, and that he has but slightly viewed the surface of the subject.

It is an important matter of observation, that a similar way of thinking seems to have existed even in the executive branch of the government, immediately before the publication of "The Warning," referred to above; for, in a report of the 27th Feb. 1797, page 7, it is observed, that "It may be proper to remark here, that this decree of the Convention" [that of the 9th May, 1793, mentioned in the next preceding sentence] "directing the capture of neutral vessels laden with provisions and destined for enemy ports, preceded by one month the order of the British government," &c. [referring to that of June 8th, 1793]. It is true, that there is no direct assertion by the reporter, that either that British act, or that French act, is the leading act of violation committed by England and France upon the neutral commerce; but the passage unavoidably carries the idea to the reader, and has occasioned some, who have not well examined the subject, to believe, that the report exhibits a proof, that "France" [in the language of Americus] "has really taken the lead in the violation of neutral rights."

Let us examine the evidences we possess, with seriousness, decency, and that candor, which the subject demands.

There is among the records of the department of state, clear and positive evidence, that England had deliberately matured and consummated the system of violating the neutral commerce above six weeks before the French decree of the 9th of May, 1793. Our late minister in London, Mr. Pinckney, communicated to our secretary of state, in his letter of the 5th July, 1793, that lord Greaville had explicitly and unreservedly avowed, that the captures of neutral vessels, as directed by the British order of the 8th June, 1793, to that end were fully understood by both Russia and G. Britain, to be within the intention of the convention between them, which was signed by those two governments at London, on the 25th day of March, 1793. From the most extraordinary nature of that convention between Russia and G. Britain, from the distance between Petersburg and London, and from the season of the year, it cannot be doubted, that this important contract, which was mutually signed on the 25th of March, 1793, must have been originated in the autumn of 1792, by the Empress and the British king. In the correspondence between our Secretary of State and Mr. Pinkney, and in the conferences and notes between the British Secretary of State and our Minister in London, we do not perceive the least suggestion of the influence of the example of the French decree of the 9th of May, 1793. Such a plea could not indeed possibly be made by lord Grenville, who knew and avowed, that G. B. had bound herself by a solemn compact with Russia, to observe the very conduct of which the neutral powers complained. Lord Grenville, and the British minister then resident here (Mr. Hammond) have, in their written communications, uniformly pretended, that it was regular and right, under the law of nations. The British government, no doubt, gave their first orders to the commanders of their ships, as soon as the convention with Russia was signed, that is, in March 1793; and it is to be presumed, that the known detentions of neutral vessels in the British ports, so early as the autumn of 1792, and the captures of neutral vessels, which the French government assign as the justifying reasons of their act of May 1793, were made in consequence of the negociation and completion of that convention and of those first orders.† The British orders of the 8th of June are expressly called by themselves, "*additional* instructions." The English secretary of state made pretensions to a *right* to adopt such measures, in his negociations with our envoy (Mr. Jay) and in the formation of the existing treaty with the U. States. It is not perceived, therefore, in what manner the French decree of May, 1793, can have *produced* this conduct of Great Britain.

Certainly France acted a very unwarrantable and imprudent part to-