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SATURDAY, AUGUST 2, 1806

U States, vs. Col Smith—(Continued.) John Swartwout, Marshal of the District, sworn.

Have you had any conversation with Col Smith on Miranda's expedition? I do not think that I had any conversation with—

Here Mr. Hoffman, for the defendant addressed the court on the question, to which he objected.

What have you heard Col. Smith say on the subject of the expedition?

I think it very probable that he has admitted that the destination of the Leander was to South America. I cannot positively say that I have heard Col. Smith declare that the expedition was against Caracas. He told me when Gen Miranda arrived that Miranda intended to revolutionize Caracas, and that that was his object. I have heard Col. Smith say—

Here he was again interrupted by the counsel for the defendant who objected to this sort of testimony.

I have frequently asked him if he has heard from his son. I have understood that the object of the expedition was to revolutionize Caracas, and that the Leander was used to carry on the expedition.—Col. Smith has said that Miranda told him that it had been made matter of notoriety. He always said that he supposed he acted with the sanction of the government.

Richard Platt, sworn.

The witness says that he frequently conferred with Col Smith while Miranda was at Washington, and observed that the expedition was a British one under the guidance of Miranda. Col. Smith told the witness that the President said to Miranda that it did not suit the views of government to go to war with Spain, but that he, Smith, might do as he pleased. Col. Smith told the witness that he had a letter from Mr. Duncanson, at Washington, in which he (Duncanson) told him (Smith) that he had just seen Thomas Jefferson, who said that Smith would soon have it in his power to give him (Duncanson) a commission. Col. Smith told the witness that his son was aid to Miranda. The witness says that the expedition was a topic of frequent conversation to or 12 days before the Leander sailed. Col. Smith told him that government knew as much about the expedition as he did; that his name had been mentioned to the President and to Mr. Madison, who said that in their opinion he was a fit person and might go if he chose. Colonel Smith told the witness that he had pointed out a proper ship and had introduced Miranda to Capt. Lewis, and Ogden, and that he had nothing to do with men and money as to enlisting.

John M'Lean, commissary of military stores.

The witness says that Col. Smith applied to him some time in January last after his (the witness) return from Washington; that he received a note from Smith to wait on him at his house. The witness called. Col. Smith said he wanted to get Artillery-men, practical men who could manage field artillery.—He wanted too, some artificers who were acquainted with their duty. This the witness thinks was pretty much towards the latter end of January; it was before the Leander left the deck.

John Fink, butcher, sworn.

Do you know Col. Smith? I do; he applied to me and said he wanted to enlist men for an expedition that was to be set off by our government. I afterwards acquainted him that I had found some men. He said he wanted about ten men and a sergeant, and informed me that they should choose their own sergeant and corporal. He would not tell me the subject of the expedition, but said there was a particular man in the city who would give him several thousand dollars to tell it, but he would not tell it. He represented that there was a detachment made by government, and that they were wanted. The men rendezvoused at my house. He told me that his son was a captain and was commissioned by our government. I saw Col. Smith at his house several times, and once he showed me a large bundle of papers which lay on his table, and said they were orders and directions to get the men. He told me that a similar expedition was to go from the other States, and that his son was to be captain; he said he would give the men 15 dollars bounty and half a dollar a day. He delivered me the money, 320 dollars, to pay the men a month's

pay, with each man's name written on paper. Capt. Durning took the command, as young Smith was to aid de-camp. Col. Smith said he was going himself in the spring to take command of the expedition. He said that the young men listed were to be cavalry, and to act as the general's guard, and that every equipment for horse men was furnished on board the ship. He represented that when they should arrive at a certain place, they might return if they did not like the service. The people got to be uneasy, not knowing where they were going, but he showed me a bundle of papers and said there is a bundle containing the orders. I was with Sergeant Burke when Smith told him so.

The following papers were shown to the witness, who said they were written by Col. Smith in his presence, and given by him to the witness to read to the men, to remove their uneasiness. We print them exactly by copy.

No. 1. Men. Every thing that has been told you will be honorably fulfilled, believe what Mr. Fink tells you and act honorably.

No. 2. One months pay advanced, calculated from the 1 day of Jan'y. 1806—4 shillings per day regularly paid, clothing & rations supplied—after correct service of 12 months, each man will receive fifty dollars and a regular discharge if they wish to return to their friends.—If they remain longer and choose to reside in the country and continue in service three years, they will receive a bounty in land not less than one hundred acres perhaps more & may have leave of absence for six months to visit their friends, who may return with them, should their situation be inviting and agreeable—

all this will be confirmed to them on board ship, and their officer will be accountable to them that every thing here expressed shall be sacredly fulfilled—

they may receive their pay weekly or monthly as will be arranged or they shall be paid here, any sum which may be in arrears, by an order, signed by the paymaster, drawn in their favor, when they return, they may rest assured they are neither going into English or French service.

These two papers have neither dates nor signatures.

The following papers were also introduced by the counsel for the prosecution as testimony against Col. Smith. The papers were identified by Mr. Fink. The introduction to No. 3 is in the hand writing of Col. Smith; the names are written by some person who scribbled for the listed men, who made their marks. The names of the second column are surnames for those of the first who had received the bounty. No. 4 is in the hand writing of Sergeant Burke.

No. 3. Muster Roll for Presidents Guard. Received New-York Jan'y. 16th 1806. of Mr. John Fink, fifteen dollars 50 cents in full pay for the current month of thirty one days, agreeable to an arrangement made with him which we sacredly promise to fulfil, or return the money now received, the surplus due as per agreement with John Burk and Richard Platt, to be passed to their credit, and at their order when on board.

The undersigned acknowledge ourselves as security for those whose signatures are in a line with our respective names.

Names of men engaged. Mathias X Beckman David Williams David X Vinton William Goss John X Scott David Williams Mathias X Morgan James Mooney Joseph X Bundrug Wm. X Chapman John X Stagg Peter Forbus John X Parsels John Pell John X Etsell Ellicot X Bhanan John Kaper James Onnes Ichabod White Richard Platt Moses Smith Robert X Laghety William Laverty Benj. X Davis William Goss John Burk—3J— Christian Harriot Thomas Lee Henry Sperry Paide 1 month Joshua Cryler Stephen Burtis James Howell Joshua X Higbee Jonathan Titus George Levison

No. 4. We the Subscribers Solmy engage Volunteers in the Government Service for one Twelve month. John Burk Se John X Parsels Richard Platt Cp Mathias X Daves his John X Etsatt David X Vinton Addam X Tenbrank cross Mathas X Morgan Mathias X Bhanon John X Stagg his John X Miller Robt. X Lawhenty Moses Smith cross Joseph X Brundrag William Raggons Thomas X Lee James Onnes Samuel Ferris John X Scott

Peter Rose, sworn. The witness is a carpenter, was born in Vermont, and came to New-York 10th

December last. He was engaged to go on board the Leander by captain Gallier, who said he was to go to New-Orleans. He was engaged January 26, and went on board the same day. When on board he found that the vessel was not going where he had been told she was. He then wanted to go on shore, but they would not let him. Mr. Ogden came on board. The Leander went from New-York to Jacmel, but there was no commerce transacted there. There was a considerable number of guns on board the Leander and a great quantity of ammunition, but none was taken out or landed at Jacmel. There was also on board a Printing press, which was set up at Jacmel. Proclamations were printed on board, with Miranda's name at the head of them. The proclamations were put up in boxes and packed away in the hold.—There was no sort of commercial business done at Jacmel, for he should have known it if it had been done. They were five weeks at Jacmel. Two or three of the men swam ashore and escaped. He thinks there were 300 people on board.—About 300 went from Jacmel to the Island of Aruba. Here they landed, mustered, and had a military parade; it was a tolerable muster: This was getting ready.—From Aruba they went to Porto-Cavallo, on the Spanish Main; thence to Bonifay, where preparations were made to land.—From Aruba an English schooner sailed with them, besides two schooners which were in company with the Leander. The two schooners parted a little from the Leander to look out for a landing place. Here two Spanish armed ships hove in sight, and intervened between the two schooners and the Leander; the schooners were thus cut off from the Leander. The Spanish ships attacked the Leander, and a close action of half an hour ensued, but the Spaniards shored off, made sail, bore down to the two schooners, and captured them. We now proceeded to Bairo, having given up the intention of landing, and thence to Barbadoes, where they met with the Lilly sloop of war. The men said they would sacrifice their wages if they could get leave to quit the Leander, but they could not; so e of them jumped overboard and swam ashore. Owing to the discontent of the men the situation of the arms was changed; they were put into the steerage and locked up. The witness was employed on board the Leander in making spades and intrenching tools; he also made handles for 700 pikes. Miranda was called general, Armstrong, colonel, Sands, brigade-major, Loudon, captain of artillery, Bill p, a captain; there were more officers than men. At Barbadoes, after our return, and when the men were discontented, some of them were taken out of the Leander and put aboard the Lilly.—Miranda refused to discharge the witness who wanted to come home. On his cross examination he says that the schooners were equipped at Jacmel, where about a dozen men were procured. He was informed that it was their original intention to get additional force at Jacmel. They were all landed at Aruba by the general. From Aruba they returned on board willingly for aught he knew; he never heard that it was optional with any one of them to go on board or not. When they left New-York they were not in a condition to enter upon the enterprise.

Adjudged to Tuesday morning, July 22.

TUESDAY MORNING. Richard Platt.—Col. Platt, the witness, came up this morning to retract his former testimony. What he before stated as testimony was principally founded on a letter from Mr. Duncanson to Col. Smith which the latter had read to him, and which he had in some measure misconceived. He wished to recall his former testimony and to rest it on Duncanson's letter which he produced and read to the court. The letter is a rhapsody, and in some parts it represents a mind not quite sane. It is this.

"I this morning called on Thomas Jefferson and understand that something must be done against the enemies of my adopted country. I am at your service, and if you step forward, and I think you will if it be true that an old coachman likes a smack of the whip. You know I ought to have an immediate answer."

The witness said he believed that Col. Smith acted under a persuasion that government approved of the measures of Miranda.

(To be Continued.)

FROM THE AURORA. THE LAWS AND INDEPENDENCE OF THE UNITED STATES.

This is the topic which we signified on Saturday that we should start on this day—and the time is now near at hand when it is to be determined, whether these laws and this independence are to be respected or set at naught.

The reader will bear with us a little—let us lay before him in plain and unadorned language, solemn truths and earnest warnings: we do not mean to say that there are dangers to be apprehended from abroad—we entertain no apprehensions from the arms or armies of any nation—within the sea mark of our shores.

But yet we are persuaded that the question of our rights and independence may be put in jeopardy, or so debased by

collusion or fraud within the bosom of the land, that we conceive it to be a solemn duty—to state the causes, and the mode of operation, by which the interests and honor of this nation may be violated, and by means now putting into operation.

The people of America need not to be told over and over again of the wanton and reiterated outrages, insults, and murders perpetrated by the agents of the English government—the blood of Pierce is not yet cold; nor, though they are creatures as be so as to countenance dishonor by palliating the double outrage—of his murder, in our harbor and jurisdiction; and though there are to be found foreign emissaries who have dared to hold up the executive of the United States as meriting impeachment, because an English ruffian committed that murder—and although American patience can tolerate while it detests such can't's domestic or foreign, as labor to corrupt the morals and to shake the attachments of the people of this nation to their country—to our principles of government—and to our rights and honor as a free people—still it is necessary to bring the facts into view, when the maintenance of the laws and the honor and credit of the nation are to be brought into danger or discredit.

It is in public recollection—for who can forget—that at the last session of congress, the wrongs and injuries, by which we had been aggrieved, occupied their deliberations—and that from a multitude of propositions for asserting our rights, one was adopted and passed into a law—We specially refer to the Law of the last session of congress called the NON-IMPORTATION ACT.

The period approaches when it is to be determined whether this law is to be carried into execution, and the rights and independence of this nation therein asserted—or whether it shall be defeated by evasion and by fraud, by perjury and corruption.

If England does not, and in a short time, do us justice, through the interference of her ministers, specially instructed to require what is due to us, as a pacific but independent nation—then this law must necessarily go into operation.

On this issue then we shall stand for the whole interval between the present time and the period at which the law takes effect.

It is an unfortunate circumstance that after the many examples which have occurred in the mercantile world, to show that honesty is the best policy—and that dishonesty and double dealing at last become bankrupt—it is unfortunate that experience has not warned many of the merchants in our sea ports, against speculation founded in dishonesty and fraud—

but it would be much more unfortunate indeed, if, under any mask, it by any combination or collusion of an iniquitous character, laws framed to assert our rights and maintain our independence, should be rendered nugatory and abortive.

It is the attempt to do this, against which we are now bound to caution and to warn the public; and particularly the officers of the government employed in the revenue departments.

We are perfectly satisfied that in no country on earth, are the custom house laws more faithfully executed and so little evaded; but we know that the vice of smuggling and evading the laws, is growing up apace—the fact to which we allude is a monstrous crime indeed; and if it is not defeated, by a vigorous and rigorous execution of the law on this national and exemplary occasion—the consequences will be felt to an extent that is not easily calculated, though very easily conceived by any man who has seen the frauds practised in other countries.

Neither the upright custom house officer—nor the honest and fair trading American merchant, can take umbrage at the warning which we now undertake to give—for our object is the support of the laws and the frustration of fraud—he who is a culprit, and he only, can be offended; neither can the British agent be unthankful, if he considers, that possessed of the secret, we might have kept it till the 16th of November, and then and not till then, exposed the frauds which are now meditated.

Those who are in the habit of reading Poulson's Daily Advertiser, must have noticed the tricking and deceptive queries which have appeared in that paper, concerning the non-importation act—the act itself will however not depend upon the quibbling constructions of men who have so little of public virtue or decency, as to seek and avow modes of evading a law of the utmost consequence to the reputation and the very independence of this nation—the officers will execute it in despite of such unworthy tricks.

But it is our purpose to deal fairly, tho' they do not; among all the modes of fraud and smuggling which we have heard of, as intended to be resorted to, to evade this law, and we have heard of many; we think it proper to state, that orders have been already sent to England, and others are now preparing to be sent, of the nature which we shall now describe.

The law prohibits the importation of woollen cloths whose invoice price shall be more than five shillings the square yard. Orders have been sent to ship fine cloths as usual.

But mark how this is directed to be done! Directions are given to fold and pack the superfine and fine cloths, in bales of coarse exterior folds, so that there shall

be as many fine cloths (more or less) as shall reduce the bale to an over value of shillings the yard—and to change each piece in the bale (coarse and fine) at 5 shilling in the invoice.

It may be said that an oath or affirmation must precede the delivery of such bale goods—and that to swear that such goods [coarse and fine] so packed, were legally imported, would be perjury of the most shameless kind; but melancholy as the truth is, there are persons whose consciences are prepared to swear or affirm—that all their importations are regulated and that the bales do not contain cloths contrary to the meaning and intent of the prohibitory law!

Such are the facts—and we are possessed of the names of several of the concerned.

We hesitated between the choice of conduct to be pursued in this case—we considered

Whether it would be preferable to intimate to the government the plan of fraud contemplated by English mercantile agents and importers?

Whether it would be better to wait till the law was to go into execution on the 16th of November?

Or to lay the matter at once before the public?

The influence which Sir Alexander McKenzie has contrived to obtain in a certain transaction of notorious smuggling; on the western waters, deterred us from pursuing the first course.

The second might be perhaps justified. But the third we have considered as the most equitable and consistent with the principles of our government and the laws of morality which govern us.

There is yet time for many to counteract and avoid the opprobrium and the loss to which their per everance in such a course would subject them—the packet that sails in August will give them the opportunity, and they cannot now complain that they have not been warned against the danger and loss to which their iniquitous projects would subject them, if they should persist.

After this information and warning we apprehend that no importer can expect—that a single bale of goods will be admitted to pass the custom houses, until they shall have been fairly and publicly opened and examined.

We repeat it, the custom houses of the United States are not like those of other countries—they are not like those who at the dawn of the revolution were willing to connive at the stamp and tea taxes.

The officers of the United States, form a part of, and depend upon the people, and they will not leave room for the interposition of the people, as was found necessary at that period.

The towns of English ministers or their allies—nor the ties and connexions formed by the sons of St. George, cannot prevent the law from being duly executed.

We possess the names of many concerned—and if ever we should have suits at law in our courts, we shall be prepared to feel the vengeance, which this publication will expose us to, as has been the case on many former occasions—for those who disregard custom house orders have never seemed squamish about outlays in any other place. This we consider it our duty to disregard; so long as the press remains free, those who conduct it must make such sacrifices—and we hope and trust that the editors of papers in other respects will not be deterred by English mercantile influence or advertising favor from republishing this warning. Whatever others may do or omit to do—we shall keep this subject in view—it shall not die away?

FROM THE PARIS ARGUS OF MAY 24. [Received at the Aurora office.]

We return to-day to the London news prior to the 13th May, which we were forced to pass over from the abundance and importance of other matter.

The discussion of the Irish budget gives rise to the same reflections as the budget of England. The union has saddled Ireland with all the calamities of Great Britain without making her participate in any of the benefits of an immediate government. Every year the debt of Ireland increases by several millions. It is in vain that government endeavors to palliate these charges, by exhibiting besides them the benefits which Ireland receives from trade: there is manifestly no proportion whatever between them. If a country be flourishing in proportion to the taxes it is able to bear, it must be allowed that every state upon earth is behind hand in prosperity with the united kingdom.

The bill presented to modify the laws upon the trade of foreigners with the English West India colonies, is generally deprecated by the former ministerial party. The principal argument they make use of against it, is the effect produced by the famous navigation act. They still look upon that act as the palladium of their maritime greatness. But other times, bring other cares. Government is now compelled, however reluctantly, to derogate from it; the ruin of England might at this day be the consequence of maintaining that law which uniformly raised her to power. The supporters of the bill did not dare to alledge in open parliament their strongest reasons, lest they should thereby betray the latent weakness of their maritime empire. The aim of ministers is clearly to facilitate the subsistence of the colonies. Is it in the power of the new opposition to see,