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MONDAY, TEERUARY 2, 1807.

WASHINGTON CITY, January 30.

a more detailed statement of the proceedings in the CIRCUA COURT of the District of Colum-

Mr. Jones, the U. States attorney, prefaced his motion on Friday with an address to the following effect.

He requested leave to interupt the ordinary business of the court by introducing a motion relative to a subject calculated, from its importance, to fix the most earnest attention, and to excite the profoundost interest.

Two persons have been arrested in a distant territory of the United States, and brought within the jurisdiction of this court, charged with being principal actors in the execution of ! au abominable plot against the Union, and in a treasonable and attocious enterprise of hostility against the territory and citizens of these states. The city of New Orleans appears to have been the most important point of attack meditated in the first instance by the conspirators. General Wilkinson, the commander in chief, haftens with his are: to defend the place. While exering all the zeal and activity of a vigilant and able commander, of a brave and faithful soldier, to make every requisite military preparation against assaults from without, he detects certain emissaries within the very walls of the fortrels, engaged in the most criminal and mischievous acts of co-operation with the expected i affailants ;-he orders Erick Bollman and Samuel Swartwout, two of those emissaries who were supposed to have demonstrated their treafonzble purpose by the most unequivocal acts, to be feized and fent to the feat of government under a military guard. Immediately on their arrival it is determined by the executive government to transfer the cuffor y of the prisoners from the military to the civil power.

a military commander, actually engaged in the Suppression of a treasonable enterprise against the United S'ates, to seize upon traitors whem he detects, flagrante delicto, and to detain them fecurely till they can be subjected to judicial process and examination, but that authority ariting from necessity and the exigencies of the public fafety, must cease when an opportunity offers ! for the quiet and convenient, and at the same t me esticient administration of justice in the ordinary way. It is therefore that, without hesitation or delay, inflructions are given inflantly to move this court for a judicial warrant to arrest those persons and place them in the custody of the law. In support of this motion two depefitiens, folemply sworn to by General Wilkinfon, would be read to the court. Those documents will explain the grounds upon which he proceeded to arrest and detain the prisoners. Mr. Jaues observed that owing to the sudden and unexpected manner in which this talk had ty of their ablest jurifts. devolved upen him, he had not even perufed i the fe decuments and could therefore apprife

There is no realon to doubt the authority of

by reading them in evidence. [Two depositions of Gen. Wilkinson were then read to the court, both of which have been published, accompanied by the President's mesfages of the 22d and 24th of January.]

the court of their centents in no other way than ;

The court, after examining the depositions. enquired of A.r. Jones with what specific offence he proposed the prisoners should be charg. I open attack, would be deemed the aggresion. ed in the warrant !

He answered, "I accuse them of the crime of treation against the U. States, and move that

they be arrefted upon that charge."

The court suggested that the depositions, read in evidence, might apply either to a charge of treason, of misprision of treason, or to a charge of victating the act of congress which prohibits the fetting on foot military expeditions against foreign nations. If treason be made the specific charge, is there any evidence of an actual leeging of war against the U. States, within the meaning of the constitution?

Mr. Jones said, it was with the utmost diffidence he could presume to answer the suggestions of the court upon a topic so important, so - difficult, and so little explored as the doctrine of tiessan under the conflictation. It was obvious to the court how entirely unpremeditated his remarks must be. He could pretend to no accuracy or depth of research, as he had never been placed in circumstances to render the survey of that branch of criminal jurisprudence, an objest of any particular attention. Thus sudden-Is and unexpectedly called upon, he could hazard only such desultory remards upon the constitutional definition of treason, as might tend to fet up a construction of that instrument confonant to the plain understanding and common sense of mankind, and applicable to the purposes of practical utility. He could derive liule aid from the learning extant on the subject, but must rely upon tome unexamined imprefions and recollections from general reading.

The fact to be ascertained in the first place, is the treasonable intent. The evidence is conelulive to that point, for although the conquest of the Spanith province of Mexico is avowed Seizure and plumler of New Orleans, as an intermediate step for supplying the means of accomplishing that object, is as explicitly avowed. The any active participation of the treason, in which the two emissaries Bollman and Swartwout appear to have been clearly detected at New Orleans, is an infamous and abortive atsempt upon the honor and fidelity of the commander in chief .- This, however criminal, may be said to be, in itself, no overt act of treason. -no leaving of war against the United States. -Agreed :-it is not necessary to contend otherwise in order to thew that the prisoners should be arrested and committed as traitors.-It is clear from the evidence that they are leagued and confederated, in his atrocious profeets, with Aeron Borr, the noterious head and leader of the conspirators. They are active and acknowledged agents and participators in the main body, to execute, at New Orleans, a quiet and noticles scheme of treachery and cor-- ruption :- suppose them to be personally energed in no attempt of open violence; -yet while the chief magistrate, who is constitutionally they are thus employed, their confederates at authorised to give official information to con-Combled in syms, . Some hundred miles up the greis of the flate of the nation, has in a formal Missippi at Natches, or on the banks of the Q. | mellage to both Houses of Congress, announced blo, near Marietta, commit a clear act of trea- the existence of such a state of things. That Son by levy my war against the United States, communication alone furnished to the courts in the etwietest seuse of the phiase. Cup'dit | and officers of the United States prime sacie be doubted that the spies and the emissaries emi- exidence (of the actual levying of war) for all ployed at a distance from the scene of partion, purposes except of conviction and condemna. however series and bloodless the immediate ob- Lies. Ject of their million, if it be a part-executive of the fame treatmable plor, would be involved in . had not yet allowed him to perufe the Prefi-

er from the allegiance of honor and the fidelity | duced and read by him to the court] of patrioticm, is criminal or punishable; -but he chief judge, doubted in the hist place, acts, of the tame treatonable confpiracy?

Mauld not be construct to reilieft that offence of the amendments to the constitutito chies only of actual violence or allault .- on, which declares that " no warrants thall ituted in a more extentive tense both in common oath or affirmation; &c. parlance and in the language of jurifis .- The Mr. Jones. The President's message does words of the English flature of Ed. 3. are surely import that there has been an adual leand most impartial commentators upon that foot of a military expedition;—the preparatiwritten upon the law of nations, in explaining al affeniblage of from 100 to 300 of the delipewhat acts of the subject against the Swereign, radoes engaged in the conspiracy, and their de-

fussicient if they prefent what is termed the levatum that is intended by our constitution to be fixed as the least demonstration of that levying war is afcertained, it is then to be enagainst whom?-In England, if the intent be States, it is treason against them under the constitution. Under either of those laws, a levying or adual waging of war between any number of individuals, if with no intent to levy war or carry on any other treall nable deto what lengths the proceed, from a riot and breach of the peace to murder.—There is no i real difference in the meaning of the same gloffes have been pur upon it in the one cate, let them at once be rejested, and a tound, a ration. al and a legitimate confirution be adopted. -There is no presence for supposing that the criterion referred in as to what acts have been determined to constitute a lavying of war within the meaning of the English statute, is the refult of any of hole c immal compliances by which their courts have been repreached with facrificing victims to royal vengeance by means of arbitrary, forced and unnatural emiructions unexceptionable precedents, and by the authori-

So if one state arms in an extraordinary manner, and draws together her forces to as to affume the posture of war;—the inflant it is manifefied that the armament is deflined against another state, it is denominated a levying of war by one against the other, before a fingle act of violence or open hostility is committed; and the state, so menaced, may anticipate the blow and lawfully attack the other-Yet the one that first levied war, though sustaining the first To this doctrine it is conceived that all gisla- I

tive construction almost coeval with the condition. tion and acquiefzed in by the nation, has added a most respectable corroboration. In the year 1794, Congress pass an act punishing, with fine and imprisonment, persons guilty of the offence-ift, of fitting out and arming any veisel with intent to cruite and commit hostili. ties against any foreign nation in amity with the United States. 2dly. Of setting on foot and preparing the means for a military expedition against a foreign state in amity with the United States. Yet thele acis, perpetrated by their own citizens against the United States, are no where expressly forbidden-no where enumerated among the crimes prohibited or rendered penal by act of Congrels. At the very first session, held under the present constitution, a law was pailed for puntilling treaton, piracies and various other crimes—but no mention is made of any fuch offences, as fitting out armed thips, and setting on foor military expeditions with intent to commit hostilities against the United States. It follows either that those acts may be committed with unquestioned impunity. or that they amount to levying of war, and fo constitute the crime of treason. That the same indications of hostility should be made highly penal, when directed against a foreign nation. but be deemed innocent or remediless when directed by their own citizens against the United States, would be an absurdity too monstrous to be supposed of our penal code. The more rational conclusion is that they are comprehended, ex vi termini, in the crime of " levying war against the United States."

As to the question of fast whether any treason, confisting of a levying of war against the as the ultimate object of the enverprise, yet the United States, has been committed by the prisoners or their confederates; it is presumed sufficient evidence appears to warrant an arrest and commitment. An existing state of belligerency, whether of a war de facto, or proclaimed by manisesto; a war of rebellion, or between two fovereign flates; a war merely levied, or flagrant war accompanied by open violence and actual hostility; under any of these modifications it is generally so far a matter of public notoriety that all the functionaries of the state engaged must take notice of it ex officio. The common report and public notoriety of a matter, in which the state in its sovereign capacity and every individual citizen are so intimately concerned, farnish a prima facie presumption susticient to warrant the incipient process preliminary to a profesention. It was in fast a matter of public notoriety that the conspirators, of whom the prisoners are the active confederates, have enlisted soldiers, iswed commissions, set on foot a military expedition, and in faft have assumed the nothere of war-or in other words. have " levied war." In confirmation of this

[Mr. Jones mentioned that his occupations

the guilt of their consederates? - The question | dent's message-it being published in that morn is not in what degree the niere in mated act of ling. He could only there is general impire attempting to secuce a high military command. from hearing. The mellage was at length pro-

what lengths have their known consederates | whether the President's message did in sact anproceeded in the co-execution, by more overt nounce a levying of war: and if it did, whether the court could proceed in any manner up-The conditutional definition of treason on such information, without infringing the The terms, "tevring war," have been long fue, but upon probable cause, supported by

literally adopted in our conflicution. The ablest vying of war. He announces the fetting on flatute, the most approved jurists who have on of warlike flores and equipments; the actur what afts of one lovereign against another, I from down the river to wards the place of their constituted an actual leeging of war, have never | dellination. Above all, he announces that he considered the shock of battle, the encounter has called forth the militia to supprets this enof armies, or the interchange of blows to be | terprize, and ordered them to every interesting indispensible or essential.-War may be levied, point on the Ohio and Missisppi from Pittiburg in the received sense of the term, and not a to New-Orleans, for the purpose of feizing the blow be ftruck-not a town invested-nor an | boats and stores and arresting the persons of the inch of territory invaded or usurped-What | conspirators. For the same object the states of shall constitute a legging of war depends upon | Kentucky and Ohio have embodied and fent out so many and such various sads and ci cumitances, large detachments of their militia. There can that it would be vain to attempt an enumeration | learcely be a cale, short of flagrant war and of every supposable case. It seems never to actual battle, that combines stronger or more have been questioned, however, that such une. | numerous circumitances effentially constituting a quivocal acts as the enlifting foldiers, appoint. Rate of belligerency. The very fact of the ing officers, preparing military equipments, President's calling forth the militia for any purwarlike stores and provisions, or the assembling pose of domestic coercion, through implies in confiderable numbers in warlike array, armed | that there is at least a leving of war against the with military weapons, for a hostile purpose, United States He is authorised by law to do so constituted a levying of war, in fact. It is in two cales only. The first is that of an actual influrrection against any state. The second of speciem belli-if they shew themselves in the actual opposition to the law by combinations too possure of war: an intelligible and rational powerful to be suppressed by the ordinary course distinction (though expressed in rather barbarous of judicial proceedings. The last case may ed by about six hands each, without any language) is made between the Bellum levatum, perhaps extend to instances of opposition to the and the Bellum percuesum. It is the Bellum laws by combinations not treatonable in their nature, nor proceeding to the length of levying war against the United States. It may comspecies of treason-When the bare fact of prehend the case of unlawful assemblies of men, who violen ly refift and overbear the due courfe quired quo animo? With what intent and of legal indice, but who from the nature of their colors and ultimate object, are no further i to levy war against the king it is high treation | criminal than as rioters and disturbers of the under the statute of Ed. 3.-In this country if | pea e. As to the degree of the crime committhe intent be to levy war against the United | ted by Eurr and his associates, it is either treaently demonstrated; if they have proceeded to the execution of that intent, they unquellionably have incurred the penalty of treaton. There can be no pretence that they are merely a comfign against the state, amounts not to treason, bination of rioters, all mbled to oblirust the but will be mildemeanor or felony, according | due execution of the laws. The act of Con-I gress authoriting the P chilent to call forth the militia furnishes one important principle appli- | GEN. ANDREW JACKSON, cable to this cafe. He can only exercise that phrase as respectively used in the English statute | power in case of actual inferrection, of actual and in the American conditation.—If any false | opposition No plot or confpiracy how nefarious, how menacing and dangerous feever, can authorife the measure, unless some overt act is bed your letter, addressed to general Thodone in execution of the dengn. So long as it | mas Johnson, to colonel Cheatham, and remains a mere unexecuted purpole; if it even menaced the enormous evil of delitroying the union of their states, or the still more inexpiable crime of otherthrowing our r publican institu. I heard a report there that col. Burr had tions, as derecting in their flead a monarchic gone down the river with one thousand form of government, or a military despotisin; armed men; arrived at the mouth of till some overt act in execution of the treationa- i I ble defign is committed, till the infurrection is On the contrary, it is sanctioned by the most | actualty commenced, the public safety muit be connided is the civil refiraious and preventive re- i was informed that he lest that place on medies within the province of the court where the 28th of December, 1806, with ten c mmillion of treaton, or in other words the " leving of war" commences, there commences the neht of the executive magifirate to ule military means for the topprelion. The exiltence of the crime of the traitor is correlative with the right of the magilirate. The more finite the act of "levying war" is confined to cates of actual violence, of flagrant war; in the fame degree is the power of the President to call terth the militia limited—un'il in the extremes of this firitinets he might behold armies quietly organifed and pur into complete military wise informed me, that he had been on array: he may behold the uplified arm of treafor ready re bear down every thing facied in the

> ing the public fword in defence of the common The remaining objection relates to the degree of credit this court can give to the common report of a rebellion, authenticated by the public and official communications of the President to | under command of colonel Ramsey. Congress. he it remembered that this is not relied on as being evidence upon the definitive trial of the prifeners, when their life and death is at issue; but merely as a matter of public notoriety, of which all courts and magifirates may take notice and prima facie presume the existence of such a state of things, for the preliminary purpole of iffuing watrants or other process initiative to a prosecution by indiciment. The constitution expressly prescribes it to the President as a duty, that "he shall, from time to time, give to the Congress information of the state of the union." To give information of an! existing state of rebellion, or of " levying war," is clearly within the terms of that duty. Common report, thus authenticated, must surely satisfy the terms "probable caute" used in the 6th article of the amendments-if the requisite of that " probable cause" being "supported by i oath or affirmation," is strictly insisted on; it should be remembered that all the functions of the President are personned under the sanction of a solemn oath. The "probable cause" is further supported by the oath of general Wilkinson, who swears, that one of the prisoners, an acknowledged confederate in this conspiracy, informed him, on the 30th November, that Burr would be at Natchez on the 20th Decemher with 2000 men, to be followed by 4000 more. and that he could have raised 12,000 as easily as 6000, but did not think so great a number necessary. It may be very reasonably and naturally inferred from this information, when dates are compared, that at least the 2000 men must have been already enlisted on the 30th of November.

constitution; yet must be await ali the chances

of a facel bi w-he cannot anticipate it by draw-

Mr. Jones then offered the following motion: The United States attorney for this district an-Erzek Bollman and Samuel Swartwout had been seized in one of the territories of the U.S. by orders of the commaner of the army of the U. S. as persons engaged in treasonably levying war against the U.S. that the persons so seized were, during the last night, brought into this on board that would even suffer a conject made 60,000 prisoners, taken 65, stand county under a military guard, and were yet detained under guard until they could be proceeded against in due course of law ;-that the Secretary of War had immediately issued written orders to the officers of the guard, to deliver those persons, on demand, to the marshal of this district;-and the marshal now waited for legal in my power. authority to take charge of them. Wherefore the U. States attorney moved the court to iffue a warrant to arrest the said Erick Bollman and Samuel Swartwout, on a charge of treason, in order that they may be brought before the court and examined and committed, or otherwise dealt with according to law. And in Support of his motion the United States attorney read to the court the depolitions of James Wilkinson, bri. gadier general and commander in chief of the GEN. ANDREW JACKSON, armies of the United States, which depositions t

All will being read and hear I, the court to k time uni to merrow to confider of the faid

A greeably to order of court, Messrs. Bollman and Swartweut were again brought up, on Wednesday merning. In consequence of the indisposition of judge Fitzhugh, the court ward hearing com. sei on the motion to commit, until the next day.

Yesterday counsel were heard on this

Mr. Key opened on behalf of Messrs. Boliman and Swartwout. Mr. Jones replied.

part of the accused, who closed his argu-

The Attorney general (Mr. Rodney) will close the argument this day.

Message from the President of the U. S. trunsmi der; fur her information relative to the come in acre.

To the benate and House of Representatives

of the U. S. By the I tiers of captain Bissel, who commands at fort Massac, and of Mr. Murrell, to general Jackson of Tennessee, copies of which are now communicated to Cengress, it will be seen that Aaron Burr passed fort Massac on the 31st of December, with about ten bouts navigatmilitary appearance; and that three boats with amminition were said to have been arrested by the militia at Nash-

As the guards of militia posted on various points of the Ohio, will be able to that channel, should any be attempted, we may now estimate with tolerable cerson or nothing. The treatonable intent is suffici- | tainty the means derived from the Ohio and its waters, towards the accomplishment of the purposes of Mr. Burr.

TH: JEFFERSON. January 28, 1807.

NASHVILLE, Jan. 3th, 1807.

I received your instructions, dated the 2d inst. and agreeable thereto I deliverit was forwarded to him immediately. arrived at Centerville on the 4th inst. Cumberland river that evening, and made enquiry concerning col. Burr, and boats of different descriptions, had sixty men on board, but no appearance of arm. I lest there on the 5th inst. and arrived at fort Massac that evening, delivered your letter to captain Bissel, and received his answer; made some inquiries of him, and was informed that col. Burr had left that place on the 30th of December, 1800, with ten boats. He likeboard the boats and scenno appearance o' arms or ammunition. On my return. to the mouth of Cumberland river, I was informed that three boats had been stopped at Louisville, with a quantity of ammunition. There are about fifty men stationed at the mouth of Cumberland,

I remain with the highest esteem,

(Signed)

JOHN MURRELL.

FORT MASSAC, Jan. 5th, 1807.

This day per express, I had the honor to receive your very interesting letter of the 2d inst. and shall pay due respect to its contents. As yet I have not received the President's proclamation alluded to, nor have I received any orders from the department of war, relative to the subject matter of your letter.

There has not to my knowledge been any assemblage of men, or boats, at this the kind make its appearance, which carries with it the least mark of suspicion, as having illegal enterprizes or projects in view, hostile to the peace and good order endeavor to bring to justice all such of our labours.

For more than two weeks last past, I have made it a point to make myself acledge, transpire interesting to government, I will give the most early notice

have the honor to be, Respectfully,

Your obedient servant, (Signed) DAN. BISSEL,

Commanding captain.

SEIZURE OF HAM URGH,

BY THE PRINCE. and Confiscation of all British Profeely found in that city.

" HAMBURGH, Nov. 22d .- This city which has so long preserved its independence, is reduced to a state of vastalage. After the most solemn farce practised by the French Minister, to produce the conviction that the neutrality of Hamburgh would be respected, 2000 infantry, and 250 Dutch cavalry, suddenly entered the place on Wednesday, with General Mortier at their head, and formally took nossession of the city in the name of Napoleon. The next day (Thursday) French He was followed by Mr. Lee, on the soldiers mounted quard at all the public o'lices and gates and free quarters were ment about 10 o'clock in the evening, provided for the troops, who were distributted at the houses of the citizens. A few hours only had expired, when the names of the Generals. Colonels, and Commissiaries of the French army, were inscribed on the doors of the principal mansions, so that it might have been supposed to have been a garrisoned town for six months. The Commissary at War occupies the house of the British Minister, which he entered half an hour after the latter had quitted it. The head quarters are at the Senator's in the Elichen. One of the first measures has been a demand by the Commander in Chief of al! the English property, in whatever forn it may appear. To this application the Senate replied, that to enforce such a requisition would be the total ruin of the city. General Mortier signified, on receiving this communication, that it was his determination not to relax a shilling of his demand. Means are already taken to carry this scheme of pillage into prevent any further aids passing through immediate execution, and for this purpose the Merchan:sare required to give an estimate of all the English property in their hands, domiciliary visits are appointed to ascertain the validity of such accounts; and yesterday afternoon many of the most respectable persons were put under arrest to operate on the public mind by intimidation. Among these I am sorry to name Mr. Burrows, Mr. John Thornton, Mr. George Smith, and eir. Parish. At first these Gentlemen were confined in a house near the Exchange after seals had been put upon their effects; but they have since been permitted to occupy their respective houses. A guard, however, always attends them. In this situation of things, apprehensions are entertained, that a few more of the English will be put under arrest, until the avarice of these public plunderers is satiated. Since Wednesday, about 5,000 more French infantry have arrived here; and it may naturally be expected, that from the total stagnation of trade, and the increased price of subistence the lower orders will not be able to maintain themselves; and that the greatest disorder will prevail in a city, the population of which extends to 120,000 souls. The famine threatened at Berlin is to be afferiated by supplies from the granaries of Hamburgh, which is another cause of anxiety, under the immediate necessities and difficulties with which this unfortunate City has to contend. I am sorry to present before you so melancholy a picture, and I should yet with more reluctance make any comment upon it, as affecting the interest of the great commercial city in which you reside, and the manufacturing towns throughout the British Empire. Unfortunately the destruction of war is not confined to those who perish in the field, it is brought home to the fire-sides of those who are the best friends to the peace, order and happiness of society.

PROCLAMATION THE EMPEROR AND KING.

Soldiers! - You have justified my expectation, and worthily answered the considence of the French people. You have supported privations and fatigues with as much courage as you have shewn intrepidity and coolness in the midst of combats.--You are the worthy defendor any other place, unauthorized by law ers of my honour and Crown and of the or presidency; but should any thing of Great People; as long as you are animated with this spirit, nothing will be able to withstand you. The cavalry have vied with the infantry and artillery; A no longer know which part of the army to of government, I shall, with as much ard- give the preserence to. You are all our and energy as the case will admit, good soldiers. These are the results of

One of the first military powers of Europe, who so lately dared to propose to us a shameful capitulation, is annihilsquainted with the loading and situation of ted. The forest and defiles of Francoall boots descending the river. As yet nia, the Sall and the Elbe, which our there has nothing the least alarming ap- forefathers would not have crossed in sepeared in court, and informed the court that | peared. On or about the 31st ultimo, | ven years, we have crossed in seven col. Burr, late Vice-President of the U- days, and fought in the interval four ennited States, passed this with about ten gagements and a great battle. We boats of different descriptions navigated have procured at Potsdam and Berlin with about six men each, having nothing | the renown of our victories. We have ture more than a man bound to market. of their c dours, amongst which are those He has descended the rivers towards Or- of the King of Prussia's guards, 600 leans. Should any thing, to my know- pieces of cannon, three fortresses, and upwards of twenty Generals. Nevertheless, more than one half of you regret not to have fired a musket shot. All the provinces of the Prussian Monarchy, as far as the Oder, are in our power.

Soldiers, the Russians boast of coming to us .- We will march to meet them, and thus spare them half the road; they sl. all again find Austerlitz in the heart of Prussia. A nation which has so soon forgotten the generosity we sliewed it afer that battle, in which its Emperor,