American.

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TUESDAY, FEBRUARY 10, 1807.

The following is the opinion of Judge Ducket, on the motion to commit the prisoners, in the case of the United States against Bollman and Swertwest.

Mr. D. said he shown not make many observations in addition to what he had remarked on granting the diffrict attorney's motion, for a warrant to arrest the prisoners on the charge of treason. Nor should he make any professions of scrupulous attachment to the right of personal liberty in the citizens of our country; because, If the whole tenor of his conduct through life, bad not evinced such attachment, he felt affored, that no professions on his part sould on this point secure the confidence of the public.

He concurred in the sentiment, that no reasons of state, no political motive should be suffered to influer ce in the flightell degree the decision of the present question;—but while on the one hand, a due regard should be paid to the right of personal liberty in the citizen, we should not be entirely forgetful of the duty we owed to the public, of preserving the constitution and government of the country.

That on the question then before the court, he would observe, as he had done when he no opinion, as to what constituted a leaving of war within the definition of treason in the con-Mitution o'the United States. That it appeared to him unnecessary, if not improper to do fo, as

trials f the priloners. : That the only question then to be decided was, whether there was probable cause supported by onth or affirmation, as required by the 6.h article of the amendments to the constitution, to induce a belief that the pilioners were guilty of the crime for which they had been arrefled. This question he said had been deliberately confidered by the court before the warrant iffued, and he thought every thing in this inceptive flate of the bufiness, was regularly an exparts proceeding; he therefore had been against permitting countel to argue on any question, except, whether the offence was bailsble, and whether under the dircumit nees, the court in their discretion ought to bail. They had, however, b en allowed to argue in effect to the utmost latitude against the propriety of having issued the warrant. To this argument he had given the firidest attention, and could observe with hir. itzhugh, that it would have been well addressed to the jury, if the priliners had been upon their rial. It had however produced no alteration in his opinion, as he ttill thong it there was pobable cause appearing to the court to au horise the commitment of the prisoners for trial.

take a floor view of the evidence.

The depositions of general Wilkinson prove unquestionably, the connection of the pritoners with Col. Burr, in carrying into effect one common intent or plan, and their knowledge of this view. I hey, in 'eed, shew, from the acts of the prisoners and their own confessions, their immediate agency in the furtherance of this icheme. If, hen, it can be shewn, that Mr. Bur has probably committed treason, their agency and connection with him while possessing this knowledge of his treasonable views, | gion you profess. create the same probability against them, as in the same treaton all in this stage of the business must be considered principals. It has then was the intention, the quo animo with which Mr. Burr's expedition was undertaken ! This, by general Eaton's deposition, is proved to be the Separation of the wellern from the Atlantic flates, and the eliablishment of a monarchy there, of which Mr. B was to be the sovereign. It is probable he had another object also in view, the invusion of Mexico; but, this does not appear to be diffinit from his treasonable plan of diffrienhering the union. This treasonable intention is alto flated in the co. fessions made to ge eral Wilkinson by one of the prisoners In the pursur, then, of this object, we find that Mr. B. had actualin commerced the expedition, and that he expected to be at Natchez, with an armed force, at a certain period. It appears "too, from he confessions of the misoners themselves that Mr. 3. was lecying a large body of armed men, and what may go far to prove their knowledge of and agency in that bufinels is, that the officer who was to command the first five hundred men is flated by name. One of the prisoners also says, that he had written to Col. Burr for provisions. Should these circumstances, of themie ves, not amount to overt acts of levying war, upon which quellion Mr. D. faid he should, at that time, say nothing, yet when taken in connection with the fination of the country, the flate of alarm exilling among the people, and the affive preparations of defence against an expected attack, they furnished strong prima. facie epidence that they had been followed up by the commission of other acts on the part of Mr. Burt and the priloners, that would amount to a leoting of ma within the firidelt definition of the terms Nor is there any thing in the teltimony, wild her. D. that can positively exclude the inference, of an active er-operation on the part of the prisoners in the different measures that are probubly imputable to Mr. B.

Mr D then remarked, that an observation, made by himself, on iffuing the warrant, seemed not to have been correctly understood by the

prilopers countel.

He had not la d, that in the tresent case it was re. elling für refort to public documents to aid ti. derkilitions in furnishing frobable cause for "thr" hirefile but he would now observe as he had the done; that skhough the depoblions. did to h's mind effishish a probable, cause on which he chall ade yet that tule probability was firm gir corroborated by the message of the fireside se and other public documents on the Subted: That even admitting that the 6th article of the americaneous to the couditation, which provides against general warrants, may require at with or affirmation, before my warrant ican Thise, yet he could not lubscribe to the doctrine salike the circumstances showing the probable capte, mult in all exect be contained in the sain or simmation itlelf . If this principle be loine confidered correct. It would indeed, when tain it live direction with the pecentry contended in fin the prefent tale, of penting, Cresti in of commitment the publishe existence of the of ence charges, be the mirst precedent, ? I'c, arcte the public faith, that court bould) "Rabili bed, chough as the fame time it might Atta Be the mess economism close a for arealt n it had

of Mr. B. of treason, could it be produced on the present question, would be demant inadmissible in corroboration of the probable cause con-

tained in the affidavits. Mr. D. concluded by observing, that he was opposed to bailing the prisoners, for although the evidence might also have charged them with a mildemeanor in fetting on foot an expedition against a nation in amity with the United States, yet as they had been arrested on a charge of the highest offence against their country. nothing but their persons could be confidered an adequate decurity to the public.

MADRID, October 1:.

The following is a late Address from the Prince of Peace to the People of Andatusia:

"Under circumstances less dangerous than those we are now placed in, the good and leyal subjects have been impressed with the necessity of assisting their Sovereign with voluntary gifts and succors proportioned to the wants of the State. This is the precise moment for individuals to shew themselves generous towards their country. In the kingdom of Andalusia, nature has produced horses for light cavalry. Can the province of Estramadura, which rendered such important services of this kind to Philip V. behold with indifference the cavalry of the king of Spain reduced and incomplete, from a want of horses? No. I cannot suppose it. On the contrary, I hope that, according to the example of the illustrious predecessors of the present generation, who served the ancestors of our King in levies of men and horses; warrant istued, that he would at that time give | their descendants will feel the necessity of furnishing regiments or companies of men expert in the management of horses, that they may be employed in the he might be called upon to decide the law, in service and desence of their country, so reference to the facts that might appear on the long as actual danger shall exist. After a certain time they shall return full of glory into the bosom of their country. Each man shall dispute the honor of victory. One person will attribute to the prowess of his single arm, the safety of his family; another that of his chief, his parent, or friend. In short, all will consider themselves acces. sury to the safety of their country. Come on then, my dear countrymen, place yourselves under the best of Severegus, Come, I will meet you all with gratitude; I offer you this day the homage of your patrictism, if God will crown victories with a happy and a lasting peace—the only object of our wishes. I know you will not give way to fear or perfidy. Your hearts are proof against all seduction. Come, and if we are not compelled to encounter our enemics, you will not incur the danger of being marked as suspected persons, and as having given in dete mine this question said Mr. D. let us a sallacious idea of loyalty or honour, in refusing to answer the call which now make upon you.

"But if my voice cannot inspire you with sentiments of true glory, be your own prompters; become the fathers of the people in whose name I address you, in order that you may become that which posterity should venerate, for the sake of your own honour, and that of the reli-

(Signed) THE PRINCE OF PEACE. " In the stalace of the Becurial, Oct. 5,

From the Lower Elbe, November 11.

The report of his excellency gen. Blueber, respecting the operations of the coips under his com-

" Under the great-st depression of spirits, I am compelled to inform your-majesty of the gradual annihilation and capture of the corps I had the misfortune to command under circumflances in which no alternative remained.

" That a corps, separated from the heart of the kingdom, and from all other troops and fortresses, after it had expended its ammunition in four engagements, should be annihilated by a force fix times its number, stands in no need of uftification; but it will be a great consolation to me, should your majetty follow my report step by Hep, and scrutinize all the measures I had a

In takinga review of these measure, it may be necessary previously to observe that the operations of my corps, till the 28th, viz:when the army of prince Hohenlohe capitulated, were directed to the gaining of the Oder; and that afterwards the whole of my exertions and the movemen's of my troops, were calculated to draw the French f om the Oder and out of the heart of the Prussan monaichy. It was also my object to supply the fortreffes with provisions, and to gain time for the approach of the Prulfian troops and Huffian armies.

" That I have not been altogether unfuccefsful, the consequences will prove, since three of the principal of the French corps, under Nurat, Bernadotte and Soult, furrounded me at the time when, deprived of ammunition, I capitalated with 9,400 men, at Ratkau, between Kiel and Lubeck.

" On the 24th of October, the prince of Flobeniohe entrulted me with the command of the corps which had been under the duke Engene of Wirtemberg. The corps was much reduced in confequence of foling a battle near Halle !and belides one half of a battery of twelve pounders, had a few fix pounders, and only their riding arrillery; and were without forage and bread This artillery belonged for the most part to the corps that had been engaged in the battle of the 14th, and was much reduced in consequence of forced marches.

With this corps I merched into the neighbothood of Ruppen on the 16th Prince tohenlohe was then in the vicinity of Lychen. M view of proceeding to Zendenich, the direct road to Prentzlow, was disappointed fithe enemy had occupied that place and Granfee, I, therefore," marched on the 27th with the first division to Furstenberg and feut the second to Lychen .-Towards evening my rear was attacked near Menta: It repulled the enemy. I afterwards drew my rear of to Furthenberg, and placed the troops composing it, near the Bril division.

"On the 28th, at day break, I Joined the division of my corps at Lychen, and directed my march to the Gortzenhurg. Prince Hobenlohe had passed through Schoonermark to Frentzlow, and I therefore relolved to drive the enemy out

en up all hopes of joining prince Bohenloue.-During this march the enemy stracked my rear not far from Lychen, but were regulied by my regiment, which made about 30 prisoners, and

cut down about 50 of the French. "Upon my approach, the enemy iest Bortzenburg : my patroles, however, fell in with them in all the adjacent villages, and during the night I, was compelled to take policition of tume of these villages, to prevent the men and harles from dying of hunger, and to drive the enemy out of them.

"Barly on the 29th, just setting out upon the -march of Prentzlow, I learned from some itragglers of prince Hohenlohe's corps, that the prince had capitulated there. My corps was 10,500 ftrong; the army of Murat was within two leagues whead of me; on my fiank and in my rear, was the corps of Bernadotte : each of them was double my force, which had neither breat nor forage, and was almost entirely exhausted by the forced marches it had been compelled to make. y resolution was soon taken -inflead of marching directly for Prentziow, I immediately took the left to Strelitz. I here hoped to join the corps of Weimar, and then to approach Magdeburg; or, according to circumstances to pass the Elbe, in order to furnish Magdeburg and Hameln with previsions to hold out longer against the enemy, and to operate in his rear.

"In the mean while several officers and yagers whom I fent out were unable to procure me any information of the Weimar corps. I marched on the 30th by Strelitz as far as Disabeck, and there unexpectedly fell in with that corps ---Here I learnt for the first time that Soult's corps had anticipated my arrival upon the Elbe. the mean while my rear guard, before they arrived there, were harraffed by the enemy.

"On the 3tft I sent two officers to the Elbe to provide the vessels necessary for passing that river near Bortzburg and Lauenberg. I con tinued my march to it ahran, and on the tollowing day to Old Schwerin and Slave.

" After the arrival of Soult's corps ing fituation became more critical. I had joined the corp of Weimar; but thele troops during the night it was necessary to distribute in several villages, to prevent them from dying of fatigue and hunger. In confequence of this distribution my corps ran the rith of being dispersed entirely by an attack from the enemy.

" On the first of November my rear guard was attacked by the enemy near Wahran. The enemy puthed as far as Schwerin, where my head quarters were fixed. The whole of my corps were in quariers, between Kuppentin and Sercahn; and as the enemy knew he could not penerrate by Oid Schwerin, I looked upon his last movement as a feint, and expected his real artack between the lakes of Krakow and

" A large corps of my troops had arrived at their pla e of rendezvous previoully appointed. The enemy proceeded further towards the Elbe, and I set out some hours before day-break to reach the vicinity of Presson and Kladrum. My corps was distributed over a space of five leagues: it was necessary to possels a number of villages to obtain provisions. Several foldiers dropped down, and expire i through hunger.

"On the 3d. I merched into the neighborhood of Schwerin; here I hoped that both my wings would have been covered by the marshes of Lowits and the lake of Schwerin, and that should be able to obtain some brea! and brandy from that place for my people. On the foll wing morning it was my intention to have marched for Lauenberg, to avoid the corps of Bernadotte and Soult.

" During this march, my rear guard was engaged in a warm action, which terminated in the evening near the village of Fahre. The detachment under colonel Olien, at Wittenburg, had left that place without orders. Of this was uninformed. Had the enemy attacked me at this moment, while I was between the villages of Fah e and Plate, I should have been forced a son the lake of Schwerin. I he enemy's attack upon Fahre seemed to be only a demonstration, in order to draw my attention to my lest wing, while he surrounded my right.

" The bloody affair with the rear guard at Fahre did not terminate till an hour after dark. The head quarters of both armies were not more than half a league diltant; mine were at Ostdorf. Marshal Bernadotte summoned me the second time to capitulate. I then forbade

him, once for all, to repeat this summons. "In pursuance of my plan for drawing the enemy's force, in the first instance, as far as possible from the Oler, and to hazard an engagement only when I could advance no further, marched immediately from Schwerin to Gadesbach and Regendorf. During the night, the troops under general Salitz, and also thate of my right wing were annoyed by the enemy. It was still in my power to approach the Elbe, near Lauenburg, but I had no time for deliberation. Thus there only remained open to me the road to Hamburg or Lubec; or I must have resolved to give battle the following day. My troups, horses and men, were so exhausted that I could expect no favorable iffue from engaging with an enemy fix or feven times my number. The grand duke of Berg was upon my left flank, marshal Bernadette in my front, and marshal Soult on my right. In this critical situation I determined to march upon Lubec, keeping the Trave in front. Had my troops obtained any refreshment, they might have engaged against any moderate superiority, even though there had been but little probability of a favorable result.

On the 5th of November our march was happily continued. The gates of Lubeck and the Trave, from Travemund to that place, were all occupied, as fur as the Danish frontier. The army, in this position, would have been in a condition, in the course of a few days, to have resisted the enemy's prodigious superiority, supposing that every one had done bis duty; but this, alas! was not the case.—The enemy, on the 6th at noon, forced their way through the Burg gate of Lubeck, upon which ten pieces of cannon were planted and which was also desended by three battalions. The enemy would not have succeeded in forcing the gate, if the cannon had not been partly withdrawn, contrary to orders, and, just at the decisive moment, ceased to do any farther execution among the enemy's troops.

" As soon as I was apprized of this unexpected eyent, I attacked the enemy in the streets, with as many of the troops as I still could collect. The contest lasted a considerable time and with much blood shed. The city at length filed with the enemy's forces, and it was no longer possible to withstand their superjor numbers. The regiments of Tschammer Owstein, the greater part of the regiments of Brunswick | The onservations generally go and claim and proofe read and the sp. Oels, the blagdeburgh prigade of sust it was hostile to it. His spreech legiments of advectors and proclors on ter part of the regiments of Brunswick

or made prisaners.

consisted of nine thousand, and between | say. two and three hundred men, had not rallied during the night; and our principal sol cupon risking a doubtful attack, and my strength or upon violating the Danish territory. - The latter I deemed imprudent, as it was protected by a Danish corps, and the violation of its neutrality relations. The consequences of the former must have been that the whole corps would have been destroyed or taka circumstance which would have been much more to be deplored than that of surrendering upon certain conditions. On the seventh of November, therefore. at the moment when three French ar. mies were upon the point of attacking me, I resolved to capitulate. A copy of the article of capitulation is subjoined.

partly from the loss which I suffered in the succession of petty engagements which I sustained, and especially in the battle of Lu eck, and partly from the fatiguing marches, during which from the want of provisions, each battallion was compelled to leave behind them forty and fifty men daily. General Von Pelte also with four squadrons of Bayern dragoons and Gen. Von Usedern with ten squadrons of oussars, nad separated some days before from the army; and it should be further observed that the treops belonging to the corps of the dutchy of

"At the moment of capitulation the hang him. senior officeron that staff committed the mistake of taking in the general abstract he gave in, the effective strength of the regiments as much greater than it really was, and also to include the troops which had previously been detached, or which had the day before been killed or made prisoners in Lubeck. The French generals however, in mustering the troops which have capitulated, must have been convinced that their number did not exceed that which I have above stat-

"The troops in general have manifested a degree of constancy, fidelity and bravery, which has exceeded my expectation; -and under different circum: stances would have immortalized them. Though the regiments belonging to the corps lately under the command of the duke of Wirtemberg, bad fought an unsuccessful battle at Halle, in which they suffered severely—though my whole commodities to it for fale, a greater and more corps during an incessant retreat of three | certain profit than others. weeks performed forced marches of from five to seven German miles daily, and was destitute of all the necessaries of life, without suitable cloathing, and numbers of them without shoes; and what is more, having had no bread for the last three weeks, nor any pay for the preced- goods which the Affociation in this place intend ing fortnight; nevertherless there was not a single regiment or even a detach ment, but was continually ready to perform whatever they were desired to exeoute. Their alacrity, their usbroken constancy, and their rediness to make every sacrifice, were evinced to the very last moment, even after the loss of Lu-

" I conclude this report with that heartfelt tranquility which the consciousness of having done my duty inspires, and remain, &c. &c.

" VON BLUCHER."

American,

Commercial Daily Advertiser.

TUESDAY, FEBRUARY 10, 1807.

The nett proceeds of the late concert for the benefit of the poor of Baltimore, amount to 624 dolls. 84 cents. This money has been put into the hands of Mr. ISAAC BIRNESTON; to be appropriated in such manner as trustees appointed for the purpose may see proper.

The Gazette of the United States (published at Philadelphia) bas taken unwarrantable liberties with Mr. Bidwell, member of congress from Massachusetts. That paper is, indeed, too much in the habit of perverting the meaning of the expressions of gentlemen who advocate republican principles. The case alluded to, is the speech of Mr. Bidwell on the bill to suspend the privilege of the writ of Habese Corpus. The Gazette asserts that " he was in favor of suspending the Habeas Corpus" -and to make the assertion appear true, shockingly misrepresents his sen timents in what the editor of that paper calls Proceedings of Congress; but which, with more propriety, might frequently be termed mutilations and misrepresentations of the proceedings of Congress.

Mr. Bidwell was so far from being" in fipor" of the suspension, that he repeatedly remarked -" he was not satisfied of the nesessity of passing the bill"-and. his observations generally go to shew

leers, and a party of I ermis' yagers | appeared in full in the American of Priand fuelleers, were almost cut to pieces, day tast; to which the reader is refera The remaining troops which still red as proof of the truth of what we

The editor of the N. Y. " People's want was ammunition-I had now to re- Friend," preaches fastily and loudly rushing upon a for at least eight times against the President, because the latter did not send Burr away or prevent the prosecution of his designs, when General Eaton informed him of the coinnel's might be inconsistent with our political traitorous project. Mr. Cullen, perhaps, does not know that in this country the laws do not authorise the sending a man away for the bare contemplation of a crime; and therefore the president; could not prevent the beginning of designs which had not been acted upon.

But after saying that " there is not a step of executive conduct on Burr's con-The weakness of my corps proceeded spiracy which is not censurable"—he very ingeniously asks, "Were any steps [to arrest Burr] taken? If there were what were they?" This, all will allow, is the very double distilled essence of argumentation-To condemn a man first; and then enquire afterwards about his fault. We beg leave to tell Mr. Cullen that this mode of "argufying a topic" has been obsolete in America ever since the year 1776—and that generally speaking, the people in this country believe Wirtemburg had previously suffered very they must catch a man before they can

FOR THE AMERICAN.

IF it be admitted as a principle in trade that the greater variety of articles offered for fale in a market, the greater the inducements to purchasers—there cannot be a single doubt but the affociation for the purpose of supplying Baltimore with CHINA and CALCUTTA GOODS WILL be of far more benefit to the mercantile interest of this city, than any regulation adopted by the merchants and traders for many years.

In order to prove that the basis of this conclusion is just and true, you have only to appeal to the evidence of the provision market. You will find on examination, that wherever the greatest variety of provisions are offered for sale, there will the inhabitants of a town or a city flock to buy-and, such a market at length cbtains a name which insures to those who bring

Why do the store-keepers from the Western country, for one half the year, at leaft, prefer going to Philadelphia? Plainly, because that city has been heretofore celebrated for a conflant, large and regular supply of the very kind of to introduce into the Baltimore marks:. Once furnish the latter with those articles, and the weltern trader will no longer give a preference to our more eastern neighbor.

The writer of this article has witnessed in some of the towns in the back parts of the Union, the great advantage which the Philadelphians have derived from having a name thro the country for a general supply of East India Goods. Why may not the Baltimoreans enjoy an equal benefit! Let the merchants and traders step forward and aid the present Association, and in a very little time Baltimore will certainly be the fires market, and the most reserted to, of any in the United States.

If one other inducement could be necessary to awaken the whole commercial and mercantile interest of this place to a proper sense of the great advantages that mult result from the undertaking, to all the city, that inducement may be found in the certain profits which the flock of the Association will afford.

It is a plan, in short, & in truth, to which public prosperity and individual interest most cordially and strenuously invite the liberal and enlightened citizen to subscribe.

COLUMBUS.

COMMUNICATION.

Mr. Pecbin, IT is with pleasure that I have to announce to you and to our fellow-citizens in general, the returning health of our worthy Collector: We hope from to seahim attending his fluties at the cultom-house; and will, no doubt, be a matter of regret to those who have had their horses faddled for a trip to Washington, to find that " Few Die and None Resign."

COURT OF VICE-ADMIRALTY. Musau, A. P. Dec. 29, 1806 Before the Worshipful Henry Morton Dyer, Sole Judge and Commissary.

Deborah, Mory, mester Mr. Armstrong, solicitor general, prayed the claim. by him given (in behalf of Messrs Howell and Pleasants, and Charles Pleasants of Philadelphia, and Alexander Mac Clure and John Facon, of Norfolks merehants, all citizens of the Dnited States of America) to be admitted the said ship & cargo to be restored as claim-

Mr. Kerr prayed the said claim to be. rejected, and the said ship and cargo to be condemned.

His honor the judge, baving heard the