

Commercial Daily Advertiser.

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WEDNESDAY, APRIL 8, 1863.

Valuable Property For Sale.

The 8th April, will be held on the premises, at 12 o'clock, by Auction, on a Credit of six, twelve, and fifteen months, that very valuable property, at present occupied by Mr. Charles G. ...

Sale by Auction.

Just landed from the schooner A. Herber, and will be sold on THURSDAY, the 10th inst. at half past 3 o'clock, on O'Donnell's wharf, near the head of Frederick-street Dock, on a liberal credit.

Sale by Auction.

The 9th inst. at 4 o'clock in the afternoon, will be sold at the Coffee House, in the City, the ship FAIR AMERICAN, with all her tackle and appurtenances, and as she arrived from sea—

Codfish.

160 boxes more CODFISH, in shipping order, for sale by NATHANIEL F. WILLIAMS, No. 15, Bowler's wharf.

Calcutta Goods.

30 BALES, consisting of Chittibul, Luckpore, and BAFFAS. Entitled to Drawback. Blue Gill, Romally, and Beecham Currah.

IRISH LINENS.

John Robinson, No 216, Market-street, HAS received via New-York, &c. 3-4 } IRISH LINENS. 7-8 & 4-4

To Let,

A CONVENIENT two story Brick House, with good back buildings, a nice garden spot attached thereto, and well inclosed; at present occupied by Mr. William Hoilins, and adjoining the subscriber's dwelling. Enquire of GEO. WARNER.

Carriage Springs, &c.

Coach C and Upright Springs, in sets, Chariot and Coach do. Phion and Curric do. Gig C and Telegraph do. Coach Steps, double and treble, Wheel Hoops, Check Strap Loops, &c.

To be sold or rented.

A large two story BRICK HOUSE, with four rooms on a floor, forty six feet front, with a complete cellar, fit for any kind of storage, large back building and piazza, large yard, stable and smoke house, in fee.

F. & C. Focke,

Opposite the Custom House, HAVE imported from the Margaret, from Havana, 69 boxes White Havana Sugar, 47 do. Brown do.

Charitable Marine Society LOTTERY.

THE subscribers having been appointed by the members of said Society, Managers of a Lottery, authorized by the General Assembly of Maryland, intend to raise a sum of money to aid the funds of said Society in extending further relief to the indigent, and helpless orphans—offer to the public the following

Table with columns: Prize, Dollars, and amount. Includes 1st Prize of 5000 Dollars, 2nd Prize of 2500 Dollars, etc.

6163 Prizes—amounting to \$75000. 11832 Blanks—Sum raised, including expenses, \$15000.

18000 Tickets, at 5 Dollars each, is \$90000. From the above Scheme, it appears that there are less than two Blanks to a Prize, and that the Prizes are to be paid with interest.

WILLIAM MATHEWS, THORNDICK CHASE, TOBIAS E. STANSBURY, JOHN SNYDER, TIMOTHY GARDNER, THOMAS ROGERS, DANIEL HOWLAND, JOHN OGSTON, THOMAS TENNANT, THOMAS SPRIGG, AND PETER GOULD.

A COOK

IS wanted in a small family—one that can come well recommended will receive the highest wages. March 19

Notice.

THIS is to inform all persons whom it may concern, that the subscriber intends to apply to the Judges of Baltimore County Court, at the expiration of eight weeks from this date, for the benefit of a Law, enacted by the Legislature of Maryland, at their session November 1855, and the supplement thereto, for the relief of insolvent debtors.

For Sale,

A HOUSE with twenty-two acres of Land attached thereto, situated on the Philadelphia road, six miles from Baltimore—known by the name of the Red House. It has, for a number of years, been occupied as a tavern, and with some trifling expense, may be rendered equal, if not superior, to any stand, as a public house, on that road.

In pursuance of an order of the

Orphan's Court of Baltimore County, the subscriber will expose to public sale on the premises, on TUESDAY, the seventeenth day of March next, at 10 o'clock, on a credit of six months.

Two HOUSES and LOTS of GROUND

situate on Philip-street, and two other vacant LOTS situate on Queen-street, on Fell's-Point; the above being the late residence of William Hayes, deceased.

ELIZABETH HAYES, Adm'x.

Of William Hayes. The sale of the above property is unavoidably postponed until the 15th day of May next. March 13.

We whose names are here-

unto subscribed, having attended an examination of the Scholars of Mr. PATRICK EDWARDS, at his School Room, in McClend's Alley, on Tuesday, deem it a necessary tribute to merit, to express our high satisfaction at the proficiency they have made; and to say that his plan, as novel to us as successful in its operation, appears well calculated to ground the young beginner in a thorough knowledge of Orthography, to strengthen the memory, to excite emulation, and to quicken and mature the judgment of the Pupil.

F. & C. Focke,

Opposite the Custom House, HAVE imported from the Margaret, from Havana, 69 boxes White Havana Sugar, 47 do. Brown do. Also on Hand, Lists do, Checks No. 2, Checks, and Stripes, Bretons, Estopillas, Dowls, and Greens a la Morlaix. All of which they offer for sale on very reasonable terms. March 27

RICHMOND, April 3.

EXAMINATION. The Editor was prevented by his remote position, from collecting the whole of the argument on Tuesday—He is indebted to a friend for the following sketch.

COMMUNICATION.

The examination of Col. Aaron Burr, which commenced in private at the Eagle Tavern, in this city, on Monday last, was continued on Tuesday at the Capitol, before the Chief Justice of the United States, and in the presence of an immense assemblage of the citizens. Col. Burr had been recognized to appear at 10 o'clock. At half past ten he presented himself before the judge, and with some degree of emotion apologized for the apparent delay, declaring that he had misapprehended the hour at which he was bound to appear. The judge then adjourned from the court room to the hall of the House of Delegates, for the better accommodation of the spectators.

(Great complaint has been made about the private Examination held at the Eagle. Some have branded it with the epithets of "a secret and unprecedented proceeding, not unlike the proceeds of a Spanish Inquisition." The facts are said to be, that when the attorney for the district applied to the Chief Justice for a warrant, some conversation ensued on the manner of examination; Mr. Marshall observed that it was incumbent to know whether it was held at the Capitol or the Eagle. Mr. Hay objected to the latter, that no room was sufficiently large to receive the crowd that would attend, which would be a source of considerable inconvenience. Mr. M. observed that this anxiety could be obviated by having the examination in private. To which Mr. Hay assented, on the condition, that if there were a objection, by some one, they should adjourn to the Capitol. The evidence to be adduced was directly before the public.—On the examination, it was agreed that a discussion was necessary. Mr. Hay then moved for an adjournment to the Capitol. In which arrangement, Col. Burr's counsel immediately acquiesced.)

Mr. Hay, Attorney for the United States, in the District of Virginia, opened the examination, and in a speech of considerable length and great propriety, enquired the reasons why a man should be believed to be guilty of the charges which had been alleged against him. This was the same as the late English Reporter, viz: "All the things on foot and providing the means for a military expedition against the territories of a nation with whom the United States were at peace and ally. For High Treason against the United States."

He ended his speech by a common way to show that on a mere question of law a person accused of a crime, nothing more was necessary than to show a probability that he had been guilty of it. To re-appear in this respect a flag of the proceedings of a country in a country of such thin population and extensive territories as the United States, would not be an invitation to perpetrate crimes with a certainty of avoiding punishment. In support of these charges, the evidence of General Eaton, the deposition of Gen. Wilkinson, and the affidavits made to him by Benjamin and Swartwout were relied on. The testimony of General Eaton, Col. Burr being clearly examined, although appeared to render it probable that he had committed the crime charged, by the contribution to the cause of the defence. In addition to this testimony, his flight from the Mississippi territory, and the evidence of Major Perkins, by whom he was conducted from the Tombigbee, where he was apprehended, to his place of confinement, and his attempt to appeal to a Magistrate in the State of South Carolina, were all deemed as strong circumstances to prove his guilt.

(Mr. Hay adduced other reasons for a commitment, among others, that the Executive and Legislatures of Ohio and Kentucky had manifested their own disapprobation of some treasonable conspiracy.)

(Mr. Burr's attempt to escape from the hands of his officers is thus recommended as a proof of his guilt. It is thus recommended as a proof of his guilt, through the town of Chelsea, in S. Carolina, to a town of any size that he visited, Mr. B. had been seized among the small crowd, which had collected to see the cavalcade. He told them that he was Aaron Burr, dragged by a military escort, without any warrant, and contrary to the laws of his country.—Major Perkins, however, immediately followed; seized, and replaced him upon his horse.—The crowd manifested no disposition to interfere in the business.)

(Mr. Wickham, in behalf of Col. Burr, combated with great ingenuity, the arguments of Mr. Hay. He contended that the establishing the guilt of the accused ought to be proved, not by any inference of a treasonable design, could be drawn, so as even to warrant a judge in committing for trial; that the evidence in this case, was altogether uncertain and illegal, that the deposition of Gen. Eaton contained his own self-condemnation, and that the flight of Col. Burr, as it was termed, by the counsel for the prosecution, was nothing more than a wish to avoid military punishment. No reason, he contended, existed why the United States were unprepared with testimony. They had chosen this place as the scene of action, and dragged Col. Burr to it. Sufficient time had elapsed since the first apprehension of Col. Burr to take affidavits going to prove the facts charged, if he had really been guilty.)

Mr. Wickham, on the same side, made an eloquent address to the feelings of the audience, and pursued nearly the same train of reasoning adopted by Mr. Wickham.

(Col. Burr's counsel asserted that his objects were of a nature to be useful to the U. States. As far as they ventured to develop them, it was said to be his intention to aid the U. States in case of a war with Spain, which seemed at that time a probable event; and to settle the Ouachita Grant, from which point it would be at least in the power of Col. Burr, to be a useful auxiliary to his country against its enemies.)

Col. Burr then arose and addressed the judge. He principally relied on his two former acquittals, and enquired whether there was probable cause to suppose him guilty, when in Kentucky and the Mississippi territory, where the greatest alarms had been excited, the civil tribunals had pronounced him innocent.

(Col. Burr spoke about 10 minutes. He dwelt upon the unfounded alarms, as he called them, which had existed in the Western Country; and the way in which he had met them. The alarm prevalent in the State of Ohio, had produced a judicial enquiry into his conduct before the court of Kentucky. The moment he heard of this step, he had hurried before the court; he demanded an enquiry; and, he said, was honourably acquitted. The same alarm followed him to the Mississippi territory; he had there met it again; and not only had the grand jury found nothing against him, but they had presented the government for meddling with him. He denied he had ever fled from the laws of his country; it was military oppression he had avoided. Although Cowles Mead had promised him his protection, while he remained in the territory, it was a promise which could not be kept. The

arm of force was too strong. He had been told even by the officers of an armed force, that he was to be seized, hurried on board, and borne off. What could he do? In pursuance of his own judgment and the advice of his best and wisest friends, he was determined to fly from oppression. He de dared it to be false, utterly false, that he had broken his recognition. He asserted, that his designs had been honorable, and would have been useful to the United States. But even admitting that they had been otherwise, they must have been long since abandoned; they had not once ripened into overt acts. There was no Treason. He complained of the treatment he had experienced—his loss of property from seizures on the Western Rivers; the hardships received from his guard; the debauchery of pen, ink and paper; even to write to his daughter. He dwelt upon his efforts to escape to South Carolina. He said it was a mere attempt to throw himself out of the tyranny of a military escort into the hands of a civil magistrate. A little before or after dismounting from his horse, he asked whether he had not called for the interference of a magistrate. He spoke as to the alarms of New Orleans being considered as an obvious evidence of a treasonable conspiracy. These alarms were not produced by him, but by others; by the President, who had named General Wilkinson, and General Wilkinson, who had alarmed the City. Refusing Wilkinson and Eaton made but few observations. He called the depositions produced before the court, a parcel of rubbish, which he should not pretend to be able to understand.

Mr. B. then the Attorney General for the U. States closed the argument. His exordium expounded in a most forcible and impressive manner, the right he felt in being compelled to arraign a man at a treason whom the people of the U. States had once elevated to the second office in the government. In defining this particular treason, he took nearly the same ground which had been occupied by Mr. Hay, but went more particularly into an examination of the testimony.

When the arguments were gone through, the Chief Justice observed, that whatever opinion he might give upon the subject, he would not do so until the next year, if not before, for the purpose of having time to consider the question.

On Wednesday, the 10th of April, the Judge attended in his robes, and a very numerous assembly, gave the following opinion:

The U. S. } On a motion for a Commitment. A. Burr }

I am reported on the part of the Attorney for the United States to examine the accused on two charges.

1st For setting on foot and providing the means for an expedition against the territories of a nation at peace with the United States. 2d For committing High Treason against the United States. On an objection on the part of the accused, that the charges are not stated, which would be the case, if the charges were not stated, on a motion on the part of the Attorney for the U. S. to require that the charges be stated, I have required that which is the duty of the Attorney for the U. S. to do, and I have required that the charges be stated, and I have required that the charges be stated, and I have required that the charges be stated.

I think it proper to enquire whether the testimony of General Eaton and General Wilkinson, and the affidavits made to them by Benjamin and Swartwout, are sufficient to prove the charges against the accused. The charge is, that the accused has committed the crime of High Treason against the United States, and the testimony of General Eaton and General Wilkinson, and the affidavits made to them by Benjamin and Swartwout, are sufficient to prove the charges against the accused.

Under the control of this constitutional regulation, I am to enquire whether the testimony of General Eaton and General Wilkinson, and the affidavits made to them by Benjamin and Swartwout, are sufficient to prove the charges against the accused. The charge is, that the accused has committed the crime of High Treason against the United States, and the testimony of General Eaton and General Wilkinson, and the affidavits made to them by Benjamin and Swartwout, are sufficient to prove the charges against the accused.

That this plan, if consummated by every act, would amount to treason, no man will controvert. But it is equally clear, that an intention to commit treason is an offence entirely distinct from the actual commission of that crime. War can only be levied by the employment of armed force. Troops must be embodied; men must be armed in order to levy war. If Col. Burr had been apprehended on making these communications to General Eaton, could it have been alleged that he had gone further than to meditate the crime? Could it have been said that he had actually clothed forces and had actually levied war? Most certainly it could not. The crime really completed was a conspiracy to commit treason, not an actual commission of treason.

If these communications were not treason at the instant they were made, no lapse of time can make them so. They are not in themselves acts. They may serve to explain the intention with which acts were committed, but they cannot justify those acts if they be not proved. The next testimony is the deposition of General Wilkinson, which conflicts in the letter already noticed, and of the communications made by the bearer of that letter.

This letter has already been considered by the Supreme Court of the United States, and has been declared to import, taken by itself or in connection with Eaton's deposition, rather an expedition against the territories of Spain than of the United States. By that decision I am bound whether I concurred in it or not. But I did concur in it. On this point the court was unanimous.

It is, however, urged that the declarations of Swartwout may be connected with the letter and used against Col. Burr. Although the confession of one man cannot criminate another, yet I am inclined to think that on more enquiry into probable cause, the declarations of Swartwout made on this particular occasion, may be used against Col. Burr. My reason for thinking so is, that Col. Burr's letter authorizes Mr. Swartwout to speak in his name. He empowers Mr. Swartwout to make to General Wilkinson verbal communications explanatory of the plans and designs of Burr, which Burr adopts as his own explanations. However inadmissible therefore, this testimony may be on a trial in chief; I am inclined to admit it on this enquiry.

If it be admitted, what is its amount? Upon this point too, it appears that the Supreme Court was divided. I therefore hold myself at liberty to pursue my own opinion, which was, that the words "this territory must be revolutionized," did not so clearly apply to a foreign territory as to reject that sense which would make them applicable to a territory of the United States, at least so far as to admit of further enquiry into their meaning. And if a territory of the United States was to be revolutionized, tho' only as a mean for an expedition against a foreign power, the act would be treason.

This reasoning leads to the conclusion that there is probable cause for the allegation that treasonable designs were entertained by the prisoner. To state as July last, when this letter was written.

It remains to enquire whether there is also probable cause to believe, that these de-

The letter was in cypher. Gen. Wilkinson, it is true, does not say that a cypher had been previously settled between Col. Burr, and himself, in which they might correspond on subjects which though innocent, neither of them might wish to subject to the casualties of a transportation from the Atlantic to the Mississippi; but when we perceive that Col. Burr has written in cypher, and that General Wilkinson is able to decipher the letter, we must either presume that the bearer of the letter was also the bearer of its key, or that the key was previously in possession of the person to whom the letter was addressed. In either case, particularly the circumstances attending the delivery of this letter, General Wilkinson does not say that it was accompanied by the key, or that he felt any surprize at its being in cypher. For this reason, as well as because there is not much more security in sending a letter in cypher accompanied by its key, than there is in sending a letter not in cypher; I think it more reasonable to suppose that the key was previously in possession of Wilkinson. It was the fact, the letter being written in a cypher previously settled between him self and Col. Burr, in this stage of the enquiry at least, a circumstance which sufficiently supports the assertion, that the letter was written by Col. Burr.

The enterprise described in this letter is obviously a military enterprise, and must have been intended either against the U. S. or against the territories of some other power on the continent, with all of whom the United States were at peace.

The expressions of this letter must be admitted to furnish at least probable cause for believing, that the means for the contemplated expedition were provided. In every part of it, we find declarations indicating that he was providing the means of the expedition, and as these means might be provided in secret, and as there is no further testimony to be required to satisfy me, that there is probable cause for committing the prisoner on this charge.

Since it will be entirely in the power of the Attorney General to prefer an indictment against the prisoner, for any offence which he shall think himself justified of testimony to support, it is, in fact, immaterial whether the second charge be expressed in the warrant of commitment or not; but as I hold it to be my duty to infer every charge alleged on the part of the United States, or support of which probable cause is shown, and to inflict none in support of which probable cause is not shown, I am bound to proceed in this enquiry.

The second charge exhibited against the prisoner, is High Treason against the United States in levying war against them.

As this is the most atrocious offence which can be committed against the political body, so is it the charge which is most capable of being employed as the instrument of those malignant and vindictive passions, which may rage in the bosoms of contending parties struggling for power. It is that, of which the people of America have been most jealous, and therefore, while other crimes are punished, they have refused to trust the national legislature with the disposition of this, but have themselves declared in their constitution, that it shall confer only on Congress the power to declare the United States, or in a hostile war, to their enemies giving them aid and comfort. This high crime consists of overt acts which must be proved by two witnesses or by the confession of the party in open court.

Under the control of this constitutional regulation, I am to enquire whether the testimony of General Eaton and General Wilkinson, and the affidavits made to them by Benjamin and Swartwout, are sufficient to prove the charges against the accused. The charge is, that the accused has committed the crime of High Treason against the United States, and the testimony of General Eaton and General Wilkinson, and the affidavits made to them by Benjamin and Swartwout, are sufficient to prove the charges against the accused.

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