## American,

## Commercial Daily Advertiser.

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THURSDAR, SEPTEMBER 24, 1807.

BURR'S TRIAL.

OPINION OF THE COURT
On the motion to arrest the evidence, delivered

August 31. - Continued. But to estimate the opinion in Mitchell's este, let its kircumstances be transferred to Burr's case. Suppose the body of menassembled in Blannerhallett's island had previously met at some other place in the same county, & that Burr had been proved to be with them by four wi nesses: That the resolution to march to Blat nerhallett's island for a treasonable purpose, lind been there taken; that he had been sent on the march with them; that one witness had seen him on the island, that another thought 'he had f er him there; that he had been feen with the party directly after leaving he island; that this indiament had charged the levying of war in Wood county generally; the cases would then have been precifily parallel, & the edecisions would have been the same.

In conformity with principle and with authority then, the prifoner at the bar was neither legally nor actually pretent at Blannerhaffert's island; and the court is strongly inclined to the opinion that without proving an actual or legal presence by two witheses, the overtact faid in this indictment cannot be pro-

But this opinion is controverted on two grounds.

The first is, that the indistment does not charge the prisoner to have been present.

The second, that although he was absent, yet if he caused the assemblage he may be indicad as being present and convicted on evidence that he caused he treasurable act.

The first position is to be decided by the indistiment itself. The court understands the allegation differently from the attorney for the United States. The court understands it to be directly charged, that the priloner did affemble with the mult tude, and did march with them. Nothing will more clearly tell this confit uction than putting the case into a shape which it may possibly take. Suppose he law to be, that the indidinent would be defectiv uniels it alledged the prefince of the person indicted at the set of treation. If up in a special verdict facts thould be f and which amounted to a levying of war by the accust d. & his countel should infail that he cond nor be cond mued b cause the indictment was defective in not charging hat he was himing one fathe affemblage which conflitute ed the treas in or nee use it alledged the procurement def dively, would the tromey atmit his conficuation of his indiament to de correct? I am perfuaded that he would not, and that he ought not to make fuch a concession on. If, after a vo dift, the indictment ought to be coultrued to alledge that the priliner was one of the allem lage at Blannerhallett's illand it ought to be so confirmed ow. But this is unimportant, for if he udlichment alledges that the priloner procured the affemulage, that procurement becomes part of the overt act. and must be prove :, as will be shown her-after.

The 2d policion is founded on I Hale, 214, 238 and I East 127.

While I declare that this doctrine contra-

diffe every id a I had ever entertained on the subjest of indistments, fince it admits that one case may be stated and a very differen case may be proved, I will acknowledge that it is countenanced by the authorit es adduced in i In port. To counsel or a vise a treasonable affemblage, and to be one of that affemblage, are certainly diffinct acts, and there fore ought no to be charged is the same act. The great oigestion to this m d: of proceeding is, that The proof elle sigly varies from the charge in The curacter and effence of the offence, and in the testimony by which the accused is to de fend himself. These dicht of lord Haie therefore, taken in the extent in which they are underknod by the counfel for the United States feem to be repognant to the decarations we find every wher, that an over, all must be laid and must be proved. No case is cited by Hale in support of them, and I am strongly in clined to the epinion that, had the public received his corrected, inflead of his original mamuscript, they would, if not expunged, have been restrained in their application to cassa of a particular description. Laid down generally, and applied univertally to all cales of treason, they are repugnant to the principles for which Hale comends, for which all the lemen ary writers contend, and from which courts have in no celegreither diredly reported or referred to in the books, ever departed. These principle are, that the indiament must give notice of the offence, that the cuied is only bound to answer the particular charg which the indiciment contains, and that the .. v rt ad laid · is that particular charge. Under fuch circum-Mances, it is only doing jullice to Hale to ex amine hirdicia, and if they will admit of being underflood in a limited sense, not repug. mane to: his own doctrines, nor to the general principtes of law, to understan. them in that

"If many confision to counterfeit, or counsel or abet it, and one of them doth the fact upon that councelling or emspiracy it is treason in all, and they may be all indicted for counterfeiting generally within this statute, for in such case, in treason, all are principals."

This is laid down as applicable singly to the treasum of counterseiting the coin, and is not applied by Hale to other treasons.—Had be designed to apply the princip e universally ne mould have flated it as a general proposition, To ground have laid it down treating on other branches of the fiatate, as well as in the chap ter respecting the coin ; he would have lat . down when treating on indictmennis generally But he has done neither. Every'sentiment bearing in any manner on this point which is to be found in Lord Hale, while on the doctrine of levying war, or on the general dictine of indictments. militate, against the opinion that he considered the proposition as more extensive than he has, declayed it to be. No court could e justified in extending the distant of a judg beyond its terms, to cales on which he has expressly treated, to which he' has not himself applied it, and on which he as well as others has delivered opinions which that distum would verrule. This would be the less just fiable if there should be a clear, legal distinction indicated by the very terms in which the judge has expressed himself between the particular case to which alone he has applied the dictum, and other cales to which the court is required to extend

Libert is thus clear legal distinction. "They

feiting generally. But if many conspire to lovy war, and some actually levy it; they may not beindicted for levying war generally. The books concur in declaring that they cannot be so indicted. A special overt act of levying war must be laid. This diffinction between counterfeiting the coins and that class of treasons among which levying war is placed, is taken in the flatute of Edward 3d. That statute requires an overt act of levying war to be laid in the indictment, and does not require an overt act of counterfeiting the coin to be laid. If in a particular cale where a general indictment is sufficient, it be stated that the crime may be chargedigenerally according to the legal effect of the act, it dees not follow, that in other cases' where a general indictment would be infushcient, where an overt act must be laid, that this overt act need not be lain according to the real fact. Hale then is to be reconciled with himfelt, and with the general principles of law, only by permitting the limits which he has himlest given to his own dictum, to remain where he has placed them.

In page 288, Hale is speaking generally of the receiver of a traitor, and is stating in what such receiver partakes of an acceleary. Ith His indictment must be special eithe receipt, and not generally that he did the thing, which may be otherwise in case of or one that is procurer,

counterlor or contenter." The words " may be otherwise" do not clearly convey the idea that it is universally otherwife. In all cales of a receiver the ind et nent must be special on the receipt, and not general The words it " may be otherwise in call of a producer, &c" lignify that it may be otherwise in all treations, or that it may be otherwise in some treasons. If it may be otherwise in some treatons without contradicting the dotrines of Hale himself, as well as of other writers, but cannot be otherwise in all treations without such contradiction, the fair construct on is, that Hale used these words in their restricted feate; that he afed them in reference to treatons, in which a general indichment would not lie, but an overt act of the tresson must be caurged. The two passages of Hale thu. e aft-ie i. may perhaps he aw, and ma, feave him confident with himfelf. It appears to the court to be the fair way of constraing hem.

These observations relative to the passages quoted from Hac, apply to that quoted from East who obviously espies from Hale, and reless upon his authority.

Upon this point Keeling 26, and 1st Hale 626, have also been relied upon. It is stared in ooth, that if a man be indicted as a principal and acquitted, he cannot afterwart; be in neted as ccellary before the fact. Whence it is interred not without reason, that evidence of accessoral guilt may be received on fuch an indicate meat. Yet no case is found in which the qualtion has been made and dezided. The objection has never been taken at a trial and overriled, nor do the books fay it would be overruled. Were fuch a cale produced, its application would be quellionable. Keeling fays, an ac effiry before the fact is quadam made, in some manner guilty f the fact. The law may not require that the manner thould be tlated, for in selony it does not require that an over ad flieu . o aid. The indictment therefore may be general. Ba: an over act of levying war must be laid - Thele cales then prove in their utmolt extent no more than the cates previously cited from Hale and Euft. Phis diffinction between indictme,, which ray three the fact generally, and those w ich mun lay specially, bear some analogy to a general and a special action on the caia general action, the declaration may lay the affungitt according to the legal effect of the trantanction, but in a special action on the cate, the declaration muit flate the material circu n stances truly and must be proved as stated. This diffinction also derives some aid, from a patsage in Hale, 625, immediately preciding that which has been cited at the bar ide tays, " If A be indicted as principal and B. as accessivy before or ufter, and both be aequitted, yet H may be indicted as principal, and the former acquittal as acceeding is no par."

(To be Continued.)

NEW YORK, September 21.

By the Ann from Bordeaux, we have received cd French papers to the first of August.

Bordeaux was illuminated for three nights, on account of the peace.

The French emperor Bonaparte arrived at Paris the 27th of July from the grand army. The rejoicings and illuminations on this occasion were the most extravagant of any thing of the kind we ever heard of.

Translated for the Mercan ile Advertiser, from the French papers.

Yesterday, at four o'clock in the afternoon, agreeably to the order of his mamajesty the Emperor and King, his serene highness the prince Arch-chancellor of the Empire repaired to the Senate, in order to communicate to its members the two treaties of peace signed with Russia and Prussia.

His serene highness was received with the accustomed ceremonial, and having taken his seat, he said,

"Gentlemen, the rapid course of the victories of his majesty, the Emperor and King, which certain omen of a glorious peace. Our hopes are accomplished by the two treaties of peace, which I be ing to the Senate. His majesty would not suffer them to be made public until they were laid before you. The Senate duly appreciate the delicacy of this the serve, and it will perceive therein a new proof of the attention of our august Sovereign, in maintaining the forms consecrated by custom and our laws.

Amidst the great results which these political transactions present, there is one hat will interest your liveliest affections. Devoted as you are, gentlemen, to the glory of the imperial dynasty, with what satisfaction will you not see its splendor, continually increasing, elevate to the throne of Westphalia a young prince whose wisdom and courage have just been signalised by deeds so noble. In that, as well as in every other dispos tion forming these treaties, you will trace, gentlemen, the constant cares of the founder of the empire, to consolidate the great system of which he has laid the basis: Your hearts will applaud the conceptions of u genius friendly to humanity, whose views and precautions all tend to spare the effution of human blood. The Continent may at length calculate upon a durable peace. The memorable interviews wnich have

just taken place on the Lorders of the

Niemen, are the pledges of long tranquelity. The tokens of mutual es eem and confidence which have been stablished between the sovereigns of the two most powerful mations of Europe, present a warranty against which all the efforts of ha red and ambition will henceforward prove abortive.

His serene highness having then handed the two treaties, they were read by senator Dupere, one of the senators.

The reading heing ended, the senator Lacepede, speaker of the senate, made the following reply:

treaties of peace, which his majesty the emperor and king has been pleased, thro' your screne highness, to communicate to us, impress upon the senate new sentiments of the liveliest gratitude.

After so in my harvests of glory, so many prodigies, and so much good, the senate feels more than ever the necessity of presenting to his imperial and royal majesty its homages and its vows.

We know we shall soon have the advantage, so precious for every French-man, of enjoying the august presence of the greatest of monarcis. But day, hours, and even moments, seem like so many ages to our just impatience.

I then mov, senators; first, that the senate orders the transcrip of upon its registers of the treaty with Russia, and of that with Prussia. Secondly, that a special committee be charged to draft an address expressive of the sentiments of love and respect with which the senate is so deeply affected for his imperial and royal majesty.

The two motions of senator Lacepede, were unaniously agreed appin.

The committee ap to nted to fin he the address, consists of his eminen. Cardinal Fesch, Messey, Lampede, Mong, Laplace, and Semanatie. They will make their report on Monday the 27th instant.

Conformably to the orders from his majesty the emperor and king, transmitted to his screne inganess the prince Arch chancellors of the empire. his excellency the grand master of the ceremonies prescribed to the heralds to proclaim in Paris the peace which has just been signed with Russia and Prussia.—
This publication has taken place yested day 24th July, as follows:

At 5 o'clock in the evening, the heralds on heralds, attended by 24 justices of the prace and a numerous detachment of troops so off from the Thuilleries, and proclaimed throughout Paris the articles of the treaties concluded between his majesty the emperor of the French and king of I aly, protector of the confeder tion of the Rhine, and their majestics the emperor of all the Russias and the King of Paussia.

The train in all it rounds was followed by a immense concourse of people, who evinced their gladness an gratitud by the liveliest transports and cries a thousand times repeated of vive l'Imperor. In the evening there was a general illumination.

The emperor is expe ted here to-morrow or the day following. It is supposed he will go direct to St. Cloud.

DESDEN July 18

His majesty the imperor set of off from Konigsverg, the 13th at 6 e'clock in the evening, and arrived on the 14th at noon, at Marienwerder, where he stai an hour. At 12 o'clock the same evening he passed through Posen, where he remained two hours; during which he received the civil officers of the Polish government.

on the 16th at moon, he arrived at Glogau, and on the 17th, at so en in the mooning at Boutzon, hist town of the kingdom of Saxony, where howas rocived by the King. These two sovereigns conversed ogether for some time in the mansion house of the bishop; the king entere in a the emper r' carriage, they arrived together at Dresdom, and a ignited at the palace. This divided on horse-

The sentiments which his majesty found in Saxony, are similar to those that have been expressed to tum on the whole of his way in Poland; an immense concourse of people crowded together every where on his passag.

[Monitcur.

## ALEXANDRIA, September 22.

Flour, inspected in the town: of Alexandria, for the quarter, ending the 1sth of September 1807—

35,252 barrels flour,

1,854 half barrels flour.

AMOS ALEXANDER,

Flour Inspector. Thomas Stackdale, a citizen of the U. States and born in Harf r.i county, M ryland, arrived at this place on Sun lay morning last by land from Lynn Haven Bay, having about 8 or nine days since made his escape from the British thip Tamer Captain Robinson-he states that they lent him together with two officers and 5 seamen on thore in disguise to procure fresh provisions; that while the officers were at farmer's house procuring them, he the faid Stockdale with two other feamen (Englishmen) made their escape throughe country, the two Englishmen went to Nerfolk, and he baving been registered as a seamen in the Collect or's office of Alexandria made his way here, after having been on board said vessel for 3 yearshe never accepted any of his majeily's bounty.

Are requested to meet on their usual parade ground, (Col. Howard's Park) to morrow evening, at 4 o'clock, in common dress, with arms and accountements in good order for firing.

By order,

Sept. 23 JOSHUA FOR C. Sec 7.

## American,

Commercial Daily Advertiser.

THURSDAY, SETE MBER 24, 1807.

LATEST PROCEEDINGS
AT RICHMOND.

Wednesday, September 15. Mr. Burr observed, that he should wave the right to which he was entitle it of putting an end to this inquiry at the present time; but as much had been boldiy said about his leveing war in certain places, he was willing to includge the gentlemen in the production of relevant testimony. If th y, h wever, wandered from that line, he should immediately bring the investigation of the law before the court He also demanded a specification of the charge made against him. The Chica Justice observed, that the specific charge was levying war at the mouth of Camberland river. Mr. Martin denied that this specific charge had been yesterday

Mr. Hay stated that this difficulty hac. o cu red respecting the jurisdiction o the Island the mouth of Cumberland river; that he had been imorm d, that this island had never been ceded in Kenticky, and that it still belongs to Virgina; that if Mr. Burr were then sent t Kentucky, he might be sent back ag it; and that, even if he was wrong in heat ting the offence, it was in the power of the court to sead hun to another di tri ... The only arrangement, nowever, that was now to be made was wherear Blannethasset and broken hould be in the land in the same more in. Mr. Wicklaming. ject d'un this arrangement, becau e dans commend was uncerent, and her the the testimony applicable to care any acreedilserent. Unef Justice. Let the examination proceed; and if any concaston should occur, the division may then be

on of the charge. Mr. Hay to a produ-

Air Martin insisted on the spensions

The attor ey of the United States for the Vingonia district, changes Aaron Blaner, Herman Blannerh seett and I-rael South, with treason, in levying war against the United States, and char es that an overt act of levying war was committed on an island whose name is not known, at the mout of Cumberland river, in the state of Kentucky and that overt acts of levying war were committed at Bayo fie resin the Mississippi territory, and on the Mississippi river, between the places above named

The atto ney for the United States then called James W. Dowel, w.o gave the following evidence:

In December I was at Wheeling, and engaged with one William Dean to go down the river o New-Orieans, to take down a boat loaced with flour and wniskey. We went down the river with the boat from Wheeling to Shawnee town an here I saw Mr. Blannerhassett, Ty ler, Smith, and many others. From that place we went down to the mouth of Cumberland river in company with these gentiemen. [Mr. Hay. Where is Shawnee own! A. it is below Blannnerliassett's island ] It was at the mouth of Cumberland that I saw col. Burr for the fir t time. We all went up to the beach, where he was introduced to us all; and there he formed a ring or circle, where he told us, it was not a proper time to divulge his secrets—there were too many by c-standers.

Col. Tyler, and Mr. Smith, and Mr. Dean nd Blannerhassett stood together, and he told col Tyl r he might tell the gentl men engaged what he thought proper, and e .. I's said he would inform the captams of the boats; for cam boot had a captain. Col. T. said he would let them know where they were going, when th y got to Nantz de Grace (New Madrid, as some call it.) Mr. Dean sold the boat he went down in to Comfort Tyler and Israel Smith. Then we proceeded in going down, till we got to New Ma drid, where we expected to hear some encouragement for going down; and there we were told by Comfort Tyler, that when we got lower down, they would tell us. They appointed two or three places, but they never saw one fit for it. We went down to Bayou Pierre.

Mr. Burr. Gentlemen have set out to prove an act of war at the mount of Cumberland river. We shall presently object to that kind of tellimony, they are now bringing forward. Mr. Wickham. It is understood that these exceptions are all before the court. Mr Hay. We are not now before the court. Mr Wickham. I understand the gentleman. We are not now before the court to determine objections to evidence. Mr Hay. All that I fay is we are not befere the court to hear a regular metion, but to determine a motion for commitment. Let all the evidence be produced, and the beneh will then determine upon any object ions that may be urged. Afr Wickiam. If we flart objections, I presume it is right to hear them. The court will not furely hear irrelevant and iflegal tellimony. There are furely manifelt r alons why this kind of evidence shall not be introduced. Every atom of it is taken down, pub isked in newspapers, & circulated through. out the world. As there is no reason to expect that this profecution will be dropped, as a motion has been made to try him in Kentuc, ky, it is improper to publish this evidence & to prejudice the public mind agaigst col. Butt.

Mr M'Rae. The evidence that we offer relates to one of the very charges orged against tim; for it embraces his conduct at Bayon course. Mr Burr. It will be faving time, if the gentlemen will confine themselves to Kentucky, I shall not interrupt them; but if they go into the Mittishippi territory, I shall certainly it its objections which the court will suffer to be heard.

Mr Martin. Let them prove an overt act fire, and then there will be a sufficient foundation so the introduction of this tellimony.—
Chief Jultice. That suggestion is for the confideration of the ounsel for the United States.
But if the accused is prepared to state any objections to going into the Mississippi territory, I must hear them.

Mr Hay. I'will fulmit this idea to the consideration of the court. Ought the witnesses to be detained here day after day! Let the evidence be first heard, and the court may then determine which part o it is to be laid out of view. Mr Wirt suggested that to avoid the expense of octaining the witnesses, their evidence might be reduced to depositions. Mr Burt. I pretome the gentleman will first ask my consent. Chief Justice If the witnesses are absent the affidavits can be heard. But if they are here, they must be produced

Mr Burr. Do I understand gentlemen as insisting on going below the line into the Missisterri ory?

Mr Hay. I see no objection to going thro?

Mr Hay. I fee no objection to going thro' the sele line of the march.

Mr 1 otts objecte ' to the production of suc5-evidence on 3 ground.

piterritory wa admissable by the 33d feet, of the 10 cial let. Mr Botts contended that according to this act of a logret in erformarreited is the baile is an introduct of the Link that as obly this act had cognizance of the effect that the Mississ pricourt value of the U.S. within the meaning of its 32d con then by this act tout court has no against the mond district which is so frequently used in the meaning of the softened that the world district which is so frequently used in the act applies entirely to the factors and not heterritories and that this court cannot judically hear world that this poleguezance of.

2. That the verdict or requir al operated as a e r to any tr'al bir the cha ge now ini by the et me; that this charge w's in effect the have alsoace for which he had been already tret and acquired, and that by the confliction and sy common teste, no man c'uld be twice put in Jeopaidy for the I me offence, that treafon was one eint nued & indivigible, aft that a man naight be subject to infinite persecutions; that the United States halthe pvidence before them; they he disacus the ferestion of places to try col. Huir in ; and if they had made a strong te eligat, it was their own fault : that no innance had occurred in the English rebellions of 'is or '45, where a rebel had had had two trials: and that if tuch had been the usage in England Lord Geerge Gordon might have been tried in St. Genge's fields, and if acquitted there, at Moornelds; at Lincoln's Inn Field's; at G. Queen Preet &c.

3. That cal. Burr had been already acquitted by an inquiry of a grand jury in the Minimppi territory, that upon fuch areport here, a perfort in cultody would be discharged; and after this discharge, could the court recommit him for the same offence?

The latter point was in effect abandoned by the accused in the couste of the argument. Col. Bure however observed, it might address itself to the found difference of the court.

Friday 18.

Yesterday Mr. Raidolph closed the argument—iter which the chief justice del vered the opinion of the court; that he had no power to complit for trial in the court for the Missisippi territory, and of consequence that it would be improper in him to go into any inquiry on a subject on which he canno act; that as to the operation of the autresois acquit, his judgment was not decided y formed; and that he should therefore hear the testim ny relative to the conduct of the accused within the U. States, and should in the mean time restect further on this subject

The ait rney for the U.States then proceeded with the examination of James M Dowell, William Love a d Thomas Hartley, who were called in to prove the military assemblage at the mouth of Cumberland river. The testimony was not suffer d to extend below the Chickafaw Bluffs, the W frontier of Tennessee. Mr. Burr even objected to the admission of any evidence on the Mi sissippi; because the boundary of Tennessee did not extend beyond the margin of the river. This point was not definitively settled.

Mr. I'ay observed, that he had one other witness to produce (Jacob Dunbaugh) relative to the assemblage at Cumberland river, who would prove a quantity of arms there collected; that he would then refer to the court, how far the evidence produced proved an overt act of treasure, and if it did, that then he understood he was at him or y to produce his other textimony (within the United State) in the nature of collateral is anxiously traitmony.

Mr Wickha prop led to introduce at the same time the with as of the accused relative to this same point. Agreed,

Adjourned till this day, (Saturday,) tensock.

The company crimanised by Thos. Moore, at ached to the 27th regiment, and the Fell's l'oint troop of horie, commanded by Jas. Bizys, attached to the brigade no. 3, have tendered their services to the executive of Maryland as a part of the quota required by government.

We are anthorised to say that Mr. John Patterson will be a candidate for the next General Assembly of Maryland, for this city.

ance. Etq. and Mr. Levi Hollingsworth, decline a poll at the entuing election.

Mr. Pecbin,

You will oblige a subscriber by mentioning Mr. Henry Stouffer as a suitable person to represent this city in the next legislature. Those who have witnessed his talents in the city councils, or observed his general knowledge of the interests of the city, it is presumed will gladly use their instuence to secure his election

Mr. Pechin,

Seeing handbills stuck up at sundry places throughout the county, six ned by Mr. Samuel C. Hunt, who offers himself as a candidate for a seat in the general assembly, I ask, is this the man who once came forward as elector for A. dams and his administration? If he is, let us throw him aside, for we seel the effects of that to this day.

A VOTER.

Mr. Pecbin,
I have attended diveral meetings in Baltimore county, and I discover that the, republican voters are much in favor of the old four
county members to the general assembly, whose
names follow:

Toblas E. Stansbury,
Alexie Lemmes,
George Matryman,
Motes Brown.

A VOTER