

TRIAL OF AARON BURK,

(Continued by adjournment and held at the capital in the hall of the house of Delegates.) for high treason against the United States.

[The Examination on Wednesday, August 19th, continued.]

Examination of Col. George Morgan.

Colonel Morgan was proceeding, when Mr. Burr objected to this kind of evidence, consisting of conversations and previous declarations. Some desultory conversation ensued upon this point, when the Chief Justice said that he understood the same objections would hereafter apply to the consideration as to the introduction of testimony; that these objections might be hereafter urged; and that it was impossible for the court to know the nature of the evidence before it was introduced.

Mr. Hoy. If the gentlemen will only wait, they will find that other circumstances will come out to prove the materiality of this testimony. This witness will prove what was the state of the prisoners mind in August last. Mr. Lee. I hope, then, the jury will distinctly understand, that they are not to infer from the court's declining to interfere on the present occasion, that every thing which drops from the witness, is to pass without objection.

Col. Morgan, (the father of the last witness.) There has been a long acquaintance between col. Burr and myself. He had introduced to my notice two of his nephews by the name of — and a third by the name of Edwards, Pierrepoint Edwards's — I had received many civilities from col. Burr in New-York, after these things had passed; which had formed such attachment to him, that I never should have forgotten it, had not this late business taken place. About three years ago, colonel B. was under considerable, and as I thought unjust persecution. I had then a younger son, who is now here studying law at Pittsburg. I wished to make him known to colonel B. and in consequence of my friendship for him and of the great degree of persecution against him, I invited him in that letter to Morganza. In all probability I should have done the same thing, from the same motives, if not for the attachments which I had conceived for him. Col. Burr however had left Pittsburg before my letter reached it, and it remains now in my son's scutcheon at Pittsburg.—On the 24th last August, I received a letter from col. Burr dated at Pittsburg, informing me that he should dine with me next day. (Here Mr. Hay handed the letter to col. M. who said that the letter was dated on the 21st, and that he had not for some time seen it, as he had transmitted it to the president of the United States.) This letter was handed to me by a man, who called himself Count Willie. I believe my son did not call on me that evening; but next morning I informed him if I was able, I should certainly go and meet col. B.; & I requested him and his brother to do it, with a letter of introduction explanatory of their names & their intention. What conversation took place between him and my son, I shall not state. Col. B. mentioned to me in conversation, col. Dupiestre, as one of the first military characters of the age. I shall pass over the conversation and incidents during dinner. After dinner I spoke of our fine country; I observed that when I first went there, there was not a single family between the Alleghany mountain and the Ohio; and that by and bye we should have Congress sitting in this neighborhood, or at Pittsburg. We are allowed to sport these things over a glass of wine.—“No; never,” said col. B. “for in less than five years you will be totally divided from the Atlantic states.” The colonel entered into some arguments to prove, why it would and should be so. The first reason was, the produce of the sale of the western lands, being carried to the Atlantic States, and that the people to the west should not be tributary to them. He said that our taxes were very heavy; and demanded, why we should pay them to the Atlantic parts of the country. By this time I took an opportunity to observe, God forbid! I hoped that no such things would happen at least in my time. This observation terminated the conversation as to that particular point. It then turned upon the weakness and inefficiency of the F. government; I don't recollect saying any thing on the subject; but began to think, that all was not right. He said, with 200 men he could drive Congress with the President at his head into the river Potomac; or that it might be done; and he said with 500 men he could take possession of New York. He appealed to col. Dupiestre, if it could not be done; he bowed assent. There was a reply made to this by one of my sons, that he would be damned, if they could take our little town of Cannonsburg with that force. Some short time after that, col. B. went out from the dining room to the passage and beckoned to my son Thomas.— They went out and had some conversation. What that conversation was, I shall leave to my son himself to tell. Soon after a walk was proposed to my son's mill and the company went. When they returned, one (or both) of my sons came to caution me, and said, “You may depend on it, col. B. will this night open himself to you. He wants Tom to go with him.” After the usual conversation, col. B. went up stairs, and as I thought to go to bed. Mrs. Morgan was reading to me, as is usual when the family have retired; when about 11 o'clock, and when I thought he had been asleep an hour, she told me that col. B. was coming, and as she had heard my son's conversation, she added “you'll have it now.” Col. B. came with a candle in his hand. Mrs. Morgan immediately retired. The colonel took his seat by me. He drew from his pocket a book; I suppose it was a memorandum book. After looking at it, he asked me if I knew a Mr. Vigo, of Fort Vincennes, a Spaniard. I replied, yes, I knew him; I had reasons to know him.—One was, that I had reasons to believe that he was deeply involved in the British con-

spiracy in '88, as I supposed; the object of which was to separate the states; and which General Nevill and myself had suppressed. I called it a nefarious thing to aim at the division of the states. I was careful to put great emphasis on the word nefarious. Colonel B. finding what kind of man he had to deal with, suddenly stopped, thrust into his pocket the book, which I saw had blank leaves in it, and retired to bed. I believe I was pretty well understood. The next morning colonel B. and colonel Dupiestre went off before breakfast, without my expecting it, in company with my son, and from that time to this I have not seen him but in this place. My son agreed with me that I should apprise the president of our impressions, and point out a mode by which colonel B. might be followed step by step. Mr. McRae. After your observations about the country and the subsequent conversation, did the prisoner draw any comparison between the eastern and western states? A. He said, “Keep yourself on this side of the mountain, and you'll never be disturbed.” By which I understood that there was an attempt to be made to effect a disunion.— There is one more circumstance, which I must state to the court. The Sunday after, the judge of our circuit court dined with me. I requested him to mention the circumstance to General Nevill, and invited him to come the following Sunday to dinner, with Judges Thilman and Roberts, for I had business of the first importance to communicate. They did not dine with me on that day; but they did on the following Sunday. These gentlemen wrote a joint letter to the president, informing him of my communications to them.

Cross examined.

Mr. Burr. What sort of a book was the one I had in my hand? Was it bound? A. It was not so large as this; I do not recollect whether it was bound, as it would not be very polite in me to take particular notice of such things, when gentlemen are at my own house. Q. When you spoke of a nefarious plan, to what transaction did you allude? A. To Vigo's plan, which I conceive was intended to disserve the union. Q. Who were present, when judge Thilman saw you? A. A general Neville and judge Roberts. Q. Was there any other from Pittsburg? A. None. Q. Your conversation was then jocular about the moving of congress to Pittsburg? A. My manner might have been jocular; but not my meaning. Q. Did you not once live on the Mississippi? A. I did with the approbation of my country. Q. Where was it? A. At New Madrid. Q. On which side of the Mississippi? A. The west. Q. In the Spanish territories? A. With the approbation of the Spanish government. Q. How long did you live there? A. About 40 days. I went from that place to N. Orleans, where I detected a British spy. Q. In what year. A. In '88.

Gen. Morgan was then called in at the request of the prisoner. Mr. Burr. What was the situation of your father, about the time of my visit? A. He had lately had a fall which had done him considerable injury. Q. I mean as to his capacity. Did you not make some apology to judge Thilman for the state of his mind? A. I did tell judge Thilman, that my father was old and infirm; and like other old men, he told long stories and was apt to forget his repetitions. Mr. McRae. What was the prisoner's reply to your exclamation? A. When col. B. said that with 200 men he could drive the president and congress into the Potomac, I must confess that I felt myself hurt and I replied with some warmth, “I'll be damned, sir, if you could take the little town of Cannonsburg with that force.” Colonel B. replied, “Confine yourself to this side of the mountains, and it is another thing.”— Mr. Burr. Do you recollect that the probability of a Spanish war was mentioned? A. It was a general subject of conversation.

THOMAS MORGAN.

On the evening of the 21st of August, my father received a letter from Pittsburg, by the hands of some person, the signature of which was Aaron Burr. In that letter the writer communicated his intention of dining with my father on the following day; he also mentioned that he should take the liberty of introducing a friend. My father requested my brother and myself to meet him, which we accordingly did. Nothing of importance occurred during our ride in my presence. Col. Burr was generally with my brother. Col. Dupiestre was often with myself; and sometimes we were promiscuously together. Whilst we were at dinner, Col. B. emphatically, as I thought, confidently and earnestly said, that we, (meaning the people of the west,) would be separated in five years, from the Atlantic states; the Alleghany mountain to be the line of division. He said that great numbers were not necessary to execute great military deeds; all that was wanting, was a leader, in whom they could place confidence, and who they believed could carry them through. This conversation occurred during dinner. He said that with 500 men, New-York could be taken; and that with 200, Congress could be driven into the Potomac.

To the last observation, my brother, I think, indignantly replied, “By God! Sir, with that number you cannot take our little town of Cannonsburg.” Col. Burr's reply to this observation was, “Confine yourself to this side of the mountain, and I'll not contradict you,” or words to that effect. Col. B. withdrew from the room where we dined; and on reaching the door leading into the entry, invited me, by a nod, to go out with him. When we had arrived at the back door of the entry, out of hearing of any other person, Col. B. enquired what my pursuits were. I informed him I was studying the law. He then said, he was sure I could not find employment for either body or mind; and he said that

there were, or asked if there were not, a number of young men in Pittsburg similarly situated. He said, that under our government there was no encouragement for talents; that John Randolph had declared on the floor of Congress, that men of talents were dangerous to the government. He asked me how or whether I would like a military expedition or life; I cannot recollect which.... My answer was, it would entirely depend upon the object or cause, for which I was to fight. I think previously or certainly soon after he said, “I wish you were on your way with me.” After asking Col. B. concerning a young man (Mr. Duer) living at New-Orleans, with whom I had a slight acquaintance, he said he was doing well; and he then spoke of Duer's brother, who was also doing well, as a lawyer, but that he had much rather be at the head of a military corps.... Mr. Morgan then proposed to state the steps which his father had taken to defeat A. Burr's projects, when he was stopped by the court.

Cross-Examined.

Mr. Burr. Had you ever spoken to me before? A. Never. Q. Did you not mention, with some complaints, the neglect which your education had received? A. No. Q. Did you not complain about wasting your time? A. I recollect nothing on that subject, but your remark, that I could not surely find employment, for either body or mind.

Examination of JACOB ALBRIGHT.

Mr. Hoy. Our object is to prove by his testimony the actual assemblage of men on Blannerhasset's island. It goes of course to prove directly the overt act. Jacob Albright. The first I knew of this business was; I was hired on the island to help to build a kiln for drying corn; and after working some time, Mrs. Blannerhasset told me, that Mr. Blannerhasset and Col. Burr were going to lay in provision for an army for a year. I went to the mill, where I carried the corn to be ground, after it had been dried. I worked four weeks on that business in the island. Last fall (or in September,) after Blannerhasset had come home, he had been promising me money for some time.... I stepped up to him. He had no money at the time; but would pay me soon. Says he “Mr. Albright you are a Dutchman.” But he asked me first and foremost, whether I would not join with him and go down the river. I told him, I did not know what they were upon, and he said, “Mr. Albright, we are going to settle a new country.” And I gave him an answer, that I would not like to leave my family. He said, he did not want any families to go along with him. Then he said to me, “you are a Dutchman, and a common man; and as the Dutch are apt to be scared by high men, if you'll go to New-Lancaster, where the Dutch live, and get me 30 or 40 men to go with us, I will give you as many dollars.” I went home then, and gave him no answer upon that. In a few days after the boats came and landed at the island. The snow was about 3 inches deep, and I went out a hunting. I was on the Ohio side. I met two men; I knew they belonged to the boats, but I wanted to find out; and they asked me whether I had not given my consent to go along with Blannerhasset down the river. As we were talking together, they named themselves Col. Burr's men, belonging to the boats, landed at the island. When they asked me, whether I had not consented to go down with Blannerhasset; I put a question to them. I told them I did not know what they were about; and one of the gentlemen told me, they were going to take a silver mine from the Spanish. I asked the gentlemen, whether they would not allow, that this would raise a war with America. They replied, no. These were only a few men; and if they went with a good army, they would give it up and nothing more said about it. I had all this conversation with the two men. These men showed me what five rifles they had, going down the river with them.... Then I went to the island, and Blannerhasset paid me off in Kentucky notes. People however did not like these notes, and I went over to the bank to change them at Kenawha. I got two of the notes changed; and one, a ten dollar note, was returned to my hand, for which I wished to get silver from Blannerhasset. I went to the island the day the proclamation came out. But before I went to Blannerhasset's house, I heard he was not at home, but at Marietta. I went on the Virginia side, where I met three other men, belonging to the boats, with three complete rifles. They made a call upon me to take them to the island in my canoe, and I accepted (excepted) to it; but afterwards I carried the third man, who stood close by my canoe over to the island. After being some time on the island, I went down to the four boats—Blannerhasset was not at home yet; and I met some of the boat-people shooting at a mark. They had a fire between the bank and boats. I waited at the house till Blannerhasset came home. He seemed very much scared. One of the men came up to ask him for something, and he told him “Don't trouble me; I have trouble enough already.” He went up to his chamber; and I saw no more of him. I asked an old gentleman to go up to his chamber, and change my note for silver. He did so, and brought me silver. By and bye I heard that they were going to start that night. Thinks I “I'll see the end of it.” This was the night of the very day that Blannerhasset got back from Marietta. He got back before night. When night came on, I was among the men, and also in the kitchen, and saw the boatmen running bullets. One of them spoke out to the others, “Boys, let's mould as many bullets, as we can fire 12 rounds.” After this, I saw no more till after twelve o'clock at night. Then Blannerhasset came down from the chamber; and called up some of his servants; he

had four or five trunks. There were not trusty hands enough to carry them to the boats; and some person called after my name, and asked me to help them; and I carried one of the trunks and moved along with them. When we got down some person, I don't particularly know, but think it was Blannerhasset himself, asked me to stand by the trunks, till they were put in the boats. When the last of them went off, I saw men standing in a circle on the shore. I went up to them; perhaps they were five or six rods from me. The first thing I heard was, their laying plans how Blannerhasset and Comfort Tyler should get safe by Gallipolis. One Naham Bent was called forward, and when he came, Blannerhasset asked him whether he had not two smart horses. N. Bent answered, no; he had but one. Then Blannerhasset told him to go to captain Dennie, and get his sorrel horse; and N. B. told him, that the sorrel horse had no shoes on; and Blannerhasset said, the roads were soft and would not hurt the horse. Blannerhasset told N. Bent to meet him and C. Tyler with the horses somewhere about Gallipolis; Bent inquired how he was to find him out; should he inquire for him? “No.”—“Have you no friends there?” “No.” Mrs. Blannerhasset then came forward and she told Blannerhasset and C. Tyler, that they must take a canoe and get into it before they got to Gallipolis, and sail down the stream of the Ohio; for nobody would mind two people going down the stream. She said, she'd pay for the canoe. N. Bent was told to meet them above Gallipolis about day-break, and then they might surround (go around) Gallipolis. Then a man by the name of Tupper, laid his hands upon Blannerhasset, and said, “Your body is in my hand in the name of the commonwealth;” or such a word as that. As quick as Tupper made that motion, there were seven or eight muskets levelled down at him. Tupper looked about him and said, “Gentlemen, I hope you will not do the like.” A man next to me about two yards off said, “I'd as lieve as not.” Tupper then changed his speech; and said he wished him luck and safe down the river. Tupper before told Blannerhasset he should stay and stand his trial. But Blannerhasset said, no; the people in the neighborhood were coming down next day to take him, and he would go. Next day after I saw the Wood County militia going down. The people went off in boats that night about one. Q. H. A. All but one, who was a doctor. All had some kind of arms. Q. How many were there in all? A. About twenty or thirty; I did not however count them. Every man I saw had arms. Q. At what time of the year was this? A. I do not recollect the particular time. I recollect the year; but not the month. Q. Do you recollect whether it snows in September? A. I do not recollect.

Examined by the Counsel for the Prosecution.

Mr. Witt. Had you seen col. Burr on the island? A. Yes. Q. Was he there before Blannerhasset went to Kentucky? A. He was. Q. Did you speak of the boats under the command of Tyler? A. I did. Q. Did the boats quit the island, at the time of hearing about the proclamation? A. Yes. Q. Did the county militia go there next day? A. Yes. Mr. Burr. Did you see Peter Taylor converse with Blannerhasset that night? A. I do not recollect. Mr. Witt. How long did Aaron Burr remain on the island? A. I do not recollect. Q. How long was he there before the departure of the boats? A. About 6 weeks.

Cross Examined.

Mr. Burr. Did you know Gen. Tupper? A. Yes. Q. Is that the person? A. Yes. Q. When the muskets were levelled at him, did they seem to have a mind to hurt him? A. Yes; a gentleman near me said, “I'd as lieve shoot as not.” Mr. Burr. You said differently on a former occasion. Don't you recollect saying before, it looked like exercising? A. I do not. A desultory conversation here ensued between the two counsels. Mr. Burr professed that it was his intention to degrade the witness by invalidating his credibility. The cross-examination proceeded. Mr. Burr. Have you not been examined before? A. Yes. Q. By whom? A. By Mr. Jackson. Q. Had he not printed questions in his hand? A. He had a paper in his hand. Q. Did he set down your answers? A. Yes. Q. How long after the guns were pointed at gen. Tupper, before the men went to their boats? A. I do not recollect. Any thing that I am not certain of, I cannot speak to. Q. Was Mrs. Bl. there, when the guns were pointed? A. Yes. Q. Was Tupper inside of the circle? A. Yes. Q. Was she too? A. I do not recollect. Q. Did you see Mr. Woodbridge there? A. I do not know him. Q. How long did you work with Blannerhasset? A. Six weeks. Q. At what time was it, that you saw me there? A. I do not recollect. Mr. Burr. The counsel for the United States know, I presume, this circumstance and have testimony to ascertain it. Mr. Hoy. We have not, as far as I am informed. Mr. Burr will state that it was on the last day of Aug. and the first of September, that I was on the island.

Mr. Anthony (one of the jury.) Did you see any powder? A. No. Mr. Hoy. Were you in the boats? A. I was not. Mr. Burr. Where does gen. Tupper live? A. In Marietta. Q. Does he not belong to the state of Ohio? A. Yes. Q. When did you first know him? A. Last fall. Mr. Burr then asked the clerk for the statement, which he had taken of Albright's testimony, when it was submitted to the court on a former occasion, on the motion for binding Mr. B. in higher bail. The clerk handed him the copy, and the prisoner proceeded with the examination: You said before, that the men who raised their muskets against gen. Tupper, were not in earnest? A. That was a piece of my opinion. I did not know whether they were in earnest; as there was no quarrel among them, and no firing afterwards.

Mr. Burr. I beg the court to call on the prosecution for the deposition of this witness, taken before John G. Jackson. Mr.

Hoy. Can gentlemen, when they please, thrust their hands into my Port Folio? C. Justice. was not satisfied, that the court had a right to call for the affidavit. Mr. Wickham said, it was obvious, that there were certain suspicions attached to the credibility of the witness; and that it was their desire to compare his present testimony with his former affidavit. Mr. Hoy objected that Mr. Jackson might not have taken down the testimony of the witness in his language; but couched it in his own; hence there might be an apparent variation between the present evidence and the affidavit. Besides the witness might not have recollected a great many circumstances at that moment, which have since occurred to his mind, since he was set to thinking upon them. Mr. Burr. We have a right to coerce this paper. If gentlemen will not surrender it, I may at all events avail myself of their refusal. My object is to prove such a diversity between the statements of the witness at different times, as may destroy all faith in his recollections. Mr. Hoy. Then, sir, although I might retain this paper, the gentlemen are welcome to make all the use of it that they can. Take it. Mr. Burr then proceeded: Did you say that all in the circle had arms? A. All that I saw. Q. How many were in the circle? A. I did not count. Q. What kinds of guns had they? A. Rifles and shot-guns. Q. Did you see any guns with bayonets? A. I saw none. Q. When did you see most arms; in the day or in the night? A. I saw more in the day; but it was in the night, that I saw most arms in their hands. Mr. Parker (a juror.) Why did you think, that most of them had arms? A. Because I was with them almost all night. In the day, I saw some of them shooting at marks; and I saw other arms at that time lying upon the beach. Mr. Wickham. Did you see them all with arms at once? A. No. Q. Did you know the men who had arms? A. No. How then are you certain, that you did not see the same arms at different times in the hands of different persons? No positive answer.

Mr. Burr. If gentlemen have now done with the witnesses as to the overt act, or when they have done, I will thank them to inform us; for then we shall have some considerations to offer to the court. Mr. Hoy. We have other additional testimony to offer on this very point.

Examination of William Love.

Mr. Hoy. Were you on Blannerhasset's island? A. Yes; but not there at the time when col. Tyler's boats arrived there. I was then at Marietta; and it was on Sunday I went down in a skiff with two barrels of salt. Q. How many boats were at the island? A. Four. Q. How many men. A. I cannot tell you; but I suppose about, betwixt 20 and 25 belonging to col. Tyler's boats. Q. Did you see any arms? A. I saw the men had rifles. I know that Mr. Blannerhasset took away with him two blunderbusses, a pair of horse pistols, a pair of pocket pistols and a dirk. Some fuzees were put into the boat; but not more than 3 or 4. Q. And what arms had Tyler's men. A. Pistols, dirks, and rifles they brought there; but not all were armed with rifles. I know not whether they were armed with different things. Being as how, Mr. Blannerhasset's servant, that is his groom, I went down the river with him. Q. Did you see Taylor and Albright there. A. I know Peter Taylor very well and saw Albright. I saw Mr. Woodbridge too. Q. What time did you set sail. A. We were the last to embark; and we set off between 12 and 1. We parted with general Tupper in the greatest friendship. Q. Did you see the prisoner on the island? A. I never saw col. Burr on the island. I first saw him at Natchez about two and a half years ago. What took place after you left the island. A. That night was very cold. The next morning we slept and made fires. Mr. Blannerhasset and colonel Tyler went on shore and called the company together; and the best I could make out, was, that the governor of Ohio had uttered state-warrants against Mr. Bl. and Tyler; and that they wanted to make their escape as fast as possible. I went down with the party to Bayou Pierre, where—

Mr. Burr expressed a wish that the attention of the witness should be at present confined to the transactions on the island. Mr. Martin. Gentlemen had better confine themselves to facts within the district of Virginia. When they travel beyond the district, we shall have some important questions to bring forward. We shall object to the production of such evidence. Mr. Hoy acquiesced for the present in this arrangement.

Cross-examined.

Mr. Burr. Were not some of Mr. Blannerhasset's clothes put up in the boats? A. Yes. Q. Were not his books put up in boxes and trunks? A. None, that ever I saw. Q. How long had you lived with Mr. Blannerhasset? A. Ten or twelve days. Q. How many guns had the party? A. I do not know. A great many of the men went out a hunting. Q. Did you see any thing like military appearance? A. The men were in a state of preparation to defend themselves, because they expected people from the mouth of Kanawha to attack Blannerhasset and the island. And to the best of my opinion, they did not mean to be killed without some return of the shot. It was said at Marietta, that the people of Kanawha were to attack him; and I suppose they would have done the best to resist. I should be sorry if a man slapped me in my face without returning the blow. Q. Was there any disturbance among the party on the island? A. None: I did not part with my friends in England more comfortably than in parting with the people on the island. Mr. Parker (a jurymen.) Did you ever see all the men with arms? A. I cannot say. When I got to the mouth of Cumberland river I saw a chest of arms opened. Mr. Burr. Were any chests of arms put into the boats at the island? A. Not that I saw. They might have been put on board without my seeing them. Many things were put into the boats before I got in. Mr. McRae. Was the chest which you saw opened at the mouth of Cumberland the same as you saw go from