

Trial of Col. Burr

TAKEN FOR THE FEDERAL GAZETTE

SATURDAY, June 20.

The Court was opened about one quarter after eleven.

Mr. E. Randolph. We are about to proceed in the motion of which notice was given yesterday.

Mr. Hay stated to the Court, the answer which he received from the President of the United States. He read the President's letter to him, as likewise a letter from Mr. Smith, the secretary of the navy, containing an authenticated copy of the order relative to Col. Burr. He read also a letter from the secretary of war, relative to the same business.

Mr. E. Randolph. We now proceed on our motion, sir. May it please your honors, I am now about to submit to your attention, the motion which was noticed yesterday. The general purport of this motion, sir, is to award a rule against General Wilkinson, to show cause why an attachment should not issue against him for improper conduct, relative to certain witnesses brought forward in this case. Whether, sir, we shall be again charged with an intention to injure the character and conduct of General Wilkinson, I know not; but of one thing I am confident, that this is very remote from our design. Sir, we are possessed of nothing, but plain facts to constitute the grounds on which we have founded this motion. We rely, sir, only on plain facts to support the purport of this motion, and to remove those prejudices which may be fostered against us. We only hope, sir, that the public will be satisfied of the propriety of guarding the independence and free will of witnesses in all judicial proceedings. If General Wilkinson shall be incidentally affected by the legal consequences and doctrines which may arise from the present investigation, he cannot complain. He has no reason, sir, to complain of whatever consequences may result from his own conduct. It is due, sir, to the United States; it is due, sir, to the witnesses in question; it is due to the persons accused, that any obstruction which may have been made by the hand of military authority, to prevent the course of evidence in this case, should be exhibited. Sir, we shall charge General Wilkinson with specific acts, committed with the express design of obviating the defence of the accused. He is to reply by evidence to these facts, which we shall exhibit against him. I prefer this course, sir, because after so many calumnies from the Council against us, for improper and unnecessary waste of time, we may not again be accused of the same crime. And I hope, sir, no more time will be wasted by these gentlemen in extrajudicial eulogies on the extraordinary merits of General Wilkinson. There may perhaps, sir, at a future period, be occasion for them to bring forward these panegyrics on the character of Gen. Wilkinson. There may perhaps, sir, be a time which will require all the force of their rhetoric, and all the lustre of his talents, to defend his conduct. It may be as well, sir, that the beams of his glory may not now be unnecessarily dissipated.

The ground, sir, of our charge is this, that General Wilkinson who is now before the Court, in a case between him and the accused, has deliberately used improper means with the witnesses, who had been summoned on the part of the prosecution, and in consequence of the abuse of military authority, witnesses were brought forward to this place. This is our ground, sir. I have mentioned General Wilkinson alone, because we wish merely to have the principle determined. The affidavits, sir, upon which we found our motion, are those of Lieutenant Knox and Chancellor Lindsay.

Here Mr. Randolph began to read the affidavit of Lieut. Knox, when he was interrupted by Mr. Hay, who opposed its reading. An argument of some length then took place between the counsel on both sides, whether the affidavits should be read, or the witnesses examined in open court. The court decided for the latter measure. James Knox was then called. Mr. M' Rae proposed, that the examination should be deferred for a short time, until General Wilkinson himself was present. He was then, Mr. M' Rae observed, engaged before the Grand Jury.

Mr. Martin opposed the delay in this stage of the business, as General Wilkinson and his counsel, could take no part in the business at present, it being only a rule to show cause why an attachment should not issue.

Mr. M' Rae supposed the counsel on the prosecution, ought to be present, & ought to act in this stage of the motion. And said, with the leave of the court, they intended to put some questions themselves to the witnesses. He believed he could satisfy the court, that there was no just foundation for the present motion.

Mr. Martin said, he thought he had assigned a very satisfactory reason, why there should not be any delay. He confessed they were in court. He saw them in court, and never denied this; but in legal contemplation, they certainly were not in court.

Mr. M' Rae advocated the propriety, and the expediency, not the right, that General Wilkinson should be present.

Mr. Martin said they had no more business to interfere in the present motion, than the counsel for Col. Burr had to interfere with the witnesses before the grand jury. He therefore hoped the court would not agree to a delay.

Col. Burr said he wished by no means to exclude Gen. Wilkinson at the present stage of the motion, or even from producing testimony on the present motion, although it was irregular.

Mr. Hay asked if that declaration decided the question—the concession of Col. Burr to wait for Gen. Wilkinson, and for privilege of putting questions to the witnesses. He therefore moved, that this business stand over until the general be discharged from the grand jury.

Mr. Wickham said he had no objections

for a delay, provided Mr. Hay would name another day when the question should proceed.

Mr. Randolph said the course of the business caused him to vary his motion, and in place of a rule he would move at once for an attachment.

It was therefore agreed that the motion be deferred until Monday.—Adjourned.

From the Norfolk Public Ledger.

The Federalists are charged with being the advocates of Burr, and that purely from motives of opposition to the present administration; in answer to which we might say that the democrats are his enemies, from their determination to support the administration (and ruin every man opposed to it) whether Burr be guilty or innocent. This is an assertion against assertion, and proves nothing. With respect to the motives which the democrats are actuated by, we have no knowledge of them, and shall not call them in question. But with respect to the Federalists, we think their conduct is such as from their situation they might have been expected to pursue. It is not to save Col. Burr, or to serve him that the Federalists have taken any interest in his affairs, but from much more serious, important and patriotic motives. The constitution and laws made under it, are the ramparts which secure the rights of a minority, against the violence of a majority; every encroachment or invasion is viewed with anxiety by a minority. When therefore the Federalists perceived that the arbitrary measures pursued at New-Orleans were countenanced by the administration, and that an attempt was openly made to place the liberty of the citizen in the hands of the military power, they had cause for alarm. If that ever-to-be-detested proposition of Mr. Giles, to suspend the benefit of the writ of habeas corpus had succeeded, who, we ask, would have been the victims of persecution? The supporters and flatterers of the administration, who never speak of it without eulogium? No. Those who are persuaded that the administration is not infallible, and who have the independence to question the wisdom of its measures, would have been the victims. It may be said, that it is imputing too much to the majority to suppose, that armed with the power, they would without cause oppress the minority. We need not carry our views to another country, on the other side of the Atlantic, in order to ascertain what a majority can do—we can satisfy ourselves on that subject in our own country. At New-Orleans will satisfy us, what would have been done in every part of the United States, if Mr. Giles had found support in his measure. It was urged that the suspension of the benefit of habeas corpus was necessary for the public safety. Is there a man of candor who will say that such was the case? The first position being taken, after one violation, others would have followed. Spies and informers, with the accompaniments of seizures, imprisonments, and deportations would have followed in rapid order. The evils in the first instance would have fallen on those who are termed Federalists, but would soon have extended itself far and wide, nor have ceased until the constitution itself had been subverted. With such sentiments, the Federalists saw with deep concern the manner in which persons who were denounced as accessories to Burr were treated. It was impossible to defend the constitution and laws violated in the persons of Ballou, Swartwood, Adams, &c. without in some degree to appearance, defending the accused. But never have the Federalists advocated Burr further than that he should have a fair and impartial trial, and stand condemned or acquitted according to the result, nor have they gone thus far for the sake of Col. Burr, but from respect and attachment to the laws of their country. We are aware that it will be asked, how it happened that the Federalists were forward in bailing Col. Burr? It would be assuming more than we would wish, to say, that the feelings of humanity were more prevalent among the Federalists; it is however, pretty clear, that among the democrats he would not have found a friend. We do not deny that any man who had bailed Mr. Burr, would consequently have incurred the resentment of the administration; but we will venture to assert, that it would not have been a passport to executive favour, and the republicans with all their patriotism, have too much prudence to place any impediments in the way of their promotion. Upon the whole, we consider that the interest which agitates the public mind, arises from causes such as we have stated. The whole tenor of the conduct of the Federalists in, and out of power, gives a positive contradiction to their being the advocates of treason, and the consequences which would flow from civil commotion, or violation of the laws.

The crime of which Mr. Burr now stands charged with is a misdemeanor, in preparing a military expedition against the dominions of the king of Spain, a prince at peace with the United States. It is a crime, we admit, but how long have other people thought such conduct criminal?

Do some people suppose it is forgotten how strongly they supported Genet in his assumed right, to prepare military and naval expeditions against the commerce of Britain and the dominions of Spain? Aye, those very dominions against which it is said Col. Burr was preparing his expedition. The civic feasts given to Henfield and Singletary are not forgotten. Are not some of the persons who accepted commissions under Genet now in high confidence? where is Col. Hammond, who took one of those commissions? he was lately nominated as a colonel of the army, and rejected by the senate—but we set out to defend, and not to accuse.

CAPTURE OF ALEXANDRIA. DOWNING-STREET, May 9. A dispatch, of which the enclosed is a copy, has been received this day at the office of Viscount Castlereagh from Major General Fraser, dated Alexandria, 25th March, 1807, addressed to the Right Honourable W. Windham.

ALEXANDRIA, March 25, 1807.

SIR, It is with much satisfaction I have the honor to inform you, that in the afternoon of the 20th current, the town and fortress of Alexandria, with two Turkish frigates and a corvette, surrendered to his majesty's

army by capitulation; and that they were taken possession of on the memorable morning of the 21st, by the troops under my command. You are already apprised of my having been detached on this service, with a body of troops from Messina, by his excellency Gen. Fox, under convoy of his majesty's ships, Tigre and Apollo; and the Wizard was sent forward by Captain Hallowell, to get intelligence from Major Misset, whom I had been, by my instructions, directed to consult, as to the best plan of operations for effecting the purposes of the expedition. I have now to acquaint you, that on the 7th inst. (the day after we sailed) the Apollo frigate, with 19 transports, out of 33 which conveyed the troops, parted company, and that the other 14, with the Tigre, came to an anchor to the westward of Alexandria, on the 16th. On our getting near the land, we saw the Wizard, and Captain Palmer immediately brought me the intelligence he had received from Major Misset, together with a letter from him, stating that he had not come of himself, thinking his presence in Alexandria absolutely necessary to counteract the intrigues of the French consul, who was endeavoring to prevail upon the governor to admit a body of Albanians from Bossetta, to assist in the defence of the place. He earnestly recommended me to land the troops immediately, as the inhabitants were well affected towards us, and that he had sanguine hopes we should be able to get possession of it without firing a single shot.

Before I determined, however, upon this measure, I deemed it prudent to acquaint Major Misset with the very diminished state of my force; and I therefore sent in my aid-de-camp, Captain A. Court, of the 51st regiment, with a flag of truce to him, with a detailed account of it; and at the same time a manifesto to the governor and inhabitants (a copy of which I enclose) which had not the desired effect, but, on the contrary, was treated by the governor with contempt. The major, however, in reply, strongly urged my immediate landing; still repeating that we should not meet with any resistance, and that my doing so would be the means of preventing the garrison being reinforced by the Albanians, who had actually been sent for, and might be expected in the course of 24 hours. These considerations led me to follow his advice; and accordingly I landed that evening (the 17th) as many troops as our small number of boats could convey, a few miles to the eastward of Marabout, without opposition; though I could only take up a position for the night, as, before the next landing could be effected, such a surf had arisen on the beach, as totally to prevent the second division from approaching the shore. The next morning, however, with infinite difficulty and risk, they were landed; and finding my situation now, from the increased height of the surf and appearance of the weather, to be very precarious, both with respect to getting provisions or stores on shore, or having any communication with the transports, I determined at all hazards, to force my way to the western side, where I could receive supplies from Aboukir Bay; at the same time resolving to attempt (in passing) to get into the town even with the small force I had, and push my way, if possible, into the forts that command it, a matter I had reason to believe, from Major Misset and others, would not be very difficult to accomplish.

I therefore moved forward about 8 o'clock in the evening of the 18th, and in our way forced a palisaded entrenchment, with a deep ditch in front of it (that had been thrown up by the Turks, as a defence against the Mamelukes and Arabs on the western side) stretching from Fort des Bains to Lake Marcotis, strengthened by three batteries mounting 8 guns, exclusive of Fort des Bains on its right flank, mounting 13 guns. This we effected with very little loss, tho' under a heavy fire of cannon and musquetry, and proceeded within a few yards of Pompey's Gate, where we found the garrison prepared to receive us, the gate barricaded, and the walls lined with troops and armed inhabitants; this, added to the smallness of my force, (not exceeding 1000 men of all descriptions) led me to think the risk too great, and I determined to proceed to the westward, as I had originally intended, where I arrived on the morning of the 19th, and took up my position on the ground the British troops occupied in the action of the 21st, immediately sending detachments to take possession of Aboukir Castle, and the fort between the Lakes Marcotis and Marcotis, by which communication the reinforcement of Albanians was expected in Alexandria; in both these attempts we succeeded.

The next day the 20th, I sent in (by a friendly Arab that had stolen out of town and joined us) a manifesto addressed to the inhabitants, warning them of the danger of implicating friends and foes, in the event of taking the place by assault, and urging them to force the governor to capitulate. This had the desired effect; a flag of truce was sent out, and a capitulation (of which I herewith enclose a copy) was agreed to and signed. Although this service has not been of long duration, yet, from the scantiness of our numbers, and the scarcity of all sorts of supplies, as well military stores as provisions (which the boisterous state of the weather completely prevented our receiving) our situation was for some time rather critical; and I am happy to have it in my power to bear testimony to the patience and cheerfulness with which the troops bore every privation, and the ardor and spirit they shewed in the attack of the enemy's works, as well as the inclination and wish they displayed to have stormed the place, had I deemed that step advisable. To Major-General Wochope, brigadier-general Stuart, and Col. Oswald, who landed with and accompanied me, I feel myself under great obligations for their exertions and assistance in carrying on the service; and as I am much indebted to Lieut. Col. Airy, acting as deputy adjutant general, and Captain Green, acting as deputy quarter-master-general, for the great attention and zeal shewn by them in forwarding and executing the duties of their respective departments; and I think it but justice to Capt. Pym, and to the officers and men of the detachment of the royal artillery that was with me, to mention the very great zeal and alacrity which they displayed on every occasion, which I am confident would have been equally conspicuous on the part of Captain Biquoyne and the officers of the engineers, had circumstances permitted them to have acted.

To Capt. Hallowell, and the officers and seamen of his majesty's ship Tigre, I cannot sufficiently express my acknowledgments for the

assistance they afforded me, and for the readiness with which they came forward on all occasions. Capt. Hallowell landed and marched with me to the attack of the enemy's entrenchments, and to the very gates of the city, and remained on shore until the place surrendered: from his advice and local knowledge I derived much useful information. Captain Withers, of the royal navy, agent of transports, is also entitled to praise, for his activity in landing the troops, and for the exertions he afterwards made for supplying them with provisions. I send you herewith a return of the killed, wounded and missing, together with returns of prisoners made, and of the public stores of different descriptions found in the several batteries and magazines.

I have the honor to be, &c. (Signed) A. M. FRASER, Maj. Gen. P. S. The Apollo, with 19 missing transports, came to anchor in Aboukir bay on the morning of the 20th, and Sir J. Duckworth's squadron arrived here on the 22d. It is but due to Lieut. Hunter, and a small detachment of the 20th light dragoons, who were landed without their horses or arms, to mention the zeal and spirit with which they volunteered their services, and carried the scaling ladders on the night of the 18th.

Articles of the Capitulation for the surrender of the city of Alexandria.

1. All private property of individuals, whether on land or embarked, shall be respected. The religion of the inhabitants, their mosques and their laws, shall be respected, as well as their houses and families.

2. The commandant, his excellency Emen Bey, as well as the commandant of the marine, Satek Aga, and Mahamud Naim Effendi, with all the official retinue of the government, the troops and the crews of the vessels belonging to government, shall be sent to a port in Turkey, with the arms and baggage of individuals, but they are to consider themselves as prisoners of war, and shall not be engaged to take up arms against the British forces or their allies, until exchanged.

3. The vessels belonging to the Government and all public property, shall be given up to the British forces and the Commissioners shall be appointed on both sides to make an inventory.

4. All Ottoman vessels belonging to individuals, and all property belonging to private subjects of the Sublime Porte, which shall be found within Alexandria shall be respected. Such persons as wish to remain in the country shall have liberty to do so, if their conduct & characters make it safe; and those who wish to depart may carry with them their property, and shall be furnished with passports for landing in any part of Turkey, which shall not be blocked.

5. There shall be a general amnesty for all the inhabitants, nor shall any notice be taken of the conduct they may have held during the defence of the place.

6. There shall be no seizure of the property of individuals, if they shall not become enemies of Great-Britain.

7. The Gates of Rosetta shall be placed in the hands of the forces of his Britannic Majesty, as well as the Fort Cretin and Fort Calafelle.

From the Camp without the City of Alexandria, the 20th March, 1807, or the 10th of the month Maharen, of the year 1222. (Signed) SEID MAHAMED NAIM EFFENDI, and others on the part of Sublime Porte. (Signed) ALEXANDER M. FRASER, Major General commanding his Britannic Majesty's troops, and BEN. HALLOWELL, Commanding his Majesty's ship Tigre, on the part of his Britannic Majesty.

EXPEDITION AGAINST THE PORTE LONDON GAZETTE, May 4.

Official dispatches are at length received from Admiral Duckworth. They afford all the particulars of the fleet in forcing the passage of the Dardanelles, of the attack of Protta, and of their return through the Streights. In the general dispatch, Admiral Duckworth remarks.—

"I now come to the point of explaining to your lordship the motives which fixed me to decide on repassing the channel of the Dardanelles, and relinquishing every idea of attacking the capital; and I feel confident it will require no arguments to convince your lordship of the utter impracticability of our force having made any impression, as at this time the whole line of the coast presented a chain of batteries; twelve Turkish line of battle ships, two of them three deckers, with nine frigates, were with their sails bent, and apparently in readiness, filled with troops; add to this, near two hundred thousand were said to be in Constantinople, to march against the Russians; besides there was a vast quantity of small craft, with boats; and fire vessels had been prepared to act against us. With the batteries alone we might have coped, or with the ships could we have got them out of their strong holds; but your lordship will be aware, that after combating the opposition which the resources of an empire had been many weeks employed in preparing, we should have been in no state to have defended ourselves against them as described, and then repass the Dardanelles. I know it was my duty, in obedience to your lordship's orders to attempt every thing (governed by the opinion of the ambassadors) that appeared within the compass of possibility; but when the unavoidable sacrifice of the squadron committed to my charge (which must have arisen, had I waited for a wind to have enabled me to cannonade the town, unattended by the remotest chance of obtaining any advantage for his majesty's service) must have been the consequence of pursuing that object, it at once became my positive duty, however wounded in pride and ambition to relinquish it, and if I had not been already satisfied on the subject, the increased opposition in the Dardanelles would have convinced me I had done right when I resolved on the measure as indispensably necessary. I therefore weighed with the squadron on the morning of the first; and as it had been reported that the Turkish fleet had designed to make an effort against us; to give them an opportunity, if such was really their intention, I continued to stand on and off during the day, but they shewed no disposition to move.

I therefore, as every hour was of importance, bore up at dusk with the squadron, we arrived off Point Pesques, towards the evening of the 2d instant, but the day light would not admit of our attempting to pass the castles, & the squadron came to anchor for the night; we weighed in the morning, and when I add that every ship was in safety outside the Passage, about noon, it is not without the most lively sense of the good fortune that has attended us.

The Turks had been occupied unceasingly in adding to the number of their forts, some had been already completed, and others were in a forward state. The fire of the two inner castles had, on our going up, been severe; but I am sorry to say, the effects they have had on our ships returning, has proved them to be doubly formidable: in short, had they been allowed another week to complete their defences throughout the Channel, it would have been a very doubtful point, whether a return lay open to us at all. The manner in which they employed the interval of our absence, has proved their assiduity.

The total loss in this affair is 60 killed, and 215 wounded, and 4 missing. In passing up the Dardanelles, killed 12 wounded 66 In the attack of Protta killed 8 wounded 10 In repassing the Dardanelles, killed 49 wounded 437

The Editor in remarking on the dispatches, observes.—

"It will be observed that all the difficulties that winds, currents and circuitous eddies could present, resisted the progress of our squadron, and that for ten days the necessary breeze of wind that may enable ships to surmount difficulties of such a nature, had been unsuccessfully waited for. The force ready to oppose any debarkation of troops, supposing with the factious politicians that our Sicilian army had been employed upon that service, are enumerated in the Gazette dispatch.—Twelve Turkish line of battle ships, two of them three deckers, and nine frigates filled with troops, with their sails bent, were in readiness to act. Two hundred thousand troops were said to be in the city of Constantinople, that were to march against the Russians; and when this immense force and an armed populace, as Sir T. Duckworth calls them, furious and ferocious, even to their own government, are well weighed, the inefficacy of any army we could send upon that expedition is apparent to demonstration. Superadded to these insurmountable impediments, there was protecting the shore an immense quantity of small craft, with boats and fire vessels that had been prepared to act against us." Indeed all the forces we could send there would have to combat the opposition which the resources of an Empire had been many weeks employed in preparing."

BY THIS DAY'S MAILS. BOSTON, June 19. Arrived, ship Hannah, Cottle, of Newburyport, 25 days from Dublin; schooner Ocean, Watts, from Barbice, 24 days.—British schooner Dart, Longworth, 28 days from Honduras. Brig Stranget, from Havana, via Portland. Brig Isabella & Ann, Rooke, 30 days from Newfoundland. Brig Sally, Pratt, New-Orleans, 25 days. Janes, Atkins of Cohasset, from Havana, 28 days. Below, a ship, three brigs, and several schooners. The ship has no head, and has a pendant and flag flying at her maintop gallant-mast. One of the brigs is an hermaphrodite, with a flag with a white ground, red ball, and blue end.

At quarantine—brig Retrieve, Wait, Havana, 26 days, all well; schooner Nancy, Gidder, Trinidad, 28, all well; schooner Triton, Rich, St. Martins, 18 all well; Sally, West, Trinidad, 29 days.

Entered, Hunter, Hibernia, Charleston. Cleared, Fox, Daggert, Philadelphia; Regulator, Norton, do.; Skilbake, Chewsville, Baltimore; John, Benson, Eddiford; Federal George, Field, Baltimore; Bert, Blanchard, Portland; Apollo, Randall, Portland; Eliza, Smith, Hudson; Myr, Edwards, N. York; Hunter, Ward, Salem; Violet, Merrick, Philadelphia.

May 23, was picked up, a boat, wrote in side with chalk, Amos Luukham, or Phinkham, apparently but a short time in the water, with a red bottom, and a yellow heart painted on the stern—at the same time was picked up, part of a bale of cotton; being in lat. 49, 10, long. 56, 30.

Since our last, London dates to May 7, have been received by the ship Hannah, from Ireland. There were no accounts of the long expected general battle in Poland; but intelligence of the dreadful conflict was lock-for hourly.

TRERKEY.

The spirit of rebellion, which has caused such trouble in Servia, is now extended to the province of Bosnia. By authentic accounts from Sarajevo, a great rebellion broke out in the month of February, of the Catholic Christians against the Turks. The misfortune was occasioned by the commandants of the fortresses, who had concerted to kill the bishop, all the clergy and all the Christians, to plunder the convents and dwellings of the Christians, and to divide the spoil. Orders were already given to the janizaries to murder all the Christians, when two priests escaped and informed their brethren in the neighborhood of Sarajevo of their imminent danger. The dreadful news spread like wild fire through the whole country; the Christians resolved secretly to arm themselves. In one night they fell on the Turks, and made a terrible massacre. The Christians in Bosnia, being far more numerous than the Turks, it was not difficult for them to execute their purpose. 6000 Turks, including women & children, are said to have perished.

NEW-YORK, June 22.

ARRIVED. The ship Yorkshire, Lee, of Georgetown, 43 days from Liverpool. May 3, spoke ship Frances, Curtis, 3 days from Liverpool, for Baltimore. 25th, in lat. 44, long. 34, spoke brig Garsham, of Duxbury, 50 days from Lisbon, for Boston; same day, spoke sch' Elizabeth-Margaret, Allen, 18 days from Norfolk, for Terceira. 30th, lat. 41, long. 46, spoke ship Fair American, Harding, 14 days from Baltimore, for Canton. June 8, lat. 40, long. 60, spoke brig William, Snow, 8 days from Baltimore, for Norfolk. 15th, lat. 38, long. 66, ship Hiram, Pratt,