

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 Tuesday, August 18th, continued.]
EXAMINATION OF COMMODORE THOMAS TRUXTON.

Mr. Hay. Were you present when the court delivered their opinion? A. I was. I know nothing of the overt act. Q. Does your testimony relate to the taking of New-Orleans? A. I know nothing about the taking of New-Orleans. My conversations altogether related to the Spanish territories; to the settlement of lands; to digging a canal on the Ohio, and building of boats.

Mr. Hay then observed, that he had no questions then to present for commodore Truxton. Mr. Wickham. Then, sir, I hope I may be permitted to ask commodore T. 1st. whether he had not many and minute conversations with colonel B.; and 2dly. whether those conversations related to treason. Mr. Wirt. The court knows that there are two indictments against the accused.—The witnesses have been summoned promiscuously; and it is not possible for the prosecutor to know the particular point to which every witness is to testify. Commodore Truxton says that his evidence relates to the misdemeanor. But if he is referred to come in on the present case, ought not his examination to be free and complete? Mr. Hay. Upon recollecting the substance of commodore Truxton's testimony, I cannot but believe that it applies directly to the present occasion. It bears most strongly upon Gen. Eaton's testimony. Eaton says that the treasonable project and the misdemeanor were intimately connected. Of course what goes to establish the one of these projects, will so far contribute to prove the other. Had you not several conversations with the accused upon the subject of the Mexican expedition?

Commodore Truxton. About the winter of 1805-6, colonel B. returned from the western country, and came to Philadelphia. He frequently in conversation mentioned to me certain speculations in western lands. These conversations were uninteresting to me, and I did not pay much attention to them. Col. B. observed, that he wished to get the navy of the United States out of my head, as he had something in view both honorable and profitable, which he wished to disclose to me. I considered this as nothing more than as a desire to get me interested in land speculations. These conversations were frequently repeated; and some time in the month of July, 1806, he stated, that he wished to see me unwedded from the navy of the United States, and to think no more of those men at Washington; that he wished to see or make me (I do not recollect which) an admiral, as he contemplated an expedition into Mexico, in the event of a war with Spain, which he thought inevitable. He asked me if the Havana could not be easily taken in the event of a war. I told him that it would require the co-operation of a naval force. Mr. Burr observed, that might be obtained. He pursued the inquiry as to Carthage and La Vera Cruz; what personal knowledge I had of those places, and what would be the best mode of attacking them by sea and land. I gave my opinion very freely. Mr. Burr then asked me if I would take the command of a naval expedition. I asked him if the executive of the United States was privy to or concerned in the project. He answered me emphatically, that they were not. I asked him that question because the executive had been charged with a knowledge of Miranda's expedition. I told Mr. Burr that I would have nothing to do with it; that Miranda's project had been intimated to me, and that I had declined any agency in those affairs. Mr. Burr observed, that in the event of a war, he intended to establish an independent government in Mexico; that Wilkinson, the army, and many officers of the navy would join. I replied, that I could not see how any of the officers of the United States could join. He said that General Wilkinson had projected the expedition, and that he himself had matured it; that many greater men than Wilkinson were concerned (or would join) and thousands to the westward.

Mr. Hay. Do you recollect, whether he said that Gen. W. had seriously joined in it? A. Yes, he said so; and many greater men.—Mr. Hay. I will ask you, sir, whether at that time, you were in the service of the United States? A. I was declared not to be. Mr. Hay. I wish not to wound your feelings, commodore, by my question; but it necessary to account to the jury, for the application which was thus made to you by the accused. Did you not feel yourself hurt at this declaration? A. I certainly was.

Mr. Burr asked me if I would not write to Gen. Wilkinson, as he was about to dispatch couriers to him. I told him that I had no subject to write on; and declined writing. Mr. Burr observed, that several officers would be pleased at being under my command. He spoke highly of a lieutenant Jones, and asked me whether he had not sailed with me. I answered him that he had not; and that I could give no account of him, as I never had seen him.—Mr. Burr observed that the expedition could not fail; that the Mexicans were

ripe for revolt; and that he was incapable of any thing chimerical or that could lead his friends into a dilemma. He showed me the draft of a peri gue, such as plies between Powle's Hook and New-York; and asked me, whether they were adapted to the Mississippi River and the waters emptying into it. I gave my opinion that they were. He asked me whether I could get a naval constructor to make several copies of the draft. I spoke of a naval constructor; but he could not make them as soon as they were wanted, and I returned the draft.—Mr. Burr told me, he wanted those boats for the conveyance of agricultural products to New-Orleans, and, in the event of war, for transports. I knew they were not calculated for transports by sea, nor were they calculated for carrying guns; but having determined not to have any thing to do with the Mexican project, I said very little about the boats. But in the latter end of the month of July, I told him there would be no war with Spain. He seemed very sanguine, that there would. He said, however, if disappointed in that, that he was on a bargain for a large tract on the Ouachita; that he intended to invite his friends about him to settle it, that in one year he would have 1300 families of fashion and some of property, who would constitute a charming society; that in two years there would be double the number; and that being on the frontier, he would be ready to march immediately, whenever a war took place. I have endeavored to narrate these several conversations verbatim as they passed; I am not positive however that they are; but my statements are at least the substance of what did pass.

Questioned by prosecution.
Mr. Hay. Did these conversations take place after the declaration that you were no longer in the service of the United States? A. The whole of them.—(col. Carrington, one of the jury. Did they take place in July? A. Yes. I observed to him, there would be no war, though I thought there was great cause for it.)—Mr. Hay. Had you expressed your dissatisfaction at this procedure. A. Yes, frequently. Q. I believe that you made some publication on the subject? A. I did. Q. Your first conversations were about building bridges, settling lands, &c.? A. Yes; when col. B. first returned from the westward. Mr. McRea. He did not express to you his designs respecting the Ouachita land, till he had discovered your aversion to the Mexican project? A. He had not spoken particularly about the Ouachita land; but previously about speculations in the western lands generally. Mr. Wirt. Did he say at the latter end of July that he was about concluding a bargain for Ouachita land? A. I think so. Mr. Hay. When he proposed to make you an admiral, did not the thought strike you how he was to accomplish this?—Mr. B. denied that commodore T. had said that Mr. B. had promised to make him an admiral.—Com. Truxton. Mr. Burr told me he wished to make or to see me one. I do not particularly recollect which was his expression. He said there was a formidable navy to be established. Mr. H. From what quarter of the world was the expedition by sea to go? A. I do not know. I did not ask him, where it was to go from. Mr. H. Did you understand that you were to command the expedition by sea? A. Yes; but I declined and asked no questions particularly on the subject. Mr. Baker. I understand you to say, that the navy was to have been erected, after the government was to be established? A. Yes. Mr. McRea. Did he not talk of a naval expedition against Havannah? A. I told Mr. Burr that Havannah could not be taken without a naval force. He said, that could be obtained.

Cross-questioned.
Mr. Burr. Did I not say I had never seen lieutenant Jones? A. I do not recollect that. You spoke highly of him. Q. Do you not recollect I stated, if there was a war that private enterprise and private expeditions would be lawful? (Mr. Hay objected to the question because seemingly intended for the jury.) Did I not often talk several years ago about naval concerns? Did I not say that you were duped by the Smiths and others? That they had no serious intention of serving you? Was not that the reason that I wished to unwed you from the navy? A. You did state those facts. Q. Did you not find that I was right about your advances in the navy? A. I know that. Q. Did I not often talk to you about the settlement of lands? A. You did. Q. Were we not intimate? A. Yes. Q. Was there any reserve between us? A. None. Did you ever hear me say any thing about dismembering the union or seizing on New-Orleans? A. Never. Q. Did I not often express the pleasure I should feel from doing service to the common interests of the country; and of preserving a strong connection with my countrymen? A. You did. Q. Did I not say that the periouges would be useful for the conveyance of agricultural products? A. Yes; and in war for transports. Q. Had you reason to doubt my intention to settle lands. A. If there was no war, I took for granted that that was your intention. Q. If there was a war, and Mexico was invaded, and the government favored it, would you not have joined me? A. I would have got out of my bed at twelve at night, to fight against England, France and Spain, if my country had called. Mr. McRea. Did he speak of any commercial speculations in which he was about to engage; or of any commercial establishments he was about to form? A. He spoke of the settlement of the Ouachita; and the bringing down of a canal on the Ohio. Q. Were the remarks which he made on your relation to the navy calculated to fill your bosom with resentment? A. My bosom was already full enough, but certainly Mr. Burr spoke in con-

cert with my feelings. Mr. May. Could an expedition at sea be made as effectually against La Vera Cruz from any other port in the western world, as New-Orleans? A. Certainly not. It would be a very proper place or from any place above the river. Larger vessels cannot get up to New-Orleans; and small craft must take the expedition down. Mr. Parker (one of the jury.) Did you understand for what purpose the two couriers were sent by col. B. to gen. Wilkinson? A. I understood, that there was an understanding between them about the Mexican project. Mr. Burr. Are there not preparations now making in Philadelphia, in contemplation of a war with England? A. In New York there are. Mr. McRea. Are not the preparations going on openly? Has any commander been appointed independent of the government? A. No. Mr. Botts. Can ships be built secretly in a corner of a room? A. No.

BY THIS DAY'S MAILS.

NEW YORK, August 27.
Arrived, the brig Dean, Edgar, 14 days from Charleston, cotton and logwood.
The schr. Maria, Blakeman, 14 days from Richmond, coal.
The sloop industry, Banks, 10 days from Newbern, naval stores and cotton. Aug. 16, lat. 35, 40 long. 75, 51, spoke a schr. with hay 5 days from New-York for Charleston, and a brig 16 days from R. I. for Charleston. 19th, spoke schr. Richmond packet, 3 days from New York for Richmond. 20th, spoke the schr. Polly and Betsey, 5 days from Norfolk for Philadelphia.
The sloop Providence, Downs, from the Delaware, corn.
Below, last night, a brig and 2 schooners.

Cleared, brig G. v. Trumbull, Burr Savannah; schr. Pilots, Friend, Thorne, St. Thomas; Thomas and Deborah, Cross by Yarmouth; Lilly, Seelye, St. Johns; Mechanic, Cogshall, Antigua.

Report of the Committee of the Corporation on the subject of fortifying the port of New-York.

The committee that was appointed to carry into effect the resolution of the Corporation, dated the 13th July last, offering to cede to the United States such part of the public ground as the secretary of war may require, for the purpose of erecting fortifications for the defence of the city—and also the resolution, dated 4th August, offering the aid of this board, to the executive of this state, to enable him the more effectually to put in proper condition, for immediate service, the arms and ordnance belonging to the state; and to procure such military stores, as the present exigencies may require—also to devise such other means of defence as may be in the power of this board to execute:

REPORT,

That the secretary at war, with the other commissioners of the United States, have determined not only to enlarge and make durable, the works on Governor's-Island, but are now about erecting a very strong and powerful marine battery, on the North-west point of that island, to extend on the reef, beyond low-water mark into the river. The works on Ellis's-Island are to be extended, and the number of guns and weight of the metal greatly increased. It is also determined by the general government, to erect a strong fort, with two or three tiers of guns, to extend beyond the present battery, in front of the flag staff; also to build a block in the North-River, at the foot of Duane-street, of 100 feet square, and to erect a battery thereon. When these works are completed, it is understood they will be able to bring 120 guns to bear upon any point in the bay, between Bedlow's-Island and the city. The commissioners have also fixed upon the old Potter's field, as a proper place to erect laboratories and arsenals, for depositing and repairing arms and military stores. The several sites where these works are to be erected, and which are within the jurisdiction of this board, your committee have offered, on the part of the corporation, to cede their right, as soon as a survey can be made to designate the proper meets and bounds.

Although the works which are erecting under the direction of the government of the United States are proper, and may be considered very useful, as part of a general system of defence, they are, however, deemed not sufficient in themselves, to afford that protection against a maritime force, which will ensure us safety in case of an attack. Your committee have deliberately considered the several plans, for the defence of the harbor, that have been published, and others that have been handed to them; they have also caused several soundings to be made of the harbour, from the Narrows to Bedlow's Island, and find the shallowest water to be in a line between Red-Hook and a reef of rocks on the west flat, about half a mile below Bedlow's Island; and from the various information obtained, have thought it most advisable to recommend the following plan.

To begin at a reef of rocks that is bare at low-water, about half a mile to the south of Bedlow's Island, and run a course east by south, to the southerly point of Red-Hook, on Long-Island. The distance across, on this line, is about 3,000 yards, of which, near 400 yards, the water is 60 feet deep at low-water, and the remainder varies from 40 to 16 feet in depth. A considerable part of the distance, say about 700 yards, does not exceed 16 feet at low-water.

To secure this place against the passage of ships, whose draft of water exceeds 16 or 18 feet, it is proposed that blocks be sunk, to consist of timber and stone, in the manner the piers of our wharves are made, the

size of which to be in proportion to the depth of the water, and to secure their standing firm, to have the base always greater than the height. These blocks to be 50 feet wide in their position across the river, and to approach within ten feet of the surface of the water, at low tide, and to leave a space between each block of 20 feet. To commence sinking the blocks at Red Hook, and to continue them until they come within 200 yards of the reef of rocks on the flat before mentioned. If it should be feared that ships might pass between the blocks, where the space left is 20 feet, that could be remedied by projecting 3 or 4 large timbers obliquely, on the upper part of the blocks, with their points faced with iron, in the manner of a chevaux de frize; these might extend from each block ten feet, which would then leave the space but twenty feet. These obstructions being thus placed, would compel all vessels, drawing more than 16 or 18 feet of water, to pass within the space of 200 yards next the reef of rocks. At that place a fort of such strength might be erected, with two or three tiers of guns, as should be judged sufficient to defend this passage against any hostile fleet. The fort could be erected without difficulty at this place, there being several acres of ground bare at low-water, which is hard and firm. But as an additional security against a fleet passing the fort, a number of chevaux de frize might be made, and at hand. In case of a hostile fleet appearing, they could be placed in the passage in a short time. These might be removed when the danger disappeared.

A further security against forcing this passage by an enemy, would be by placing in it a boom constructed in an angular form V with the point outwards, to be moored with a number of grappings and anchors. It, however, it should still be believed possible that these obstructions may be removed, and a fleet pass through the passage intended to be left open, it is proposed that at the distance of 200 yards to the southward from the line of obstructions and the reef before mentioned, 4 or 5 blocks be sunk, commencing from the flat that borders the west side of the channel to extend into the channel 200 yards, so as to be parallel to the last block of the range extending from Red-Hook, and to connect the outward blocks or extremities of each line of blocks with a strong boom or chain, which can here be used with great effect, as it will ride parallel with the tide, and not across it. It will then be evident that a ship coming to New-York must change her course, and stand directly for the fort, and it is almost certain that her crossing the tide would so much impede her way, that the chain would entirely arrest her progress, when she would be swept by the current directly on the blocks, and left at the mercy of the fort.

If it should be thought necessary, and admitting that this chain might possibly be forced, a like range of blocks might be made, 400 yards to the north of the last mentioned line to extend into the channel 200 yards, and be connected in the same manner as the first, with a boom and chain; this would again oblige a vessel to alter her course and stand directly from the fort; her head-away, by this time, would be so impeded, that this second chain, would certainly stand.

It may be said, that a fleet of ships would take the fort, and then remove the obstructions. This is admitted to be possible; but if the fort be well defended, and of suitable strength, with the aid of gun-boats, which can here be used with great effect, it is reasonable to believe the fleet would be also crippled, and some of them destroyed.—What then would be their situation? They cannot hold the fort, for it is entirely commanded by the works on Bedlow's Island, and it cannot be supposed they would attempt to come to town in their disabled state, to encounter other, and more numerous and powerful fortifications.

The plan of defending the city of New-York, by sub marine obstructions, has been objected to on several grounds. First, it has been doubted by some whether blocks can be sunk where the water sixty feet deep, and if they can be sunk, whether they will stand the force of the current and the storms. Second, that by placing obstructions in the channel to such an extent, it would have an injurious effect upon the current, and probably affect the ebb and flow of the tide.—Third, that if they could be sunk and made to stand, and would have no bad effect upon the tide, the worms in a few years would destroy the timber, and the stones would fall out, when it would require the same expense to renew them. And fourth, that providence has given us one of the best harbors in the world, and these obstructions would exceedingly injure the passage of ships going out and coming in, and they would occasionally get on these blocks, by which they might be injured or lost.

As to the first objection it is answered, that upon enquiry from the most experienced dock builders, they assure us there is no difficulty in sinking blocks where the water does not exceed 60 feet in depth, and they have no doubt of their resisting the force of the current. We see almost daily, blocks of only 33 feet square, sunk in the East and North Rivers opposite the city, where the water is 35 or 50 feet deep, and the current opposite to the town, is much stronger than it is in the bay, where the obstructions are contemplated to be made. Old mariners assert, that the agitation of water in a storm, is principally on the surface, and the bottom of the sea is not disturbed in any proportion to the surface; this being the case, there can no danger arise from storms, as the blocks will not be with in ten feet of the surface of the water at low tide.

The second objection has more weight, as this is a new thing and we have not experience to guide us. If it should have the injurious effect upon the tide to the extent that some suppose, the obstructions ought certainly to be abandoned; as we have no guide to direct us, every one must exercise his own judgment. Your committee have however, made various calculations, that the public mind may have some data to form an opinion.

It will be observed that the extent of the harbour from Red Hook on Long-Island, to Crown's Point, on the Jersey shore, is near four miles; that the distance of the obstructions contemplated to be made is about one and an half miles; that the blocks take only half the space as far as they go, and that they do not come within ten feet of the surface at low water; the whole column of water flowing between Long-Island and

the Jersey shore, at low water, amounts to 350,000 square feet, and the proposed obstructions amount to 77,000 square feet; not one quarter of the whole column of water, will be obstructed, and if the number of square feet be taken at half tide, the obstructions will only be one sixth part of the whole space. It would appear from these calculations, that the obstructions could have no injurious effect upon the ebb and flow of the tide; the ground and wharves made on the east side of the city, have contracted the river more than one quarter of its original breadth, and our piers now, are in the deepest part of the river.—It has not been observed, that the tide flows less at this time at Hell Gate, than it did a century past. The current no doubt, is stronger opposite the town, than it was formerly; but it is believed that the same quantity of water passes in the river now, that did before the river was contracted.

The third objection is against the durability of the blocks. Your committee have taken pains to examine some of the oldest wharves in this city.

The Crane wharf, which has been built about sixteen years, has been searched under water at low tide; the timbers appeared to be perfectly sound, and not the least decayed. We have examined another wharf, which was said to have been built previous to the revolution; the timbers of which appeared to be sound. There is no doubt there are worms in the timber; they make small holes into the logs where they enter, but do not entirely destroy the wood. From the information of dock builders, who have broken up old docks, that have been built 50 years, the timber some distance below low water mark, has been little worm eaten, but such parts as the stones have covered, has not been touched by the worms, and was as sound as when put into the wharf.

To the fourth and last objection, that it will injure the navigation. It is answered that there will be water sufficient of nine-tenths of our vessels to sail over the obstructions and such as require a large draught of water, at all times when the wind is fair, can pass through the space of two hundred yards intended to be left unobstructed; but it may some times happen when the wind is a-head, the ship will lose a few tides before a suitable time offers to come up and there is a possibility of some being lost by getting on the blocks; but considering the great object of having the city safely protected from invasion, these objections are of small moment.

The calculations of expense to make the obstructions in the channel, will not exceed 200,000 dollars, and to raise the water sufficiently high to erect a fort upon, of 1000 feet in length and 100 feet in breadth, will not be more than 100,000; the cost of building the fort and its necessary appendages, your committee have not military experience sufficient to determine.

If the corporation should think proper to adopt this plan of defence, and to proceed immediately to carry it into effect, the next question is, in what manner the funds are to be raised. It is believed from the patriotic zeal of our citizens, and from the general anxiety expressed by all persons, that something should be done without delay, to put this city in a posture of defence; there would be no difficulty in raising by loan from the citizens a sum sufficient to effect this purpose, upon corporation bonds, redeemable at pleasure, the interest to be paid half yearly. There can scarcely be a doubt but the government of the United States will assume and pay this debt; but in case they should not, and it should ultimately fall upon the city to pay it, the debt and interest would be extinguished in three years, by doubling the usual yearly taxes. Would it not be best even to pay the debt ourselves, rather than remain in this exposed and defenceless situation? Our interest clearly dictates the propriety of the measure.

This is a work of great magnitude, and will take more than one year to complete it. The materials are not to be had in sufficient quantities at present, but we ought to make a beginning this year with what materials can be procured, and the works may probably be finished in the course of the next summer. If we should unfortunately be involved in a war, in consequence of the present dispute with England, it will most probably take place before any effectual system of defence can be completed, and we must submit to our unhappy situation. But if the storm should blow over, we ought not to desist from our determination, to put the city in a state of defence; we cannot always promise ourselves an exemption from the calamities of war. On the 20th June last, the country felt as secure and as confident of the continuation of peace, as it has felt for many years past; but from the events that have recently taken place, it is seen upon what an uncertain tenure the peace of nations depends. The advice of our immortal Washington, ought therefore to be confided in "that to preserve peace we ought always to be prepared for war."

All which is submitted.
SELAH THROG.
JACOB MOTT.
JOHN D. MILLER.
New-York, August 24, 1807.

PHILADELPHIA, August 28.
Arrived, schr. William and Mary, Tupper, Falmouth, wines &c.

Arrived at the Lazaretto.
Schr. Banger, Maffet, Laguria, 18 days cocoa, coffee, &c.

Cleared, brig Hannah, Sutherland, Jamaica; schr. Favorite, Oliver, St. Thomas; Susan, Harp, St. Augustine.

Ship Betsy, Ott, 96 days from Isle of France; brig Jane, Warner, from Havana, and schr. Lucy, Cotton, from Plymouth (Mass.) are below.