

TRIAL OF Col. Aaron Burr, (CONTINUED.)

Saturday, Sept. 26.

Evidence of Gen. Wilkinson.

I proceeded from Natchitoches to Natchez and descending from that place reached Fort Adams on the 18th of November; where I found Mr. Swartwout, who had been taken ill on his route from Natchitoches to New Orleans, and for his accommodation, was invited by some one of the officers to that place. He informed me that Mr. Ogden had reached that place, on his way to Tennessee; but, being alarmed by the rumors which prevailed in that part of the country, he was afraid to proceed, and had halted there. I enquired of Mr. Swartwout whether Mr. Ogden had borne any letters. He said that he had not; but that Lieutenant Spence of the navy had been sent, some time before, from New Orleans, thro' the country, with letters from Col. Burr. I proceeded on, and reached New Orleans on the 25th of November, in the evening; and, on the 26th in the morning, I received this letter from Doctor Bollman. [Here General Wilkinson produced the letter.—See Note G.] This letter reminds me of a circumstance which I had omitted. The morning after I had received the letter of Doctor Bollman at Natchitoches, I acknowledged the receipt of it in a short note, and informed him that I should be in New Orleans about the 20th. I did not call on Doctor Bollman till the 30th. After the ordinary salutations, I enquired whether he had heard of Col. Burr, since his arrival. He informed me that he had not. I asked him whether he had heard of Lieutenant Spence's arrival in Tennessee. He enquired how I came to know any thing of Lieut. Spence. I informed him that it was through Mr. Swartwout. He assured me that he had sent dispatches for Col. Burr by Lieut. Spence, and that he had heard of his arrival at Nashville. He then enquired what part I meant to take? I observed that I felt myself delicately situated. It was impossible that I could take any part while I held my commission; and I was so circumstanced that I could not get rid of it. He asked me what I thought of the competency of the force to the undertaking. I observed that it depended upon a variety of circumstances; such as winds, weather, composition and appointment of the troops, skill in conduct, the resistance of their opponents, and other causes on which the success of military operations depend. But I give it as my opinion, that I thought the force insufficient. He said that Col. Burr had gone too far to retract; that he had numerous and powerful friends in the United States, who stood pledged to support him with their fortunes; and that he must succeed. He then enquired of my opinion as to the state of the magazines of provisions in New Orleans. I observed that if Col. Burr descended with the forces proposed, they would starve, unless he brought provisions along with him; for I had before ascertained precisely the quantity then on hand. He said that it was his opinion, also, that there would be a scarcity of provisions; that he had written to Col. Burr on the subject; and that he expected a supply from New-York and Norfolk, where Col. Burr had many friends. He said that he had noticed in the public prints the sailing of some vessels with flour; and supposed that they might be destined for that place. I did not see Doctor Bollman afterwards, till the 5th of December, the day after the arrival of the mail; and I called on him to enquire the news. He said that he had seen a letter from Colonel Burr, of the 30th of October, in which he stated that he should be at Natchez, on the 20th of December, with two thousand men; to be followed by four thousand more; and that he could have raised, or levied twelve thousand men, as easily as six, if he had thought them necessary. I then informed Doctor Bollman, that, if Col. Burr came to New Orleans, I should oppose him. He replied, they must

come there for provisions and equipment. He observed that Col. Burr had great confidence in me; but he did not know what had passed between us; and asked, if I could not make such a defence as would cover my reputation, and still permit him to come. I replied in the negative; and we then parted.—Some few mornings afterwards, he called at my quarters: there was a gentleman in the room, and I took him into the Piazza. He said, that he wanted to know my determination. I expressed my surprise; and told him that he knew my determination. Mr. Hay. While you are thus extracting from Doctor Bollman the secrets of his party, were you taking any measures for the security of New Orleans? A. Yes. My orders and instructions will show what measures I deemed it my duty to pursue. For these I am responsible to the executive of the United States. Mr. Martin. Are the cyphered letters filed? A. Yes. Q. Are the keys furnished? A. Here it is. [Mr. Botts mentioned the situation of Mr. Tazewell who was summoned as a witness on the part of Col. Burr. He said that Mr. Tazewell had represented the situation of his family to be such as to require his immediate return home. Mr. Botts observed that, although he had introduced the request of Mr. Tazewell to be discharged, he should be compelled to oppose it. Mr. Tazewell stated that he had been unexpectedly summoned, he well knew, to answer interrogatories as to certain proceedings before the grand jury; that he had just been informed of an occurrence in his domestic affairs, which made it indispensably necessary for him to return immediately; that there were many gentlemen, in this place and its vicinity, of the grand jury, who were as competent to give evidence on the points to which he should be called upon to depose, as he possibly could be; and who would be subjected to no kind of inconvenience in attending. If he were to be examined at all, he requested that it might be immediately done; for the situation of his family was such that he should be compelled to return. The Chief Justice said to Mr. Tazewell that he knew full well that it was not in the power of the court to discharge him. Mr. Botts said that it was impossible to examine Mr. Tazewell till General Wilkinson had gone through his testimony. It was not possible to know the importance of his evidence till General Wilkinson was cross-examined. Mr. Hay observed that it was an unprecedented measure to introduce any member of the grand jury to prove what had passed in the jury room. Mr. Botts. We have not said for what purpose we mean to introduce him. Mr. Hay. I presume that I may be permitted to presume for what purpose. Mr. Baker said he meant to speak generally of the propriety and convenience of giving evidence as to what passed in the grand jury room. One good effect, at least, would result from it: that by introducing witnesses to prove what had passed there, it would prevent people from giving information to the grand jury, which they could not support elsewhere. Mr. Botts called for the key to the cyphered letters of Col. Burr. Gen. Wilkinson handed him a small pocket dictionary, and a paper containing certain hieroglyphics. Mr. Botts. In the duplicate received by Doctor Bollman, there is an erasure. Will you be so good as to explain the cause of it? Gen. Wilkinson. That erasure was made by myself, and the words afterwards introduced by me. I have a deposition which will be more satisfactory than my own explanation. Mr. Botts. Whose deposition? A. Mr. Duncan's. [Mr. Wirt read the deposition of Mr. Duncan for which see note H.] Mr. Botts.—When was the erasure made? A. During the sitting of the Legislature in New Orleans. Q. Which were the words restored? A. I cannot now state with certainty. Q. Was the letter exhibited to the Legislature? A. It was introduced; but I

confined myself to oral communications. Q. What was the occasion of the erasure? A. To put it out of the power of a certain faction in the Legislature, to whom, at that time, I intended to submit the paper; to conceal it from the faction who were opposed to my measures, and who I believed, were inimical to the true interest of their country, and were laboring to excite suspicions that I was connected with Col. Burr, in order to destroy the public confidence in me, and thus to defeat my measures. At the head of this faction I considered John Watkins, Esq. the Speaker. Having determined not to submit the letter, I restored the words. Q. Did you prepare any translation to submit to the Legislature? A. No. I only made notes. Q. Did you make a translation for any other purpose? A. Only a partial and imperfect one. Q. For what purpose? A. To understand it. Q. Was there any other occasion, for which a translation was made? A. No. Q. Did you make any translation for the executive? A. No. Q. Were those words, "your's postmarked 13th of May is received," erased? A. Yes. Q. Where is the copy of your letter, covering a copy of that of Colonel Burr, and your deposition to the President of the United States? A. It is among my papers. Mr. Hay, Do I understand you correctly, when I suppose you say that the translation intended for the Legislature of New Orleans, was sent to the President? A. No. [Mr. Hay immediately observed that on recollecting dates, he perceived that he had misinformed Gen. Wilkinson; that the letter was sent to the President before the session of the Legislature of New Orleans.] Mr. Botts. Do I understand you to say that this was your translation of the letter which was intended for the Legislature of New Orleans? A. No. It was Mr. Duncan's. Mr. Botts. Have you ever sworn that this was a true translation? A. No. Only substantially so. [Gen. Wilkinson. May I be permitted to offer a few words of explanation? When Dr. Bollman was arrested, I will confess to you that I was so little acquainted with judicial proceedings, that I did not know it was necessary to do more than accompany him with a letter of advice. I was about to lend him off in this way, when Mr. Duncan suggested to me the propriety of sending forward a deposition to justify his commitment. I put the letter into the hands of Mr. Duncan, with the key; and he made out the interpretation. When Mr. Duncan presented the translation to me, I stated my objections to the omissions. He urged me to sign the deposition. The time was urgent; the express waiting; and I confess that I feared a rescue. This did not give me much time to consult my understanding. If I had it is probable that I should have resisted the signing of the deposition, with these omissions notwithstanding my confidence in the judgment and integrity of my counsel. I was also at the time, oppressed by domestic afflictions; and my mind was hurried and agitated by the painful and interesting scenes which surrounded me. Mr. Botts. Where were there variations between this original letter in cypher, and that sent on to the President? A. Yes.—Mr. Botts. Were they noticed by you, or by Mr. Duncan in your presence? A. I suppose so; because I objected generally to the omissions. Mr. Botts. How was the cypher formed? A. It consisted of an American edition of Entick's dictionary, and of Hieroglyphics. Mr. Botts. Which was formed first? A. The Dictionary. Mr. Botts. When was that formed? [Here Gen. Wilkinson referred to a letter, without a signature dated in 1800; and said he presumed it must have been formed about that time.] Mr. Botts.—Do you know the time of the year? A. I presume it was October.—Mr. Baker. To whom was that letter addressed? A. To myself. Q. By the same. By whom was it written? A. By Col. Burr. [Gen. Wilkinson observed that it was a private letter to which he had referred merely to refresh his memory, the concluding paragraph of

which is, "when I receive your cypher and your address, you shall hear from me." Mr. Wickham insisted upon seeing the letter. General Wilkinson refused; but said it was at the disposal of Col. Burr, and handed it to him.] Mr. Botts. With whom was the cypher formed? A. Col. Burr and myself.—Mr. Botts. When were the Hieroglyphics agreed upon? A. To the best of my recollection, the Hieroglyphics which refer to the Alphabet were formed about the change of the administration, after the induction of the President. The Hieroglyphics are divided into two parts; one part relates to the alphabet and figures, and the other part to arbitrary names or designations. Mr. Botts. When were the arbitrary names established? A. I think in the year 1795 or 1796, but not delivered to Col. Burr at that time. Mr. Botts. Who originally devised the cypher? A. That you hold in your hand the Hieroglyphics was devised partly by myself and partly by captain Campbell Smith. Mr. Botts. Are you sure it was in 1796, in which that part was devised? A. I think I said in 1795 or 1796, but could not ascertain which. But, adverting to the motives which induced me to form it, I think it was in 1794. Mr. Botts. Are there no circumstances which can enable you to ascertain the time? A. I could have proved with certainty, the time, if a witness whom I had summoned had attended. Here is another cypher made by captain Smith in 1794; and the Hieroglyphics representing the President and Vice President are the same with those used in the cypher of Col. Burr. Col. Burr. What was the mode adopted by you of sending round the prisoners? By public vessels. A. No. My plan was to engage passages on board private vessels, and to lay in a double stock of stores for their accommodation. Colonel Burr. When did your dispatches go on board the vessel? Can you ascertain the time? A. Not without recurring to my correspondence. Mr. Wirt. You had been for many years in habits of intimate correspondence with Col. Burr? A. Yes. TUESDAY, Sept. 29. After Gen. Wilkinson had finished his address to the court, Mr. Martin asked him if he had the original translation of the cyphered letter of Colonel Burr.—His answer was. I have not—I have looked for it, but cannot find it. Gen. Wilkinson then said, that he wished to present the deposition of Capt. Walback, formerly a member of his family. It went to explain his habit of corresponding in cypher.—(See the deposition of Captain J. B. Walback.—Mr. Wickham. Have you ever accurately decyphered the letter sent to the President? A. No. I have said before that the only interpretation I ever made, was hastily done at Natchitoches. Mr. Wickham. Then you are not able now to point out the difference between Mr. Duncan's translation and the original letter. A. Specifically I cannot; substantially I can. Such parts were left out as were calculated to inculpate me for the reasons already stated. Mr. Wickham. I observe one of the cyphers is in hieroglyphics designed in 1799 or 1801. A. That is erroneous. When the hieroglyphics were formed they were taken from a small slip of paper and annexed to that in your hand to prevent its being lost. Q. Can you tell when they were made? A. I cannot precisely. I have before stated the time as nearly as I can. Q. Can you tell upon what occasion they were made? A. For the purpose of communicating with Col. Burr. Q. Do you recollect your having sent a letter to Col. Burr, from St. Louis, in May or June 1806? I have such an impression, but have not the most distant recollection of its contents. [Mr. Wirt submitted it to the court whether it could be proper for the opposite counsel to interrogate Gen. Wilkinson as to a letter which was in their own possession. If they meant to rely upon the letter as evidence they ought to produce it. He considered it unfair to select such parts as might tend to inculpate Gen. Wilkinson, & keep back those which would lead to an explanation of his conduct. Mr. Wickham said it was their own paper