National Intelligencer.

& WASHINGTON ADVERTISER.

VOL. VIII. WASHINGTON CITY, PRINTED BY SAMUEL HARRISON SMITH, PENNSYLVANIA AVENUE. NO. 1212.

FIVE DOLLARS PER ANNUM, FRIDAY, AUGUST 5, 1808. PAID IN ADVANCE.

SENATE OF THE UNITED STATES.

APRIL 9.

CASE OF JOHN SMITH.

Mr. Hillhouse's speech concluded.

But the gentleman from Mas. has compared the case of Mr. Smith with that of commodore Truxton, and stated that upon Burr's disclosing his plans to the latter, he was asked this all important question "is the Executive of the U. States privy to or concerned in the project?" This, says he, *ought* to have been the conduct of Mr. Smith; this *would* have been his conduct if he had been an innocent and an honest man. I little thought that commodore Truxton's deposition would have been resorted to in this case; a deposition which had not been read, a deposition not taken on the trial in the presence of Mr. Smith, nor in any way relating to his case. It must be an uncommon zeal that could have induced any one possessing the legal knowledge of the gentleman from Mas. to have resorted to that as evidence. But, sir, the answer to this is plain. Mr. Burr did not go as far with Mr. Smith as with commodore Truxton, otherwise Mr. Smith would probably have asked him the same question. But so much reliance having been had on commodore Truxton's deposition to prove Mr. Smith's guilt, on the score of emissions, as well as of what he has done, I must be permitted to read a part of that deposition: it is in these words viz. "About the beginning of the winter of 1805—6, col. Burr 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. requested me 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 propose to me. I considered this as nothing more than a desire to get me interested in land speculations. These conversations were frequently repeated; and some time in the month of July, 1806, col. B. observed that he wished to see me unwedded from the navy of the U. States and not to think any more of those men at Washington. He observed that he wished to see or to make me (I do not recollect which) admiral; for he contemplated an expedition into Mexico, in the event of a war with Spain, which he thought inevitable. He asked me if the Havanna 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 enquiry as to Carthagena and La Vera Cruz; what personal knowledge I had of those places, and what would be the best mode of attacking 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 U. 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, & many officers of the navy would join I replied, that I could not see how any of the officers of the U. S. could join. He said that Gen. Wilkinson had projected that 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. President—notwithstanding col. B. had gone much farther in communicating his plans and projects to commodore Truxton than he had done to Mr. Smith, and notwithstanding those insinuations of *weaning him from the Navy, forgetting those men at Washington*, &c.—which must have excited suspicion in the mind of a man of commodore Truxton's discernment, that col. B's. project was unlawful, and not known to or approved by the government, yet commodore Truxton, in whose honor and integrity I have the highest confidence, did not put the question, which the gentleman from Mas. relies on so much, and approves so highly, as evincing his *integrity*; and for not asking which Mr. Smith is to be *suspected* of a participation in guilt. It was when col. B. asked commodore Truxton directly if he would take the command of a naval expedition, and not till then, that he put the question. Had col. Burr asked Mr. Smith to engage supplies of provisions, gunboats, arms or men for his expedition, then, and not till then could it be expected that Mr. Smith should have asked such a question; so far from saying any thing to excite Mr. Smith's suspicions, col. B. had expressly declared his object was not *dishonorable* or *inimical* to this government. That commodore Truxton was dissatisfied with the administration appears by his answer to a question of Mr. M'Rae in the same deposition, viz. "Were the remarks which he made on your relation to the navy, calculated to fill your bosom with resentment against the government? A. My bosom was already full enough, but certainly Mr. Burr spoke in concert with my feelings."

General Eaton's deposition has been introduced, under like circumstances, and for the same purpose as that of Commodore Truxton. He testifies that "during the winter of 1805-6, I cannot be positive as to the distinct point of time, yet during that winter, at the city of Washington, Colonel Burr signified to me that he was organizing a *secret* expedition to be moved against the Spanish provinces on the south western frontiers of the United States—I understood under the authority of the general government. From our existing controversies with Spain, and from the tenor of the President's address to both Houses of Congress, a conclusion was naturally drawn, that war with that country was inevitable. I had then just returned from the coast of Africa; and having been for many years employed on our own frontiers, and on a foreign coast still more barbarous and obscure, I knew not the extent of the reputation which Col. Burr sustained in the consideration of his country. The distinguished rank which he had held in society, and the strong marks of confidence which he had received from his fellow citizens, gave me no right to doubt of his patriotism. *As a military character*, I had been made acquainted with him, but not personally; and I knew none in the United States in whom a soldier might more surely have confided his honor, than in Col. Burr. In case of enmity to this country, from whatever quarter it might come, I thought it my duty to obey so honorable a call as was proposed to me. Under impressions like these, I did engage to embark in the enterprize, and did pledge my faith to Col. Burr. At several interviews it appeared to be the intention of Col. Burr to instruct me by maps and other documents of the feasibility of penetrating to Mexico. At length from certain indistinct expressions and innuendoes, I admitted a suspicion that Col. Burr had other projects. He used strong expressions of reproach against the administration of the general government; accused them of want of character, want of energy, want of gratitude. He seemed desirous of irritating my resentment by reiterating certain injurious strictures cast upon me on the floor of Congress, on account of certain transactions on the coast of Africa, and by dilating on the injuries which I had sustained from the delays in adjusting my account, for monies advanced for the United States; and talked of pointing out to me modes of honorable indemnity. I will not conceal here that Col. Burr had good grounds to believe me disaffected towards the government." Here, Mr. President, we find that General Eaton also was deceived, so completely deceived as to *engage himself* in the enterprize. Here is also evidence of the estimation in which A. Burr was held at Washington, the seat of the general government, where Congress were assembled, and Mr. Smith was attending as a member of the Senate, the forepart of the year 1806, the very year when Mr. Smith is to be suspected of a crime, for extending to Col. Burr the rights of hospitality: nor does Gen. Eaton suspect the views and projects of Col. Burr to be unlawful or improper, until he began to use strong expressions of reproach against the administration. Gen. Eaton was also a man dissatisfied with the administration.

It is asked how it was possible for Col. Burr to have been so long with Mr. Smith and not to have disclosed to him his plans, as he had done to others. The reason is obvious, Commodore Truxton was dissatisfied with the government, and full of resentment; he was therefore the man most likely for A. Burr to apply to, expecting, no doubt, to engage him in his projects; to him he would be likely to communicate his sentiments and feelings with freedom. Far otherwise was the case of Mr. Smith. He was enjoying the sunshine of the government; he was going on in the full tide of prosperity; his fellow citizens had bestowed on him the highest honors in their gift. He was a Senator of the United States; the administration had extended to him their patronage and favor, by giving him contracts for supplying the army, and building gun-boats, lucrative employments. A. Burr could not expect to engage this man in any treasonable plot against the government, until he should have made him willing to sacrifice all his honors and all his prospects; and to make the communication without engaging him, was to defeat all his projects; knowing that Mr. Smith could have no possible wish for a change, he would be the last man to whom he would dare to make a disclosure of his projects. There were reasons, and strong reasons, why he should wish to preserve the confidence of Mr. Smith, which made it important to him to be on good terms with him, so long as he was attempting to blind the eyes of the people, and make them believe he was acting in concert with the government; to do which, there could not have been a more ready expedient than to take up his lodgings at the house of the contractor for the army of the United States, and to appear to possess his confidence. All his art, all his address therefore would be made use of to deceive Mr. Smith, and make him believe his views and projects were fair and honorable. This will fully explain the appearance of confidence which seems to have existed between Mr. Smith and Col. Burr, as well as their correspondence, previous to the President's proclamation.

The gentleman from Mas. thinks the story about the settlement of the Washita lands so ridiculous, and the disguise so thin, that Mr. Smith must have seen through it, and known that A. Burr's projects were unlawful; and from that circumstance draws presumption of guilt. Is it surprising that Mr. Smith in his situation, and with the information he possessed, should believe this story, when a gentleman of Commodore Truxton's discernment, and after having had a much more full developement of col. Burr's views and projects, believed it, and which in his deposition he affirms to be the fact? In answer to the following question put by col. B. "had you reason to doubt my intention to settle land?" Commodore Truxton answered—"If there was no war, I took it for granted that was your intention." Nor is it so astonishing as the gentleman seems to think it, that Mr. Smith should consent to let his two sons go with col Burr. It is the wish of every parent to see his children well established; and what is more profitable, or promises a more advantageous and certain establishment, than the settlement of new lands? People are generally induced very readily to believe what they wish, and is it at all surprising that Mr. Smith should be easily induced to think well of a project which was proposed to benefit his own sons? Surely his participation in A. Burr's treason cannot be presumed from such circumstances.

The conduct of Mr. Smith from the first moment that official information was given to the people of the U. S. that A. Burr's projects were treasonable or unlawful, was such as instead of exciting suspicion of his being an accomplice, merits the applause of his country. Not like a timid traitor, affrighted at the rustling of a leaf, did he endeavor to conceal the intercourse and correspondence between him and A. Burr; or like a bold traitor attempt to defeat the measures adopted to counteract the project and arrest the culprits; or to paralyse exertion by casting ridicule upon them, as did that *prime patriot* Glover, the accuser of Mr. Smith? No, sir, the day after the President's proclamation arrived, he writes a letter to the Secretary of war informing him of the substance of A. Burr's communications to him. He finds that the militia called into service on this occasion, were destitute of arms, and unable to obtain them from the public stores of the U. S. though application had been made for that purpose by the commanding officer; and that without arms they could render no service. He goes in the night to the keeper of the arms, and endeavors to persuade him to deliver them out, who still refused, though shewn the President's proclamation, without an order from the Secretary at War; fearing he might lose his office for acting without orders. Under these circumstances, this same John Smith charged with being an associate of A. Burr in this very treason, pledged his own private obligations for ten thousand dollars to indemnify the officer for delivering out the arms. This was done, not, after A. Burr was arrested, or there was a prospect of the project's being defeated; but immediately on the first alarm excited by the President's proclamation, and the spirited and patriotic exertions of the state of Ohio.

The gun-boats which Mr. Smith was building, and which his accusers have intimated were intended for col. Burr were afterwards carried down the river to New-Orleans and delivered to the order of General Wilkinson; and all the provisions purchased by Mr. Smith appear to have been fairly and promptly delivered to our army—not a man—not a musket—not a barrel of flour—not a single article of provisions of any kind—or any thing that could aid or comfort col. B. in his expedition has ever been furnished to him or any of his agents. How then has Mr. Smith participated in the treason of A. Burr? I find no evidence of the fact. I can discern no reasonable ground to suspect any such participation.

The testimony of col. Taylor, whom I deem a man of honor and truth, furnishes one other ground from which a presumption is attempted to be drawn to implicate Mr. Smith. He says that in conversing with Mr. Smith about certain political publications in a newspaper signed the Querist, in which a division of the union and a separation of the Western from the Atlantic states was advocated, he understood Mr. Smith to advance those sentiments as his own. Mr. Smith says he only described them as the sentiments of the writer. Suppose Col. Taylor's recollection to be correct, what crime was there in advancing mere speculative opinions, or expressing his sentiments on that or any other subject, provided he violated no law. Are we not in a free country, in which it is lawful to speculate on the science of government as well as any other? If that privilege be denied, ours will no longer deserve the name of a free country. But is it not possible that Col. Taylor may be mistaken? How often do we find conversations which take place among friends misunderstood and incorrectly stated? Every day's experience shews us, that even in public debate, in this Senate, the observations of gentlemen are so mistated as to require explanation. But Dr. Sibman's deposition removes all doubt; he says, and he is admitted to be a man of good character, that he understood Mr. Smith only to have repeated, not his own sentiments, but those of the Querist. Doctor Sibman testifies "The first persons I approached were Mr. John Smith and Col. James Taylor. After attending some time to the conversations I noticed a reference was occasionally made to a publication or publications that had appeared in the Marietta paper. For some time I was at a loss to determine whether those gentlemen were expressing their own opinions, or those contained in that publication, for I was not present at the commencement of the conversation, though it did appear to me to be a detail of the opinions set forth in that publication. As it is now impressed on my mind, I believe to more fully satisfy myself, I asked a question. Nor can I perfectly remember, whether I intended the question particularly for Mr. Smith or both of the gentlemen, but believe it was intended for Mr. Smith. Do you expect or apprehend an early separation of the union? To which Mr. Smith replied, not in my life time, and I hope and pray to God I may never live to see it, whether it takes place sooner or later." Here can be no mistake; so far from engaging in a treasonable plot to sever the union, he deprecated such an event in the most solemn manner. Where then is the evidence whereon we can ground so important a vote as that which shall adopt the resolution on your table? A vote which is to disrobe a Senator of his office and his honor? Nothing but *jealousy*, that jealousy which frequently attaches itself to a charge of *treason* or *conspiracy*, and must in this case have taken hold of the mind of the gentleman from Mas. could have induced a belief that there was evidence to prove on Mr. Smith a participation in the conspiracy of A. Burr. That master of the human heart, Shakespear, says—

"*Trifles light as air,*
"*Are to the jealous confirmation*
"*strong*
"*As proofs of holy writ.*"

The truth of this is remarkably verified in the case before us. Is there not some reasons to apprehend that there has been too great a disposition to convert suspicion into proof? Ought we not to be on our guard when it is proved that there has been a powerful combination of men, calling themselves a republican society, to ruin Mr. Smith, the individuals of which when called before a magistrate to testify, declare that they are bound to secrecy by a solemn obligation to the society, which is paramount to their oath, when sworn as witnesses, and which will not admit of their disclosing any facts, or their proceedings, any farther than they are permitted to be made public by the society? And in sundry of the depositions on your table they have accordingly refused to answer questions, and in some instances to testify at all. Such a society disgraces the name of *Republicans*; by acting on principles tyrannical and oppressive.

I have detained the Senate longer than I intended; but to Mr. Smith the cause is all-important, and we ought to pause before we condemn a fellow-Senator upon the ground of *mere suspicion*—direct proof there is not—we ought not hastily to agree to a resolution which shall fix perpetual infamy on a fellow man, an amiable family and his unoffending posterity; for the infamy which will be attached by a vote of expulsion will not be forgotten so long as this Senate and the nation shall endure.

FOREIGN INTELLIGENCE.

LONDON, MAY 19.

The following are the circumstances under which the Pope's Nuncio is come to this country:

His excellency the Archbishop of Nisibi, the Pope's Nuncio, is nearly related to his royal highness the Prince Regent of Portugal. This most venerable Prelate, upwards of 70 years of age, sailed from Lisbon in a Portuguese ship, bound to the Axore Islands, with the intention of proceeding as soon as possible, to the Brazils; but the vessel having been much damaged by heavy seas and contrary winds, his excellency, with other passengers, and the owner of the ship, thought it advisable, for the safety of their lives to return to Portugal; fortunately, however, the Mediator met them at some distance from Lisbon, when captain Blamey, with every humane assistance and polite attention, welcomed them on board, and carried them to Plymouth, where the Mediator arrived on Wednesday last. The Portuguese ship was sent for La Renorgue, where, she arrived in safety. His Excellency was received on his arrival at Dock with every mark of respect due to his character. The Reverend L'Abbe Gilbard, Minister of the Catholic church at Stonehouse, immediately waited upon his excellency, and delivered a complimentary and elegant address, in Latin, to him, on his safe arrival in this country and his escape from the military oppression now exercised by the French army in Portugal; to which his excellency immediately replied, in pure and nervous Latin, and stated, with much emotion and feeling of gratitude, how much himself and other emigrants of Portugal were indebted to the generous and