grand jury, then I hope the whole evidence will be laid before the world; and we shall hear no more of rumors and prejudice.

These gentlemen say "shall you pretend to order us: shall you dictate." No, sir, the law must dictate. The gentlemen, indeed, have produced a series of irrelevant writings and papers; and they must forsooth pursue a chronological order. No, sir. Away with such informalities. Let gentlemen prove an assemblage of men for war. Let them prove the overt act. If they do not, I confidently hope that Colonel Burr will be discharged. Mr. Wickham here read a quotation from "Foster's Discourses on High Treason."

Mr. Burr did not expect an opinion of the court since no motion had been made. Mr. Wickham had only given notice to the opposite side, that they should follow the strictest rules of law. If it was for a suit of 10l. only, he should ask for the laws of evidence.

The Chief Justice said, it would certainly be better, if evidence was produced to prove the fact first, and the evidence to show their coloring: for no evidence certainly has any bearing upon the present case, unless the overt act be proved. However, if the attorney for the U. S. thinks the chronological order the best, he may pursue his own course; but the court trusts to him that he will produce nothing, which does not bear upon the case.

Mr. Wirt. We coincide with the opinion of the court, that an overt act ought to be proved, and that we ought to produce no evidence at all, unless we believed we had enough to prove the overt act. We do believe that we have sufficient evidence for this purpose: but we think it best, to pursue something like a chronological order; to take this conspiracy in its germ, to go on step by step, and to trace out every event as they subsequently arose.

Mr. Hay observed that it would be necessary to give evidence to show the temper of mind of the accused: as for instance, Mr. Stoddert would show his hostility to the administration, and even to the government: to show how his disposition of mind might lead to treasonable designs, to plans, and thence to overt acts. This was the natural order of things and of the evidence. He hoped; that in drawing out his evidence, the court would rely upon his humanity, that he would produce none which he did not believe to bear upon the fact.

Mr. Randolph said, that however he might respect that gentleman's humanity, he knew too well the temper of any prosecution, to expect much from it. They are for strict law, said Mr. R. and so are we. In England before a witness is heard, it must be stated in general terms what he intends to prove. The same practice ought to prevail here. Let the attorney for the U. S state the substance of each part of the testimony he is to produce, and the court will then perceive whether it is calculated to bear upon the case itself, or whether it is only intended to inflame the public prejudices against col. Burr. We demand, that the overt act be first proved! without that, the accessory evidence is of no kind of use. Let that be established, and the accessory facts will then have their weight. I hope, sir, if the attorney for the U. S. does not introduce his evidence on that point, we shall be at liberty to suppress all the irrelevant testimony.

Mr. Botts, said he should leave it to the court.

Mr. Hay. Agreed.

The Chief Justice decided, that the attorney of the U. S. might pursue whatever course he thought best.

Mr. Botts. Send us the written testimony before you submit it to the court.

Mr. Hay. As I said before, I shall take up the depositions first; and then the *viva voce* testimony, in a chronological order. I shall first introduce gen. Wilkinson's deposition.

Some desultory conversation, then ensued between Mr. Hay and Mr. Botts, on the latter's demanding the liberty of examining the deposition. At length Mr. Hay handed the paper to him.—Mr. Botts then addressed the court.

(As Mr. Bott's speech contains an explanation of much of the course, which is probably to be pursued by col. Burr's counsel, particularly in regard to instructions from the court to the grand jury on the evidence; we have published it at some length.)

Mr. Botts. In my objections to gen. Wilkinson's affidavit, I may be compelled to question the correctness of principles, in favor of which the court has expressed an impression. It has been our misfortune to have been drawn out into a desultory discussion of some of the propositions fixing limits to the examination; when these propositions had such relation to each other and among themselves as to render it difficult to fortify one effectually against assault, without the support of the others. And although the subject was not wanting in novelty or importance to fit it for solemn argument, yet the complaints of the prosecutor so often, so loudly and so causelessly repeated, has forced from the court a premature intimation of judgment. I feel the perplexity of my situation most sensibly, and shall hope for the indulgence of the court, if I should unwarily stray into the seeming indecorum of resisting, now and then, an inclination of the mind of the bench. Whenever I venture into a scene so delicate, I shall present to the court authorities not to be resisted.

The opinion of the supreme court overruling the objection, that the oath administered to gen. Wilkinson was extrajudicial, fixes the law for this court.

The best evidence that the nature of the case will admit of, should be produced. This rule applies to *every* stage of *every* case in *every* court. The failure to produce the best evidence that the nature of the case admits of furnishes a presumption, that the higher evidence left behind, would, if produced, make against the party offering the weaker. All this is familiar in civil cases, where 40s. may be the quantum of interest in litigation. The benefit of this common law & common sense ought not to be lost, when the liberty of a citizen is concerned—when a 6 months dungeon may be the object of the motion.

The supreme court considered an affidavit as the best evidence the case *then* admitted of. The accusation was fresh, and neither time or means had been allowed for procuring a personal attendance. Now the accusation is old and the government has had all the necessary means of bringing the witness here. The circumstances do therefore now admit of higher evidence than an exparte affidavit.

The *viva voce* testimony of gen. Wilkinson is the right of my client. No man should be deprived of the benefit of a cross examination without necessity. You have in another place said, sir, that it was to be made out only by inference from gen. Wilkinson's affidavit that col. Burr was the writer of the letter in cypher. If the witness was here he would impugn that inference by swearing that it was not in col. Burr's hand writing. If general Wilkinson were present would you admit his affidavit? If he ought to have been present and the government would not get him, shall the prosecution be favored for its negligence?

But the present charge is confined to High Treason in levying war against the U. S. and the great question is, whether Wilkinson's evidence is in any form pertinent to the charge? I do not mean to urge the objection, that if it developes any criminal purpose, it is not a treasonable purpose, for this construction has been settled by the supreme court. Admitting for the time, that it contained evidence of a treasonable purpose, and that the supreme court is to be overruled, still the evidence would be most impertinent upon the present charge of *actual* treason.

I have alluded to the legal propositions, intended to be pressed, as forming legal restrictions upon the task in which we are engaged. I will first combine them, that their fitness to each other, and their collective effects, may be seen. My second process will be to disunite them, and by an analytical comparison of them, with the known principles of our treason laws, to ascertain their legality.

No evidence of any matter ought to be given until proof shall be adduced that there was an actual war levied in the district of Virginia; and until it is proved that an overt act of treason, in that war, was done by Col. Burr:—which proofs shall be by two witnesses at least.

First: It must be proved that there was an actual war. A war consists wholly in acts and not in intentions.—The acts must be in themselves acts of war; and if they be not so intrinsically, words or intentions cannot make them so. In England, when conspiring the death of the king was treason, the *quo animo* formed the essence of the offence; but in America, the national convention has confined treason to the *act.* We cannot have a constructive *war*, within the meaning of the constitution. An intention to levy war, is not evidence that a war was levied. Intentions are always mutable and variable. The continuance of guilty intentions is not to be presumed. If this were not the case, the avowal of a purpose to levy war, would fix the crime: For a proved intention might be attached to the next innocent act of the person who formed it; and so preparations of emigration be turned into a levying of war.

It has been eloquently declared that war cannot exiſt in a cloſet or a corner; but when levied it muſt be in the face of the world. This cannot be true, if the receſſes of the boſom are to be explored for any of the ingredients in the compoſition of the crime of levying war. The guilty intention muſt be made manifeſt from the act alone.

Gen. Wilkinſon profeſſes to known nothing but of the intentions which are not evidence of acts.

2ndly: The war muſt not only have been levied, but col. Burr muſt be proved to have committed an overt act of treaſon in that war. A treaſonable *intention* to co-operate is no evidence of an actual co-operation. The acts of treaſon of others even if in purſuance of his plan, would be no evidence againſt him. It might not be neceſſary that he ſhould be preſent perhaps, but he muſt be, at the time of levying the war, co-operating by acts; or in the language of the conſtitution, be committing overt acts. The act of aſſociates in a treaſonable plan, in countries where the doctrine of conſtructive war prevails, can never be given in evidence againſt the accuſed until after the plan has been proved on the latter, and until ſuch acts ſhall appear to have been within the limits of that plan, 1 Eaſt's Power Law 96 97. Part of the proof in this affidavit is of the declarations of a ſuppoſed aſſociate as to what the plan itſelf was. But in this country, as there cannot be a conſtructive treaſonable war plans and acts of aſſociates can only come in, when the former has been executed and the latter has been viſibly and publicly aſſiſted. Vol. 4, Tucker's Black, Appendix B.

(Mr. Botts's speech to be continued.)

WASHINGTON CITY.

FRIDAY, JUNE 12.

Among the late donations to Peale's Museum we notice "a specimen of paper made according to the patent of Mr. Charles McKenzie for manufacturing paper of any length and of considerable breadth."

It would be highly satisfactory to be advised what is the relative price of various sizes of paper above the ordinary dimensions.

A gentleman who came passenger in the Amelia, from London, assures us, that the conduct of Mr. Monroe has been highly approved of by the mercantile interest of that city—and that a public and very splendid Dinner was to be given him by the merchants, as a mark of their respect for his vigilant exertions in endeavoring to restore a friendly intercourse between that country and the U. States.

Boston Paper.

Mr Jefferson's reply to the ministers and Messengers of the Baptist Church of North Carolina.

Washington, June 24, 1806.

SIR,

I have duly received the addreſs ſigned by yourſelf on behalf of the miniſters and meſſengers of the ſeveral Baptiſt churches of the North Carolina Chowan aſſociation held at Salem, and I proffer my thanks for the favorable ſentiments which it expreſſes towards myſelf perſonally. The happineſs which our country enjoys in the purſuits of peace and induſtry ought to endear that cauſe to all its citizens, and to kindle their hearts with gratitude to the Being under whoſe providence theſe bleſſings are held. We owe to Him eſpecially, thanks for the right we enjoy to worſhip Him, every one in his own way, and that we have been ſingled out, to prove by experience, the innocence of freedom in religious opinions and exerciſes, the power of reaſon to maintain itſelf againſt error, and the comfort of living under laws which aſſure us that in theſe things, "There is none who ſhall make us afraid."

I am peculiarly gratified by the confidence you expreſs that no attempt will ever be made by me, to violate the truſt repoſed in me by my fellow-citizens—or to endanger their happineſs. In this confidence you ſhall never be diſappointed. My heart never felt a wiſh unfriendly to the general good of my fellow citizens.

Be ſo kind to preſent my thanks to the churches of your aſſociation, and to aſſure them of my prayers for the continuance of every bleſſing to them now & hereafter; and accept yourſelf my ſalutions and aſſurance of great reſpect and conſideration.

TH: JEFFERSON.

Mr. George Outlaw.

FOR THE NATIONAL INTELLIGENCER.

Mr. Smith,

TO plant or cover seed shallow in a wet season, and deep in proportion to the drouth, and stiffness of the soil, is known, and generally believed to be a correct principle in agriculture. However like many other articles of belief it lies dormant in the minds of many an has no effect upon their conduct. This has been very fully proved this last spring, which has been uncommonly backward, rainy, and cold. The corn and oats have generally come up very badly, owing to the inattention to that principle and covering the grain in the customary manner, the oats with the plough, and the corn with a hoe full of earth. Many of our planters are not done replanting yet, and several have lost all their oats. A neighbor of mine, aware of the importance of consulting the season, the nature of the soil, and circumstances, began planting on the 13th of April, which this year was early. He attended in his field during the whole time of planting, and was careful not to suffer his workmen to cover too deep, which from long habit, they are prone to do, he told me he had infinite difficulty to get them out of the old common way in which they were hackneyed. This knack is one and the same for all seasons. His method was to throw on one spoonful of light earth just enough to hide it from the birds. In eight days in that humid chilly season, it was *all* up. I walked through it two days ago and there was not one single hill missing, and was most flourishing, notwithstanding it had been bitten by a severe frost. This gentleman was much dissuaded by several persons from adopting that mode, he was told that the seed would all wash out of the ground and a variety of other evils were threatened, no doubt that the roots would not have sufficient hold—that in one hot day the sun would kill it—that the crows would pull it up—and so by the by they would, unless it was watched or tarred, and limed or soaked in hellebore, and rolled in plaister of Paris or some other preventative used. However in spite of all these threatened evils, his success has been complete. Many will lament not having followed his example, and not having used a harrow instead of a plough to put in oats, and no one more so than

A St. Mary's Farmer.

FOR THE NATIONAL INTELLIGENCER.

"The Friends of Order."

Among the deceptive art, which have been reſorted to, by the party ſliled *Federaliſts*, none appear more palpable, than that of aſſuming to themſelves the appellation of "friends of order". A brief view of their conduct for the laſt ten years will prove the truth of this remark.

It is notorious that during the late adminiſtration, when every perſon who queſtioned the *infallibility of the Ex-President*, was denounced as a jacobin, and a diſorganizer, thoſe who arrogantly aſſumed the appellation of "friends of order," were continually violating the laws of their country. As a proof of which witneſs the lawleſs acts and daring outrages which were committed by armed aſſociations, of theſe pretended "friends of order." Who can forget the diſgraceful ſcenes which were acted in the ſtreets of our principal cities during the years 1798 and 1799.—A period which has juſtly been called "the reign of terror," and which threatened to demoliſh the *temple of liberty*, and erect on its ruins *Bastiles* and other *edifices of despotism.*

Although we have not witneſſed a repetition of theſe outrages, ſince the mild reign of the law has ſucceeded that of terror and proſcription, the party ſliled *federaliſts* have nevertheleſs given *fresh proofs of their love of order and respect for the constituted authorities.* This muſt be admitted by every candid and unprejudiced perſon who has (for the laſt ſix years) peruſed the papers attached to this faction. Marats, L'Ami du Peuple and ſome other jacobin papers, (which were publiſhed during the French Revolution) have frequently been noticed on account of the diſorganizing principles which were therein advocated, but I queſtion whether even thoſe papers contained more *sedition*, more *calumny*, more *misrepresentation*, more *malignant, and unfounded charges* againſt the *constituted authorities*, than can be found in the *Boston Repertory and New York Evening Post*, as well as in many other papers which are patroniſed by "the friends of order."

Some of the oppoſition papers, have indeed ventured a ſtep farther than even *L'Ami du Peuple.* Marat never advocated a diſmemberment of the French Republic, whereas a *dissolution of the American Confederacy* has been indirectly recommended in ſeveral papers that are in the intereſt of "the friends of order." There is likewiſe reaſon to believe that many of theſe *worthy patriots* were concerned in a recent attempt to ſeparate the Weſtern from the Atlantic States. The lively intereſt which "the friends of order" ſeem to take in the fate of the *principal conspirator*, ſeems to juſtify a belief that his treaſonable machinations were not unknown to them, or at leaſt to their leaders. Many other facts and circumſtances might be ſtated to ſhew that the *federaliſts* (as they are called) do not merit the appellation which they have aſſumed, I ſhall however concluſe with calling on every candid perſon who has hitherto adhered to this junto, to open his eyes and conſider the management of theſe ambitious men, who to make themſelves powerful in their party, ſtudy nothing but how they may *foment divisions in the Commonwealth.*

CATO.

Norfolk, June 5.

Mr. Purviance, secretary of legation at London, has arrived from Washington with dispatches of the government for our Ministers and Commissioners Extraordinary at the court of St James's, with which he will proceed immediately on board the Wasp sloop of war, capt. Smith.

Philadelphia, June 9.

A passenger on board the schooner Hannah, captain Brownlow, arrived at Baltimore in 29 days from New Orleans informs, that Gen. Wilkinson and Commodore Shaw, were to sail for the former place about the 12th of May, in one of the U. States' schooners.

Boston, June 5.

The following is an extract of a letter from a British officer, at Monte Video, dated Feb. 7.

"We are at length in possession of this place, the only fortified one in this country. It would have fallen an easy conquest, had not some French adventurers (Mordelli their Chief) stirred the country against us. Mordelli and most of his companions were killed in the assault, and the natives flock in numbers, returning to their homes and occupations. If we can but reconcile the country to our government, hundreds from Britain and Ireland would emigrate. This is the finest climate imaginable.

"Gen. Craufurd, with a force equal to ours, is expected hourly. The object of his expedition was intended to be distinct from this; but he has orders to call here, and I fancy the commander of the forces will think it necessary to detain him before we proceed to Buenos Ayres. One half of our troops are in the fortifications, the other half encamped on a neck of land, three miles from town. We are all in high spirits."

Salem, June 2.

On Wednesday last the Hopewell, capt. Rea, arrived here from Hamburg, which place she left on the 17th of April. The last news received there respecting the war was similar to what we have had here—that Massena had made a movement which it was expected would immediately bring on another general battle. As to peace, tho' there had all winter been some talk of it, yet it was an event that in Hamburg was not expected soon to take place.

HAMBURG, APRIL 10.

We have just received the important news of the failure of the English at Constantinople. After sustaining some loss, they were obliged to leave the Dardanelles. It is reported that Gen. Sebastiani is charged with the defence of the coasts. The courier who brought this intelligence to Vienna, left Constantinople on the 12th of March. It is supposed that the English merchandise in Constantinople, amounts to more than 50,000,000 (probably rix dollars) and is expected to be seized. The Turks manifest great ardor, and gen. Sebastiani frequently finds it difficult to restrain them.

The head quarters of his majesty the Emperor of France, were still at Osterode on the the 2d of April.

The Editor of the National Intelligencer, having, from a regard to his health, determined to exchange his present profession for one less laborious, offers to dispose of his establishment, consisting of the National Intelligencer, printed three times a week, and the Universal Gazette, printed weekly. This disposition will only be made to a person of sound republican principles. It is desirable that the terms should be arranged by personal communication with the Editor.

The Editors of Republican prints throughout the union will confer a favor by inserting this advertisement a few times in their papers.

FOR SALE,

TWO HOUSES on a corner lot, on Eighth and L ſtreets, in the city of Waſhington, oppoſite the entrance into the Navy Yard.—This property as a ſtand for buſineſs, is equal, if not ſuperior, to any in the city. One of the houſe, now in the occupation of David Bate, is a frame; the other a brick. A particular deſcription is deemed unneceſſary, as it is preſumed no one would purchaſe without viewing the property, which will be ſhewn, and the terms made known, upon application to Mr. Wm. Prout near the premiſes, who is authorized to rent the brick building, until the whole can be ſold.

June 12, 1807. 3t

By virtue of a decree of the hon. the circuit court of the diſtrict of Columbia for the county of Waſhington in the ſuit of
Charles Wadſworth—complainant,
verſus
Owen Roberts and Jane his wife, George N. Lyles John Harper and James Keith.—defendants.

Will be ſold at Public Auction

to the higheſt bidder on Saturday the 18th day of July next at Rhodes's hotel in the city of Waſhington, the eaſternmoſt part of Lot No. 18 in ſquare number 168 in the ſaid city of Waſhington, together with the two ſtory Brick Dwelling Houſe thereon erected and other the improvements to the ſaid part of a lot belonging or appertaining. The above houſe joins the one now in the occupation of Mr. White the teacher of the Weſtern School. Any perſon deſirous of purchaſing ſaid property may be ſhewn it by applying at the Clerk's Office.

The ſale to commence at 12 o'clock preciſely. The terms caſh, or money to be paid immediately on the ſale's being ratified by the court.

LEWIS FORD, Truſtee.

June 12—wtdoſ

FOR SALE,

A HANDSOME GIG AND HARNESS.

Apply to Joſeph Semm's, tavern-keeper for for further information.

Georgetown, June 12—3t

TEAS, SUGARS, BRANDY, RICE, &c.

WALTER & CLEMENT SMITH, have juſt received by the ſchooner Citizen, captain Sturges, and Providence captain Travers, from New York, and offer for ſale at their Warehouſe oppoſite Lowndes's wharf—

30 cheſts freſh Hyſon, Young Hyſon, and Hyſon Skin Teas of fine quality,
100 boxes of 7lb. and 14lb. each } Superior and freſh Hyſon, Imperial and Gunpowder
200 leads 2lb. each } Tea, put up in Canton for family uſe,
4 cheſts ſingle Hyſon,
7 pipes high 4th proof and well flavored Bordeaux Brandy,
80 tierces Rice,
15 hhds beſt Surinam Molaſſes,
40 hhds. } Prime St. Croix and Trinadad
30 barrels } Sugars,
15 hhds. Martinique claved Sugar, entitled to drawback and certificate,
40 boxes Claret and Frontignac wines, one dozen each,
30 boxes Olives and Capers,
10 baſkets beſt refined Sweet Oil, 6 bottles each,
10 boxes London Muſtard,
6 hhds. Spermaceti and Whale Oil,
100 Demijohns,
Pimento, Ginger, Nutmegs, Cloves, Fruits, &c.

And in Store,

Old Cogniac Brandy very fine, Holland and country Gin, Whiſkey, Peach and Apple Brandy, Sherry Liſbon, Teneriffe, Port, Catalonia and old Madeira Wines, old Jamaica Spirits, Weſt India Rum, Segars, Lemons in boxes. Loaf and Lump Sugars, coarſe Liſbon Salt, &c

Georgetown, May 27—2awtf