

which I have access. The constitution of the United States declares it to be the province and duty of the President "to give to Congress, from time to time, information of the state of the Union, and recommend to their consideration such measures as he shall judge expedient and necessary." Has he done it? I know, sir, that we may say, and do say, that we are independent (would it were true); as free to give a direction to the executive as to receive it from him. But do what you will, foreign relations — every measure short of war, and even the course of hostilities — depend upon him. He stands at the helm and must guide the vessel of state.

I think our citizens just as well entitled to know what has passed as the Marquis Yrujo, who has bearded your President to his face, insulted your government within its own peculiar jurisdiction, and outraged all decency. Do you mistake this diplomatic puppet for an automaton? He has orders for all he does. Take his instructions from his pocket to-morrow, they are signed "Charles Maurice Talleyrand."

Let the nation know what they have to depend upon. Be true to them, and trust me, they will prove true to themselves and to you. The people are honest; now at home at their plows, not dreaming of what you are about. But the spirit of inquiry that has too long slept will be, must be, awakened. Let them begin to think; not to say such things are proper because they have been done, but, what has been done? and wherefore? — and all will be right.

WILLIAM WIRT

WILLIAM WIRT, an able American lawyer, author, and orator, was born at Bladensburg, Md., Nov. 8, 1772, and died at Washington, D. C., Feb. 18, 1834. After an education obtained at several classical schools, he studied law, was admitted to the Bar in 1792, and began the practice of his profession at Culpeper Court House, Va. Having won notice as a lawyer, he removed in 1799 to Richmond; there becoming, first, clerk to the House of Delegates, and later, chancellor of the eastern district of Virginia. He was in 1807 assisting-prosecuting counsel in the trial of Aaron Burr, the principal speech which he delivered on this occasion occupying four hours. It still remains his most admired effort and is familiar to most readers. Less noted, but still noteworthy, speeches by Wirt are those on the deaths of Jefferson and Adams in 1826, and one delivered in 1830 at Rutgers College. In 1817, Wirt removed to Washington, on his appointment as Attorney-General of the United States, in Monroe's administration, but resigned this post in 1829, and for the remainder of his life pursued the practice of his profession at Baltimore. Wirt's early style of oratory was ornate, but in later life it assumed a more sober, dignified character, his speeches being then remarkable for their close reasoning, discrimination, and keen analysis. He was unusually fine looking and possessed a clear, melodious voice and a calm, self-possessed manner of delivery. His writings include "Letters of a British Spy" (1803); "The Old Bachelor," a series of essays, (1812); "The Two Principal Arguments in the Trial of Aaron Burr" (1808); "Sketches of the Life and Character of Patrick Henry" (1817), and various addresses.

SPEECH IN THE TRIAL OF AARON BURR

[In May, 1807, Aaron Burr was arraigned in the Circuit Court of the United States, held at Richmond, Virginia, for treason in preparing the means of a military expedition against the possessions of the King of Spain, with whom the United States were at peace. Under the direction of President Jefferson Mr. Wirt was retained to assist the United States attorney in the prosecution, and in the course of the trial he spoke as follows:]

MAY IT PLEASE YOUR HONORS,—It is my duty to proceed, on the part of the United States, in opposing this motion. But I should not deem it my duty to oppose it if it were founded on correct principles. I stand here with the same independence of action which belongs to the attorney of the United States; and as he would certainly

relinquish the prosecution the moment he became convinced of its injustice, so also most certainly would I. The humanity and justice of this nation would revolt at the idea of a prosecution pushed on against a life which stood protected by the laws; but whether they would or not, I would not plant a thorn, to rankle for life in my heart, by opening my lips in support of a prosecution which I felt and believed to be unjust.

But believing, as I do, that this motion is not founded in justice, that it is a mere manœuvre to obstruct the inquiry, to turn it from the proper course, to wrest the trial of the facts from the proper tribunal, the jury, and embarrass the court with a responsibility which it ought not to feel, I hold it my duty to proceed—for the sake of the court, for the sake of vindicating the trial by jury, now sought to be violated, for the sake of full and ample justice in this particular case, for the sake of the future peace, union, and independence of these States, I feel it my bounden duty to proceed. In doing which I beg that the prisoner and his counsel will recollect the extreme difficulty of clothing my argument in terms which may be congenial with their feelings.

The gentlemen appear to me to feel a very extraordinary and unreasonable degree of sensibility on this occasion. They seem to forget the nature of the charge and that we are the prosecutors. We do not stand here to pronounce a panegyric on the prisoner, but to urge on him the crime of treason against his country. When we speak of treason we must call it treason. When we speak of a traitor we must call him a traitor. When we speak of a plot to dismember the Union, to undermine the liberties of a great portion of the people of this country, and subject them to a usurper and a despot, we are obliged to use the terms which convey those ideas.

Why then are gentlemen so sensitive? Why on these occasions, so necessary, so unavoidable, do they shrink back with so much agony of nerve as if, instead of a hall of justice, we were in a drawing-room with Colonel Burr and were barbarously violating towards him every principle of decorum and humanity?

Mr. Wickham has, indeed, invited us to consider the subject abstractly, and we have been told that it is expected to be so considered; but, sir, if this were practicable, would there be no danger in it? Would there be no danger, while we were mooting points, pursuing ingenious hypotheses, chasing elementary principles over the wide extended plains and Alpine heights of abstract law, that we should lose sight of the great question before the court?

This may suit the purposes of the counsel for the prisoner; but it does not, therefore, necessarily suit the purposes of truth and justice. It will be proper, when we have derived a principle from law or argument, that we should bring it to the case before the court, in order to test its application and its practical truth. In doing which we are driven into the nature of the case and must speak of it as we find it.

But, besides, the gentlemen have themselves rendered this totally abstract argument completely impossible; for one of their positions is that there is no overt act proven at all. Now, that an overt act consists of fact and intention has been so often repeated here that it has a fair title to Justice Vaughan's epithet of a "decantatum." In speaking then of this overt act we are compelled to inquire, not merely into the fact of the assemblage, but the intention of it; in doing which we must examine and develop the whole project of the prisoner. It is obvious, therefore, that an abstract examination of this point cannot be made; and since the gentlemen

drive us into the examination they cannot complain if, without any softening of lights or deepening of shades, we exhibit the picture in its true and natural state.

This motion is a bold and original stroke in the noble science of defence. It marks the genius and hand of a master. For it gives to the prisoner every possible advantage, while it gives him the full benefit of his legal defence—the sole defence which he would be able to make to the jury if the evidence were all introduced before them. It cuts off from the prosecution all that evidence which goes to connect the prisoner with the assemblage on the island, to explain the destination and objects of the assemblage, and to stamp beyond controversy the character of treason upon it. Connect this motion with that which was made the other day, to compel us to begin with the proof of the overt act, in which, from their zeal, gentlemen were equally sanguine, and observe what would have been the effect of success in both motions? We should have been reduced to the single fact, the individual fact, of the assemblage on the island, without any of the evidence which explains the intention and object of that assemblage. Thus gentlemen would have cut off all the evidence which carries up the plot almost to its conception, which, at all events, describes the first motion which quickened it into life, and follows its progress until it attained such strength and maturity as to throw the whole western country into consternation.

Thus, of the world of evidence which we have, we should have been reduced to the speck, the atom which relates to Blennerhassett's Island. General Eaton's deposition (hitherto so much and so justly revered as to its subject), standing by itself would have been without the powerful fortification derived from the corroborative evidence of Commodore

Truxton and the still stronger and most extraordinary coincidence of the Morgans. Standing alone, gentlemen would have still proceeded to speak of that affidavit as they have heretofore done; not declaring that what General Eaton had sworn was not the truth, but that it was a most marvellous story! a most wonderful tale! and thus would they have continued to seek, in the bold and wild extravagance of the project itself, an argument against its existence and a refuge from public indignation.

But that refuge is taken away. General Eaton's narration stands confirmed beyond the possibility of rational doubt. But I ask what inference is to be drawn from these repeated attempts to stifle the prosecution and smother the evidence? If the views of the prisoner were, as they have been so often represented by one of his counsel, highly honorable to himself and glorious to his country, why not permit the evidence to disclose these views?

Accused as he is of high treason, he would certainly stand acquitted, not only in reason and justice, but by the maxims of the most squeamish modesty, in showing us by evidence all this honor and this glory which his scheme contained.

No, sir, it is not squeamish modesty; it is not fastidious delicacy that prompts these repeated efforts to keep back the evidence; it is apprehension; it is alarm; it is fear; or rather it is the certainty that the evidence, whenever it shall come forward, will fix the charge; and if such shall appear to the court to be the motive of this motion, your honors, I well know, will not be disposed to sacrifice public justice, committed to your charge, by aiding this stratagem to elude the sentence of the law; you will yield to the motion no further than the rigor of legal rules shall imperiously constrain you.

I shall proceed now to examine the merits of the motion

itself, and to answer the argument of the gentleman [Mr. Wickham], who opened it. I will treat that gentleman with candor. If I misrepresent him, it will not be intentionally. I will not follow the example which he has set me on a very recent occasion. I will not complain of flowers and graces where none exist. I will not, like him, in reply to an argument as naked as a sleeping Venus, but certainly not half so beautiful, complain of the painful necessity I am under, in the weakness and decrepitude of logical vigor, of lifting first this flounce and then that furbelow before I can reach the wished-for point of attack. I keep no flounces or furbelows ready manufactured and hung up for use in the millinery of my fancy, and if I did, I think I should not be so indiscreetly impatient to get rid of my wares as to put them off on improper occasions.

I cannot promise to interest you by any classical and elegant allusions to the pure pages of "Tristram Shandy." I cannot give you a squib or a rocket in every period. For my own part, I have always thought these flashes of wit (if they deserve that name), I have always thought these meteors of the brain, which spring up with such exuberant abundance in the speeches of that gentleman, which play on each side of the path of reason, or, sporting across it with fantastic motion, decoy the mind from the true point in debate, no better evidence of the soundness of the argument with which they are connected, nor, give me leave to add, the vigor of the brain from which they spring, than those vapors which start from our marshes and blaze with a momentary combustion, and which, floating on the undulations of the atmosphere, beguile the traveler into bogs and brambles, are evidences of the firmness and solidity of the earth from which they proceed.

I will endeavor to meet the gentleman's propositions in their

full force and to answer them fairly. I will not, as I am advancing towards them with my mind's eye, measure the height, breadth, and power of the proposition; if I find it beyond my strength, halve it; if still beyond my strength, quarter it; if still necessary, subdivide it into eighths; and when by this process I have reduced it to the proper standard take one of these sections and toss it, with an air of elephantine strength and superiority.

If I find myself capable of conducting, by a fair course of reasoning, any one of his propositions to an absurd conclusion, I will not begin by stating that absurd conclusion as the proposition itself which I am going to encounter. I will not, in commenting on the gentleman's authorities, thank the gentleman, with sarcastic politeness for introducing them, declare that they conclude directly against him, read just so much of the authority as serves the purpose of that declaration, omitting that which contains the true point of the case which makes against me; nor, if forced by a direct call to read that part also, will I content myself by running over it as rapidly and inarticulately as I can, throw down the book with a theatrical air, and exclaim, "Just as I said," when I know it is just as I had not said.

I know that by adopting these arts I might raise a laugh at the gentleman's expense; but I should be very little pleased with myself if I were capable of enjoying a laugh procured by such means. I know, too, that by adopting such arts there will always be those standing around us who have not comprehended the whole merits of the legal discussion, with whom I might shake the character of the gentleman's science and judgment as a lawyer. I hope I shall never be capable of such a wish, and I had hoped that the gentleman himself felt so strongly that proud, that high, aspiring, and ennobling

magnanimity which I had been told conscious talents rarely fail to inspire, that he would have disdained a poor and fleeting triumph gained by means like these.

I proceed now to answer the several points of his argument, so far as they could be collected from the general course of his speech. I say, so far as they could be collected; for the gentleman, although requested before he began, refused to reduce his motion to writing. It suited better his partisan style of warfare to be perfectly at large; to change his ground as often as he pleased; on the plains of Monmouth to-day, at the Eutaw Springs to-morrow. He will not censure me, therefore, if I have not been correct in gathering his points from a desultory discourse of four or five hours' length, as it would not have been wonderful if I had misunderstood him. I trust, therefore, that I have been correct; it was my intention to be so; for I can see neither pleasure nor interest in misrepresenting any gentleman; and I now beg the court, and the gentleman, if he will vouchsafe it, to set me right if I have misconceived him.

I understood him, then, sir, to resist the introduction of further evidence under this indictment by making four propositions.

First. Because Aaron Burr, not being on the island at the time of the assemblage, cannot be a principal in the treason, according to the constitutional definition or the laws of England.

Second. Because the indictment must be proved as laid; and as the indictment charges the prisoner with levying war, with an assemblage on the island, no evidence to charge him with that act, by relation, is relevant to this indictment.

Third. Because, if he be a principal in the treason at all, he is a principal in the second degree; and, his guilt being of that kind which is termed derivative, no parol evidence can be let in to charge him until we shall show a record of the conviction of the principals in the first degree.

Fourth. Because no evidence is relevant to connect the prisoner with others, and thus to make him a traitor by relation, until we shall previously show an act of treason in these others; and the assemblage on the island was not an act of treason.

I beg leave to take up these propositions in succession, and to give them those answers which to my mind are satisfactory. Let us examine the first: it is because Aaron Burr, not being present on the island at the time of the assemblage, cannot be a principal in the treason within the constitutional definition or the laws of England.

In many of the gentleman's general propositions I perfectly accord with him: as that the constitution was intended to guard against the calamities to which Montesquieu refers when he speaks of the victims of treason; that the constitution intended to guard against arbitrary and constructive treasons; that the principles of sound reason and liberty require their exclusion; and that the constitution is to be interpreted by the rules of reason and moral right.

I fear, however, that I shall find it difficult to accommodate both the gentlemen who have spoken in support of the motion, and to reconcile some of the positions of Mr. Randolph to the rules of Mr. Wickham; for, while the one tells us to interpret the constitution by sound reason, the other exclaims, "Save us from the deductions of common sense." What rule then shall I adopt? A kind of reason which is not common sense might indeed please both the gentlemen; but, as that is a species of reason of which I have no very distinct conception, I hope the gentlemen will excuse me for not employing it. Let us return to Mr. Wickham.

Having read to us the constitutional definition of treason, and given us the rule by which it was to be interpreted, it was natural to expect that he would have proceeded directly to