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978-1-107-02218-8 - The Treason Trial of Aaron Burr: Law, Politics, and the Character Wars of the New Nation

R. Kent Newmyer

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The Treason Trial of Aaron Burr

Law, Politics, and the Character Wars of the New Nation

The Burr treason trial, one of the greatest criminal trials in American history, was significant for several reasons. The legal proceedings lasted seven months and featured some of the nation's best lawyers. It also pitted President Thomas Jefferson (who declared Burr guilty without the benefit of a trial and who masterminded the prosecution), Chief Justice John Marshall (who sat as a trial judge in the federal circuit court in Richmond), and former Vice President Aaron Burr (who was accused of planning to separate the western states from the Union) against each other. At issue, in addition to the life of Aaron Burr, were the rights of criminal defendants, the constitutional definition of treason, and the meaning of separation of powers in the Constitution. Capturing the sheer drama of the long trial, R. Kent Newmyer's book sheds new light on the chaotic process by which lawyers, judges, and politicians fashioned law for the new nation.

R. Kent Newmyer received his PhD in history from the University of Nebraska in 1959. From 1960 to 1997, he taught American history at the University of Connecticut. Since 1997, he has been Professor of Law and History at the University of Connecticut School of Law. He has taught a wide range of graduate and undergraduate courses in American history, specializing in the political, constitutional, and legal history of the early national period. He received two awards for teaching and in 1988 was named Distinguished Alumni Professor for excellence in teaching and scholarship, the highest faculty honor bestowed by the university. As an author, Newmyer is best known for *Supreme Court Justice Joseph Story: Statesman of the Old Republic* (1985) and, most recently, *John Marshall and the Heroic Age of the Supreme Court* (2001). A second edition of his short volume on the Supreme Court under Marshall and Taney was published in 2006. Newmyer's books have been reviewed in various history journals and law reviews, as well as in the *New York Times*, the *Washington Post*, and the *New Republic*. Newmyer has appeared on C-Span's *Booknotes*, and most recently was a commentator in a National Public Television documentary on the U.S. Supreme Court, produced by Channel 13 in New York City.

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of the New Nation*

R. KENT NEWMYER

University of Connecticut



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*To my wife Rosanne Pelletier
To my brother Dan Newmyer
and his wife Paula Poppe Newmyer*

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“A trial in a Court of Justice is a trial of many things besides the prisoners at the bar.”

William Maxwell Evarts, closing address to the jury in the case of the Savannah Privateers, 1861

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The secondary scholarship on the Burr trial is extensive, and while I have consulted various accounts to support and/or clarify my argument, I have made no attempt to resolve the disputes among the numerous

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historians and biographers. Rather I have been guided as much as possible by the original documents – the reports of the trial and other court records, the newspapers, and the published and unpublished writings of the various participants. Accordingly, I owe a special debt to the editor-scholars and librarians who have made such research possible. My footnotes, I hope, pay suitable tribute to all of them, but two deserve special mention. Mary-Jo Kline’s scholarly two-volume edition of *Political Correspondence and Public Papers of Aaron Burr* has been indispensable to me; especially important has been her critical reassessment of the famous cipher letter that played such an important role in both Jefferson’s original decision to charge Burr with treason and also in the subsequent litigation.

Charles Hobson, past editor of the *Papers of John Marshall* and current editor of the St. George Tucker Law Papers at the College of William and Mary has as always been an invaluable source of information and advice to me, as well as to dozens of other scholars. Hobson’s account of the Burr trial with accompanying documents, prepared for the Federal Judicial Center as part of the project “Federal Trials and Great Debates in United States History,” is a model of exacting scholarship. Equally valuable has been his concise summary of Marshall’s multiple opinions in the trial (in his edited Volume 7 of the *Papers of John Marshall*). I have used the original reports of David Robertson and also those of Thomas Carpenter when citing Marshall’s opinions, but the full text of those opinions with useful introductory notes appears in Hobson’s Volume 7, as does Marshall’s correspondence relevant to the Richmond proceedings.

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