Title: Letter from Thomas Smith to Alexander Dallas
Date: October 11, 1792
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Yesterday I received your letter of the 5th instant; in consequence of which I applied to Mr. Duncan, who conducted the business on my behalf to make affidavit (as I knew he could) that John Montgomery, who resides in Hartford County, in the State of Maryland, has accordingly made before Samuel Young, one of the associate judges of this County. I beg leave to transmit it without delay for the reasons mentioned in my letter to the Governor on the subject. It occurred to me that such affidavit would be proper but as it did not appear from a similar requisition made to the Governor of this State, by the Governor of New Jersey, which the Chief Justice showed to me at the Court of Appeals, that it was accompanied by an affidavit to the best of my recollection, I supposed that a suggestion would be sufficient.

I have desired Mr. Duncan to write to Mr. Edmiston for exemplification of the Sheriff's return, most inveterate—although I am of opinion that on a re-examination you will find that it is subject to the exemplification of the indictment. I desired Mr. Duncan to apply for it as Mr. Edmiston was not much experienced in such business, to direct him how to make it out—how it was read out according to last inquiry: but as it was crowded towards the bottom (as recalled it was) he supposed it must on a slight glance, hence appeared to open to be the exemplification of the indictment only. If Mr. Edmiston made any mistake, I am persuaded it was not with design, although the defendant is his brother-in-law as I had employed Mr. Duncan, I did not examine it myself.

The prosecution is truly disgraceful to me, as besides the long acquaintance, personal regard between me & the defendant, worthy & pious father, there is a daily intercourse between his family & mine when I received your letter yesterday most of Mr. Montgomery's family were spending the afternoon at my house; they deplore the imprudence of inflicting young Nancy's wound; but they have been so delicate as not to hint a word that I would forbear the prosecution excepting the old gentleman in a letter which he wrote from the city to me immediately after the event, expressing his great anxiety of mind on the occasion & he rather signified his wish that I should than made any request that I would request his son. He has too much sense to expect that I am so far overtook the daily work
some to the station in which I was placed, as to decline presenting the def. even if he were my own son. I believe that Mr. Montgomery & his family see my conduct in a proper point of view, as they do not shew the least restraint to me, nor to them in consequence of the transaction. I mention this to satisfy the Governor & you that I am not actuated by revenge, but entirely from a deliberate sense of what becomes my office.

I had heard before I received your letter that the Governor had a slight fever, I was surprised; however, Doctor McTosh says, he is so great that the fever must soon pass off to find a more convenient lodging – The Dr. says the Governor was maintaining to some of the company a story that he had got that I had not heard of. After the horse had run away with him last winter, I refused him, & requested some of my friends to persuade him to part with that horse. Shall I request you to press my respectful compliments to his Excellency, supposing that he may not yet be perfectly recovered? I do not think it proper to call his attention to the business of this letter, & therefore I take the liberty of writing to you.

Carlisle 11th Oct. 1792

Sirs, with esteem,

Your very humble servant,

Thomas Smith.
Alexander James Dallas
Secretary of the State
of Pennsylvania
Sir,

Yesterday I received your letter of the 5th instant in consequence of which I applied to Mr. Duncan who conducts the business on my behalf, to make affidavit (as I knew he could) that John Montgomery Jr., Esq. resides in Hartford County in the State Of Maryland; this affidavit he has accordingly made before Samuel Land, Esq. one of the associate justices of this County, and I beg leave to it without delay, for the reasons mentioned in my letter to the Governor on the subject. It occurred to me that such affidavit would be proper but, as it did not appear from a similar requisition made to the Governor of this State by the Governor of New Jersey (which the Chief Justice showed to us at the Court of Error and Appeals), that it was accompanied by an affidavit, to the best of my recollection, I supposed that a suggestion would by sufficient.

I have desired Mr. Duncan to write to Mr. Edminton for an exemplification of the sheriff's return of non est juvenis although I am of opinion that on a reexamination you will find that it is subjoined to their Exemplification of the indictment; I desired Mr. Duncan to apply for it and as Mr. Edminton was not much experienced in such business, to direct him how to make it out - he says it was made out according to his directions; but as it was crowded towards the bottom (as I recollect it was) he supposes it must, on a slight glance have appeared to you to be the exemplification of the indictment only. - If Mr. Edminton made any mistake I am persuaded it was not with design, although the defendant is his brother-in-law: as I had employed Mr. Duncan I did not examine it myself.

The prosecution is truly disagreeable to me, as besides the long acquaintance and mutual regard between me and the Defendants worthy and distressed father, there is daily intercourse between his family and mine - when I received your letter yesterday most of Mr. Montgomery's family were spending the afternoon at my house: they deplore the intemperate and infatuated young man's conduct; but they have been so delicate as not to hint a wish that I would forbear the prosecution (excepting the old gentleman in a letter which he wrote from the city to me immediately after the event, expressive of his great anguish of mind on the occasion, and he rather signified his wish that I could than made any request that I would forgive his son. He has too much sense to expect that I can so far overlook the duty which I owe to the situation in which I am placed, as to decline prosecuting the defendant, even if he were my own son. I believe that Mr. Montgomery and his family see my conduct in a proper point of view, as they do not show the least coolness to me, nor I to them, in consequence of the transaction. I mention this to satisfy the Governor and you that I am not activated by rancour, resentment, or revenge, but wholly from a deliberate sense of what I owe to my office.

I had heard before I received your letter that the governor had a slight fever and was confined; however, Doctor McOskey assures me that his Excellency's flow of spirits is so great that the fever must soon scampar to find a more convenient lodging. The Dr. says the governor was acquainted to some of the company at sale that he had that I had not heard of. After his horse had run away with his last winter I pushed him, and requested some of his friends to persuade him to part with that horse. Shall I request you to present my respectful compliments to his excellency, or supposing that he may not yet be perfectly recovered, I do not think it proper to call his attention to the business of this letter, and therefore I take the liberty of writing to you.

Carlisle, 9th October, 1792

I am Sir, with esteem, your very humble servant,

Thomas Smith.