

*A visitor to the Chittenden County Courthouse on Burlington's Main Street will pass by two poster boards denoting important events in our courthouse's history. As the Assistant Judge, these events piqued my curiosity, and so I began to research some of the stories in depth. As a result, in conjunction with the Burlington Free Press, I am happy to present the seventh installment of "The Chittenden County Courthouse Chronicles."*

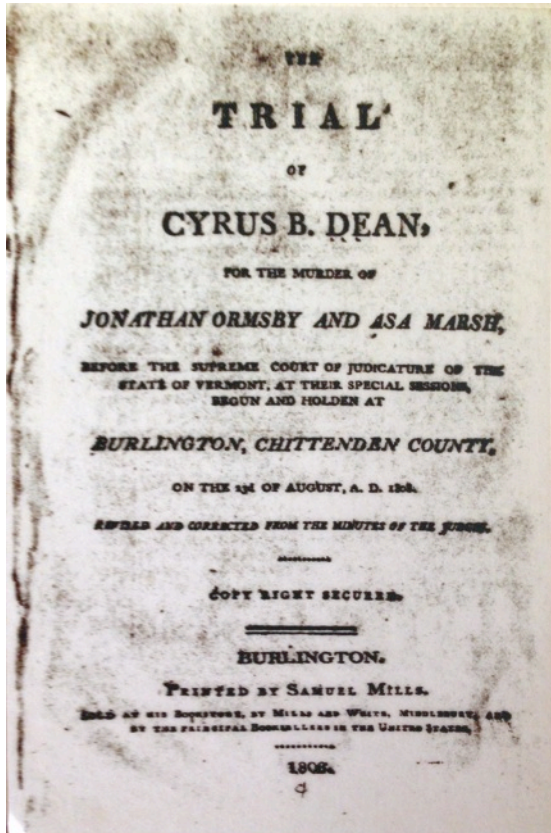
## **The Black Snake Affair**

### Courthouse Chronicle #7



By Connie Cain Ramsey

## **State of Vermont versus Cyrus B. Dean – Chittenden County Court's First Criminal Case.**



In the years following the Revolutionary war, embers of anger still glowed between the fledgling new country of the United States and its former taskmaster, Great Britain.

To strike another blow against its old adversary, new American laws were written to restrict trade between the two countries including an 1807 embargo forbidding American/British trade. This embargo also prohibited trade with British Canada, Vermont's neighbor to the north. As with so many cases in history, this prohibition didn't stop the trafficking of goods between the U.S. and Canada, it simply put it in the hands of black market profiteers – in this case, smugglers.

By land or by sea, smugglers trafficked goods through the rugged Green Mountains (Smugglers' Notch) and across the blue-grey waters of Lake Champlain. It was smuggling on Lake Champlain that led to Chittenden County Court's first recorded criminal case – a murder trial that was to become known as “The Black Snake Affair.”

### **State's rights versus federal intervention.**

Not everyone shared the federal position regarding the trade embargo, as it restricted Vermonters' ability to make a living during tough financial times. Trade with Canada was a profitable enterprise, and Vermont's strong lumber industry was a resource valued by the Canadians, especially potash. Known as “Vermont's first cash crop,” potash was made from the burning of excess wood not suitable for fuel or construction. Potash was used for bleaching textiles as well as making glass and soap. Potash was plentiful in Vermont and sold for up to \$6 a barrel, quite a sum at that time. And so, illegal trade with Canada actually exceeded in volume after the embargo.

Although Vermonters were not happy with the embargo, the federal government took serious steps to stop the illegal smuggling which they considered a treasonable affair. Dr. Jabez Penniman, U.S. Collector of Customs for Vermont, was assigned by the federal government the task of curtailing the smugglers. He federally deputized several state militia men and recruited a team of federal customs agents.

### **The Black Snake - A former ferry boat turned contraband runner.**

The Black Snake was a 40-foot, single-masted, seven-oared ship commissioned to ferry passengers between Charlotte, Vermont and Essex, New York. On an August night in 1808, the Black Snake was hauling a much different load – contraband potash. She was concealed along the banks of the Winooski River while her crew was ashore preparing for the voyage. Before they could get underway, the Black Snake was boarded by a federal revenue cutter named “The Fly” who discovered and commandeered the vessel, taking her and her load under custody. Based on a tip, Dr. Penniman and his militia crew had successfully stopped the smuggling operation before an oar was dipped into the black waters of the Winooski. Lieutenant Daniel Farrington, a federalized militia man, ordered some of the Fly's crew to board the Black Snake. Soon, both vessels were underway down the river. But the successful capture of the Black Snake wasn't to be as easy as it seemed. Her crew of smugglers caught sight of the capture and, seeing their livelihood slipping away, ran along

the shoreline in an effort to regain control of their vessel and its valuable cargo.

### **Murder along the Winooski.**

The Black Snake's crew opened fire on the militiamen, killing two. The unfortunate Lieutenant Farrington was killed by friendly fire during the exchange, and a bystander was shot and killed in the crossfire. Seeing there was no hope of recapturing their vessel, and realizing the immensity of their crime, the outlaw crew members ran for their lives and headed for Canada. But the U.S. government put a \$100 bounty on their heads, and within a matter of days they were in custody. Three weeks later, four of the smugglers were on trial for murder – the first recorded murder case heard before the Chittenden County Court.

### **Royall Tyler tries the case.**



Vermont's Supreme Justice, Royall Tyler, was placed in charge of the popular and politically controversial trial. Before he could proceed, the Vermont Supreme Court had to convene a grand jury and hand down an indictment. As an example of the political controversy surrounding the case, Ethan Allen Jr., when interviewed to become a jurist on the grand jury, referred to the smugglers as “heroes.” The embargo of 1807 had angered many Vermonters who saw the law as government interference that caused a loss of income for cash-strapped Vermonters. The law that had cost some Vermonters their livelihood, had now cost four of them their lives.

The murder trial riveted public attention and political tempers flared. Printed pamphlets of the trial transcript were offered for sale. In the end, four defendants were found guilty, and one, Cyrus Dean, after an unsuccessful appeal to the legislature, was publicly hanged before an estimated crowd of 10,000 onlookers. The other three received jail sentences and became the first residents of Vermont's new federal prison in Windsor. Eventually they were pardoned and released, bringing an end to Vermont's first murder trial – a result of the sensational “Black Snake Affair”.

*Bob Boyd and Jack Ramsey contributed to this chronicle.*

*If you have questions about this chronicle, contact Assistant Judge Connie Ramsey at 651-1720 or  
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THE  
**TRIAL**  
OF  
**CYRUS B. DEAN,**

FOR THE MURDER OF

**JONATHAN ORMSBY AND ASA MARSH,**

BEFORE THE SUPREME COURT OF JUDICATURE OF THE  
STATE OF VERMONT, AT THEIR SPECIAL SESSIONS,  
BEGUN AND HOLDEN AT

**BURLINGTON, CHITTENDEN COUNTY,**

ON THE 13<sup>d</sup> OF AUGUST, A. D. 1808.

REVISED AND CORRECTED FROM THE MINUTES OF THE JUDGE.

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1808.

