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FROM THE GENERAL ADVERTISER.

THE interest which the citizens of the United States must take in any question which may in the least degree appear to implicate their neutrality, has induced the editor to collect all the information in his power respecting the case of the ship William, prize to the privateer schooner Citizen Genet, libelled by the owners of said ship in the District Court of the United States for the District of Pennsylvania.

Robert Findley, jun.
Andrew Buchanan,
George Buchanan,
James Hopkirk,
Thomas Hopkirk,
John Dunlop, and
John Bannatyne.

Libel filed,

The Ship William.

At a special District Court held the 14th June, 1793.—The libel in the aforelaid case was read, setting forth—That Robert Findley, jun. Andrew Buchanan, George Buchanan, James Hopkirk, Thomas Hopkirk, John Dunlop, and John Bannatyne, all subjects of the king of Great Britain, were owners of the Ship William—That the said ship on her voyage to Potowmack river in the state of Maryland, at the distance of nine miles from the coast of the United States, received an American pilot on board; that the said ship continued the same course until they arrived within 2 miles of Cape-Henry, the Southern Promontory of Chesapeake Bay, in 5 fathoms water, and as near the shore as the pilot thought proper to convey the ship, when she was forcibly seized by the Citizen Genet, commanded by Pierre Arcade Johanne. The libellant then protesting against and not admitting the said schooner Citizen Genet to be duly commissioned, insisted that according to the premises the said ship William was at the time of her being so taken upon neutral ground, within the territorial jurisdiction and under the protection of the United States.—Concluding with a prayer of restitution of ship and damages.

To this libel Pierre Arcade Johanne appeared on behalf of himself and crew of the Citizen Genet, and pleaded to the jurisdiction of the Court, stating that neither the law of nations nor the treaty of amity and commerce with the United States and the French Republic gave cognizance to the said court to interfere or hold plea respecting the said ship and property. To this plea the owners of the said ship entered their replication, and issue was joined thereon.

Sketch of the PLEADINGS in this important Case.

Mr. Duponceau, on the part of the concerned in the Privateer, opened the cause. He, after a few preliminary observations, turned to the 17th article of our treaty of amity with France, to shew that it expressly prohibits our taking cognizance of prizes brought into any of our ports by the French. This article of the treaty he remarked, only renders the obligations of the law of nations on this point stronger; and as the treaty secures mutual advantages to the two nations, it certainly (he continued) is entitled to considerable respect. The French are now at war, it is true, and the Americans at peace, therefore at this particular time, it operates most favorably as to the former, but a period may come when Americans in their turn may be involved in war, and find several of the stipulations in said treaty of considerable importance to their interests.

He next entered into a compre-

hensive view of the general nature of privateering, to shew that none of our Courts can take cognizance of acts committed by either of the belligerent powers against each other. Privateers obtain commissions, the nations to which they belong, alone, can take cognizance of their proceedings under those commissions, and an attempt in a court of any neutral power to interfere is an infringement on the sovereignty of the state that granted the commission. The government of all civilized countries establish tribunals for the trial and condemnation of prizes captured by their privateers, and in those courts redress can be obtained, neutral property, through them, will be restored, and all matters adjusted.

He turned to Magens to shew an instance in which the principle he wished to establish was involved. English privateers had seized and carried into port Prussian vessels, (Prussia being a neutral power) for having enemy's property on board; these seizures were tried in the English courts, and some of the property condemned, and some not. The Court of Prussia, through their minister, expressed to the English Court their displeasure at these proceedings. Mr. Mitchell, the Prussian minister, insisted, that the English had no right to try this property, that the ships ought to be considered as part of the territory of the nation to whom they belonged; that wherever a nation could extend her protection, so far did her territory extend; that ships were as much a part of the territory of a nation as forts on the borders of the sea; the Prussians in their own ships were perfectly at home; that therefore it was against the law of nations to seek for enemy's property on board, and that since the question related to the law of nations, at any rate the courts of England had no right to elect themselves as judges, and that the business could be properly settled by negotiation only. In 1st Magens, page 463, Mitchell's representation to the Duke of Newcastle is recorded. For the answer, see page 487. Mr. Duponceau proceeded to state, that in consequence of England's judging in this case, Prussia proceeded to counteract her proceedings by liquidating the damages on her part and securing their amount. This proceeding of Prussia was generally complained of;—the courts of that country to whom the capture belonged had a right to give a decision in the case. So in the case before the court, he contended, the courts of admiralty to which the capture belonged, alone had a right to determine the question of prize or no prize.

If the case involved a violation of our territory, it belonged to the sovereign power of the United States to seek redress by negotiation, and on the principles of the law of nations the question would be determined. He cited 2. Bynkershoek, 177, to shew that if we act in an hostile manner against our enemies on the territory of a friend of both parties, the offence is given to the sovereign that has power over that territory.

He cited Woodson's second lecture, 425, to prove the same point.—He referred to the 4th Cooke's institutes, 153, to shew, that before the merits of a case of capture on the high seas can be brought in the court of a neutral country, it must be shewn, that the country to which the capture is brought is in a state of amity and peace with the parties, and that the sovereigns of the countries to which the parties belong, are also in a state of amity and peace.

The case before the court involved a question of violation of the territory of the United States, the action is brought by British subjects and the court prayed in a collateral manner to determine a question in which the sovereignty of the nation is concerned, without giving an opportunity to that nation to be heard in its behalf. The British subjects who conceive themselves aggrieved, he said, had two remedies. In the first place they might apply to the courts in France, where a candid hearing would be had, and where security was given by Capt. Johanne in the sum of 50,000 livres, to answer any demands for damages wrongfully committed. Their second remedy was an application to the Executive of the United States; they could tell the Executive, that in consequence of a violation of the territory of the Union by a French privateer, we are immediate sufferers, we demand protection and expect redress.

It would then be incumbent on the Executive to bring the business before the proper tribunal, and a decision would be obtained by negotiation with the agents of the sovereignty of France.

It would be, he remarked, for the good of mankind, if a tribunal could be established, having the same relation to all the powers of the civilized world, that our federal courts have to the several states, or that an analogous institution in Switzerland has to the separate Swiss Cantons: such a tribunal would often be able to settle disputes, for the determination of which nations now fly to arms. But in the present state of things, negotiation is the only means of determining these national questions; in the recent case of the ship Graug, there were the means—the effect is known.

This case would have embarrassed any court of justice in the United States; but in the course of amicable negotiation it was settled to the satisfaction of the United States. No doubt if the present case had been carried to the same tribunal, an equitable decision would also have obtained.

He turned to 2d Vattel, ch. 6, sect. 65, 66, 67, 68, to shew, that nations have a right to do themselves justice; when justice is refused; but not a right in the first instance to attempt to do themselves justice through the medium of their own tribunals.

He next adverted to the treaty, and observed generally, that treaties should never be subjected to forced interpretations. He turned to 2d Vattel, ch. 17, to enforce that opinion. Vattel lays it down, that no part of a treaty should be suffered to be interpreted which is plain without interpretation.

He took notice of the effect of a breach of one article of a treaty, 2d Vattel, ch. 13, says in strong terms, that the violation of one clause of a treaty renders null the whole, not only because of the connection between the subject of various clauses, but because clauses very dissimilar are often mutually granted by way of compromise, and therefore the breach of one tends to destroy the balance intended by the framers of the treaty.

He recapitulated, and stated as the result of his argument: That prizes should be tried in the court of the country to whom the captor belongs; that a neutral power has no right to enquire into the validity of prizes brought into their ports, and expressly so by treaty, as it relates to France and the United States; and that questions in which the sovereignty of States is involved can only be settled by negotiation. Upon these grounds which he had endeavored to elucidate, his client pleaded to the jurisdiction of the court.

He concluded by remarking, that if the present application to the court was successful, we might in a similar circumstance be involved on the other side, and after having offended France by an encroachment on her sovereignty, offend Great-Britain in the same way. He closed by some observations on the importance of keeping clear of the disturbances which agitate Europe.

M. Sergeant, before the court adjourned, wished merely to turn to some authorities omitted by his colleague. The present contest is between English subjects and French citizens, and the United States have no immediate concern in it. Independent of treaty, the law of nations does not allow a third power to judge between two nations at war. 1. Vattel s. 18, and 3. Vat. s. 191, to this point. 2. Inst. s. 335, '38, '39, to the same. Douglas, p. 58c, lays, no case of an admiralty court of a neutral nation attempting to judge between two belligerent powers; the presumption, then, that none exists.

The court adjourned to the afternoon.

(To be continued.)

[From Port-au-Prince papers.]

ADDRESS

Of the Merchants of the town of Port-au-Prince, to the National Civil Commissioners, on board the America, a French 74 gun ship in the road of Port-au-Prince, dated the 8th of April, 1793—[Four days before the severe cannonade took place, of which the particulars have appeared in former papers.]

AS long as we had any hopes remaining that an accommodation would prevent the misfortunes that are ready to burst upon Port-au-Prince, we did not think it our duty to trouble you in relation to the private concerns of our commerce. At present every thing reminds us that we have every thing to fear; we should be blame-worthy then if we did not exert ourselves, in the name of that national commerce whose confidence we possess, to make such representations as will serve to the advancement of its interest.

We shall not here undertake the defence of an unfortunate town, now for three years past the victim of perfidious conduct: we will beg leave to observe, however, that it is painful for its inhabitants to be accused of crimes without being suffered to exculpate themselves; to see themselves menaced with punishment without being informed what crimes are laid to their charge. Will the delegates of the nation condemn them without a hearing; will they indiscriminately involve in their proscription the friends of lawful government, the faithful children of the parent country, and those who are accused of being declared enemies of both?—No; it is impossible the breaths of the commissioners can harbor so cruel a thought. But, citizens commissioners, if we should for a moment flatter ourselves with a ray of hope, how can we otherwise then despair when we reflect that by your proclamation of the 21st of last March you involved us all in an indiscriminate sentence of suspicion, and held as certain truths the slanderous assertions of our enemies, carrying despair into every heart by your threats of a deplorable transportation of the merchants of Port-au-Prince from their homes and properties. What citizen would not tremble, however innocent he might be, to see his name on the list of the proscribed; to be separated from his wife, his children, his property, from those various great and sacred concerns which are entrusted to him, and to be dragged like a criminal to the terrible tribunal of the National Convention of France! In our hands remain the fortunes, and perhaps the last resources of those valuable men, to whom the republic of France owes its prosperity. In defending their interests, we defend those of the mother country, who will find in their generous and inexhaustible patriotism the means of resisting the enemies of liberty; and yet, for sixteen days past all our business is suspended. An embargo has been put upon our droving vessels, that keep up a commercial connexion with all parts of the

colony, supply those with provisions which cannot be referred to by vessels from foreign parts, and serve as transport vessels for the commodities with which our foreign ships are laden. And how shall we answer the private engagements we have made; how supply the demands of our correspondents in Europe, if all our abilities are thus fettered?

The armament in our harbor wears a menacing aspect, and the land forces collected from the western quarter, are brought hither to annihilate the last hopes of national commerce instead of aiding the citizens of Port-au-Prince and Croix des Bouquets to support them. At this instant the revolvers are wasting and burning the rich possessions in Cul de Sac; instead of hastening to destroy the villains, you arm against a town that is actually at war with them, and which begs you for peace. You refuse all intercourse with us, reject the deputations we have sent to you, and shew every hostile disposition. Alas! do you perceive how much future mischief is the consequence of such steps. Do you know that we have on those here our papers and precious effects, and merchandize the value of which is incalculable? that neither these papers nor these articles of merchandize are our own, but that we are merely the trustees of the greater part? that their destruction would occasion numberless failures, which failures would bring on the ruin of national commerce, already shocked by the misfortunes it has sustained; and, finally do you know, Messrs. Commissioners, that you will be responsible for these losses, and that six millions of unfortunate people, who are supported by commerce, will with cries of despair demand vengeance on the National Convention.

Can it be your intention to set at defiance this awful responsibility, and thereby reduce us to despair? we can no longer doubt it, since the orders you have given to the Captains of the merchant vessels to anchor outside of the ships of war. What can be your designs? will you proceed to the last extremities against a town whose petitions you have refused to hear? we now declare to you in form that the order you have given to the mercantile Captains cannot be executed without essentially injuring the concerns of trade. Indeed, only cast your eyes on the situation of the vessels in the road, few of them are loaded or even ballasted; it would be next to impossible that they can go out of the harbor, or be conducted into the ground without being exposed to considerable damage, and probably to a total loss. Besides, most of the Captains have their cargoes on shore, which they are obliged to guard carefully: and how can they attend to this duty, if you order them away to the grand road, at so considerable a distance from their property. Will you answer for it, that on your attacking the town the commercial magazines will be respected; and would you not be held responsible for the losses that might happen through plunder or conflagration?

It is impossible to calculate the evils attendant upon civil war; and not one of them but is a mortal stab to the interests of trade, Citizen commissioners, before you proceed to extremities, reflect that peace is for the advantage of this colony, and that France stands in need of her commerce, and that you yourselves will be held seriously responsible for the loss of either. What is the meaning of that general embargo laid solely on this port, which puts a stop to all our business and occasions immense losses to commerce. What means that obstinate silence you keep notwithstanding our pressing and repeated solicitations to you to explain yourselves?—What mean those threatening steps you are taking against a town on whose fate a very large share of the national commerce depends?—In fine, what construction are we to put upon the orders you have given to the Captains of the trading vessels to retire outside of the ships of war?—Is it really your design to cannonade the town, and to destroy in one instant the merchandize and debts due to the national trade; for such will be the consequence of the least act of hostility on our part.

We repeat to you, is it a time when the revolvers lay waste and burn the rich possessions on the plain, when they are ruining the sources of national commerce, that you think it your duty to excite a civil war in the western province by arming fourteen parishes against one. Is it not rather your duty to destroy the revolvers before you think of re-establishing order in a place where all is quiet—and do you suppose you will not have to answer for the conflagrations and devastations which are daily committing in the plains, for want of the stipulated relief, which your proclamation has prevented the neighboring parishes from sending.

Citizen commissioners, we now declare to you that this address is to be printed and to be transmitted to all the commercial settlements of the republic, that we transfer to yourselves all the responsibility we lay under to our constituents, and that we will notify to them, that if they suffer losses, we have used every argument with you to prevent them. You are ruining the colony instead of