

Gazette of the United States.

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WEDNESDAY, AUGUST 7, 1793.

[Whole No. 446.]

FROM THE MAIL.

The importance of the business agitated at the late special session of the Circuit Court in this city having induced the Editor to apply to a gentleman of the bar, who attended the Court, for a statement of it—he has an opportunity of laying before the public the following sketch of the proceedings, which as far as it goes may be deemed accurate.

At a special Circuit Court of the United States, held at Philadelphia, July 22d. Gideon Henfield, was indicted for having entered on board the French privateer called the Citizen Genet, commissioned to cruise against certain powers with whom the United States are at peace—and having with others on board the said privateer taken a prize a British vessel called the William, against his duty as a citizen and inhabitant of the United States, against the treaties existing between the United States and the United Netherlands, Prussia and Great-Britain, and against the law of nations, &c.

To this he pleaded not guilty, and the trial of this important issue came on last Friday, the 26th July.

It appeared in evidence that Gideon Henfield, was a citizen of the United States, and that his family resided in Salem, Massachusetts—being a sea-faring man he had been absent from them some time, and about the first of May last, being then at Charleston, South-Carolina, and desirous of coming to Philadelphia, he applied to the master of a packet, who asked him more for his passage than he could afford to pay, whereupon he entered on board the Citizen Genet, a French privateer, commissioned by the French Republic, and commanded by Pierre Johannene. That Capt. Johannene promised him the birth of a prize master on board the first prize they should capture, and the ship William, belonging to British subjects having been captured about the 5th of May, he was put on board her as prize master, with another person, and arrived in that capacity at Philadelphia. It appeared that on his examination before the magistrate he professed himself an American, that as such he would die, and therefore could not be supposed likely to intend any thing to her prejudice—he declared that if he had known it to be contrary to the President's proclamation, or even the wishes of the President, for whom he had the greatest respect, he would not have entered on board. About a month afterwards being again before the same magistrate, he declared that he had espoused the cause of France, that he now considered himself as a Frenchman, and meant to move his family within their dominions.

The attorney of the district, assisted by the attorney-general of the United States, conducted the prosecution.

Messieurs Du Ponceau, Ingersoll and Sergeant, appeared in the defence.

After the arguments were closed, Judge Wilson delivered a charge to the jury, in substance as follows:

This is, gentlemen of the jury, a case of the first importance—upon your verdict the interests of four millions of your fellow-citizens may be said to depend—But whatever be the consequences, it is your duty, it is our duty, to do only what is right.

He then stated the substance of the charges against the defendant, and proceeded.

It has not been contended on the present occasion, that the defendant has any peculiar or exclusive right to take a part in the present war between the European powers, in relation to all of whom the United States are in a state of perfect peace and neutrality.

If he has no peculiar nor exclusive right, it naturally follows that what he may do, every other citizen of the United States may also do—If one citizen of the United States may take a part in the present war, ten thousand may—If they may take part on one side, they may on the other, and thus thousands of our fellow-citizens may associate themselves with different belligerent powers, destroying not only those with whom we have no hostility, but destroying each other. In such a case can we expect peace among their friends who stay behind? and will not a civil war with all its lamentable train of evils be the natural effect?

Yet what is right must be done, independent of the consequences which I have only stated, in order to lay before you the necessity of seriously considering the case entrusted to you, before you decide upon it.

Two principal questions of fact have arisen and require your determination.

The first is, that the defendant, Gideon Henfield, has committed an act of hostility against the subjects of a power with whom the United States are at peace; this has been clearly established by the testimony. The second object of enquiry, is whether at that time Gideon Henfield was a citizen of the United States. This he explicitly acknowledged to Mr. Baker, and if he declared true, it was at that time the least of his thoughts to expatriate himself.

The question of law coming into joint consideration with the facts; it is the duty of the court to explain the law to the jury, and give it to them in direction.

It is the joint and unanimous opinion of the court, that the United States being in a state of neutrality, relative to the present war, the acts of hostility committed by Gideon Henfield, were an offence against this country, and punishable by the laws of this country.

It has been asked by his counsel in their address to you, against what law has he offended? The answer is against many laws, binding laws. As a citizen of the United States, he was bound to act no part which could injure the nation, he was bound to keep the peace in regard to all nations, with whom we are at peace. This is the law of nations, not an *ex post facto* law, but a law which was in existence long before Gideon Henfield existed. There are also positive laws existing previous to the offence committed, and expressly declared to be part of the supreme law of the land. The constitution of the United States has declared that all treaties made or to be made, under the authority of the United States, shall be part of the supreme law of the land. I will state to you gentlemen, so much of the several treaties in force between America, and any of the powers at war with France, as applies to the present case.

The first article of the treaty with the United Netherlands declares that there shall be a firm, inviolable and universal peace, and sincere friendship between the States General of the United Netherlands and the United States of America, and between the subjects and inhabitants of the said parties.

The seventh article of the definitive treaty of peace between the United States and Great-Britain declares that there shall be a firm and perpetual peace between his Britannic Majesty and the United States, and between the subjects of the one and the citizens of the other.

And the first article of the treaty with Prussia declares that there shall be a firm, inviolable and universal peace and sincere friendship between his Majesty the King of Prussia, and his subjects on the one part, and the United States of America and their citizens on the other.

It may be observed that the treaty would not be less sufficient in relation to the present question if "subjects" and "citizens" had not been mentioned.

These treaties were in the most public, the most notorious existence before the act for which the prisoner is indicted was committed.

The notoriety may indeed be said to have been greater than that of the general acts of Congress, since besides the same mode of publication, they are expressly referred to in the constitution.

Much has been said on this occasion by the defendant's counsel, in support of the natural right of emigration, but little of it is truly applicable to the present question.

Emigration is undoubtedly one of the natural rights of man. Yet it does not follow from thence that every act inconsistent with the duty, is inconsistent with the state of a citizen.

Nothing is more inconsistent with the duty of a citizen than treason; but it is because he still continues a citizen that he is liable to punishment.

After some other observations explanatory of the legal principles which had been agitated in the course of the trial, the judge concluded by remarking that the jury in a general verdict must decide both law and fact, but that this did not authorize them to decide it as they pleased; they were as much bound to decide by law as the judges—the responsibility was equal upon both.

The jury retired about nine on Saturday evening, and came into court again about half past 11, when they informed the court they had not agreed. They were desired to retire again, which they did, and returned on Monday morning, having delivered into the hands of Judge Wilson a privy verdict on Sunday morning, soon after the adjournment of the court.

One of the jurymen now expressed some doubts, which occasioned the judges separately to deliver their sentiments on the points of law, adverted to in the charge on Saturday evening, particularly as to the change of political relation in the defendant, from his having been some time absent from home, previous to his entering on board the privateer, which was mentioned by another of the jury.

The jury again retired, and the court again adjourned. At half past four the court again met, and the jury presented a written verdict, which the court refused to receive, as being neither general nor special.

Another adjournment took place, and about seven, a verdict of not guilty, was delivered.

At the same court two bills were found against Joseph Ravara, Esq. consul from Genoa to the United States.

His counsel, Messrs. Lewis, Serjeant, Heatly and Dallas, moved to quash the indictment, for want of jurisdiction in the court, when a consul for a foreign power was defendant, alleging that in that case the supreme court

was alone entitled to hold plea. The motion was over ruled, and a plea having been afterwards put in, containing the same matter it received the same fate.

Mr. Ravara then traversed the bill to the next session.

Several merchants, agents or consignees of British and French vessels, were presented by the grand jury, for having furnished arms and military stores for such vessels, in the port of Philadelphia, to be employed in hostile manner against powers with whom the United States are at peace.

On Monday most of the persons indicted appeared in court, and entered into recognizances, and some of them traversing their bills to the next sessions, the attorney of the district continued the remainder till the same time.

John Singletary, who was indicted for the same offence with that of Gideon Henfield, not appearing his recognizance, was forfeited, and respited till next session.

FOR THE GAZETTE.

MR. FENNO,

THE writer under the signature of "Philanthropy," who furnished the article in your Gazette of the 24th instant, on the subject of the Borough of Easton, has assumed a title which but ill corresponds with the spirit or tendency of his publication; for, whatever humour there may be in it, there is certainly not a sprinkling either of good nature or good manners. Otherwise, he would not have involved in the same stupid jest the Negro and a respectable Citizen, valuable in his station, as a member of society, whose urbanity of disposition, if I mistake not, has induced many acts of politeness and hospitality to the author of that piece; but where is the wit who will not sacrifice his friend to his joke?

He has, however, meditated a more serious and inexcusable injury, when he has made an entire community the object of his sarcasms, and when he has wantonly endeavored to check the growing prosperity of a town, which, if little, should rather be encouraged than depressed; but which, on the contrary, he knows to possess great natural advantages, to be the mart for the produce of an extensive country, to be already comparatively populous and wealthy, and to be daily and rapidly increasing, as well in population, as in manufactures and improvements of every kind.—When he vouched for the authenticity of the information he gave you, he should not have involved the whole society in the guilt of a few malicious and insignificant individuals. He should have told you that the disgraceful business he mentions, originated in the malignity of a petulant young man, who had been obtruded upon this town as a justice of the peace, contrary to the general wish; that it was conducted with profound secrecy, and was supported by the instrumentality of a few persons, either too young to reflect, or too ignorant to judge for themselves; that the stroke was struck before it was even suspected; and that therefore, there was neither "zeal nor spirit" of exertion at the election, which was too unimportant in its object to excite general attention, and from that reason only could have furnished the occasion which has called forth the humour of your *Philanthropist*. And above all, instead of asserting the contrary, he should have told you, that such an outrage on decency failed of its purpose, and that a very reputable inhabitant was duly returned and qualified to the execution of his office.

AN INHABITANT OF EASTON.

Easton, July 28, 1793.

FROM EDES' (BOSTON) GAZETTE.

At a legal meeting of the Frecholders and other Inhabitants of the Town of Boston, at Faneuil Hall, July 26, 1793.

WHEREAS it has been published in the *Centinel* of the 24th instant, that it was asserted in a Merchant's Meeting, that it was generally known by the inhabitants of this town, that within two or three days from that time, privateers had been fitted out armed, and had sailed from this port; that others were now fitting out, some manned, and to be manned partly by Firemen, and partly by Citizens of the United States: And whereas the inhabitants of this town feel their reputation concerned in said publication: They hereby declare, in town-meeting legally assembled, that there was no just foundation for the assertion; but that the disposition of the citizens of Boston, is entirely in favor of observing the rules of a strict neutrality respecting the powers at war in Europe.

Attest, WM. COOPER, Town-Clerk.

The French privateer which sailed from this port last Saturday evening, returned on Thursday, and has landed her stores, it is said, by order of the French Consul.

[*Query*—Whether the last article is designed as a contradiction to the first, or not?]

FOR THE GAZETTE.

MR. FENNO,
Please to give the following a place in your Gazette, and oblige your Fellow-Citizens.

VERGINIA, 27th July, 1793.

AT a meeting of Citizens, Hanover County, Virginia, the Principles, Articles, Regulations and Circular Letter of the Democratic Society, at Philadelphia, having been read and considered—

Resolved unanimously, That the following letter be addressed to DAVID RITTENHOUSE, Esq. and others, members of that Society.

Fellow Citizens,

THE principles recognized by your society being among those on which our free and happy Constitution is founded, no true Republican will hesitate to subscribe to them. We join you also most cordially in opinion, that at this crisis it is more particularly the duty of every individual to use his utmost efforts to remove the prejudices and conciliate the affections of all our fellow citizens; and that, to obtain these most desirable objects, it behoves all to cultivate on all occasions peace, order, harmony and attachment to the Constitution; and having the general welfare only in view; sedulously to avoid even the appearance of party distinctions. But we cannot refrain, fellow citizens, from expressing our apprehensions that political societies, branched out and assuming powers to the extent you recommend, may, however pure and well intentioned in their commencement, be perverted into clubs of faction, as has been too often experienced, and terminate at length in Courts of Inquisition. We apprehend that a dread at least of such consequences will at any rate excite heart-burnings and dissensions—fatal precursors of Anarchy, and its invariable follower—Despotism.

We are happy in the conviction that the citizens of the United States, who of their own free choice have adopted the Constitution under which we enjoy Peace, Liberty and Independence, are fully competent, by the modes prescribed by that Constitution, to correct the abuses which may and will, from time to time, creep into this and all other human institutions. We are happy also in the conviction, that the citizens of our free independent Republic can, without being driven to the necessity of forming themselves into societies or parties (proper at certain times for subjects of monarchial and despotic governments, where the correction of abuses or change of public men cannot otherwise be brought about) approve and aid those whose valor, virtue and patriotism, contributed to procure and continue to preserve to us the blessings of Peace, Liberty and Independence, and can by constitutional modes too, discountenance or punish their public servants of a contrary description, and change the whole system of government, when they judge it proper to do so.

We are more particularly averse at this time to the appearance of party distinctions, which too often end in civil dissensions, being deeply affected by the horrid massacres and devastations recently experienced by our insular friends, with whom we sincerely sympathize on the melancholy occasion. We deprecate the like dreadful calamities, which will inevitably deluge our common country, should party differences sever the fraternal band and dissolve the Union—that barrier which alone can save us from the miseries of civil discord, and its certain consequence—foreign domination. It is Union alone that can continue to us the peace and honors of an Independent, and the happiness of a Republican Government.

We are, with great respect,
Your Fellow-Citizens.

FROM THE FEDERAL GAZETTE.

MR. BROWN,
Perhaps it will be useful to your fellow citizens, to be informed of the following section of a Treaty between France and England, you are therefore requested to publish it in your paper.

16th Article of the Treaty of Commerce and Navigation between his Britannic Majesty and the most Christian King, signed at Versailles the 26th September, 1785.

It shall not be lawful for any privateers, not being subjects of either crown, who have commissions from any other Prince or State, in enmity with either nation, to arm their ships in the ports of either of the said two kingdoms, to sell what they have taken, or in any other manner whatever to exchange the same; neither shall they be allowed even to purchase victuals, except such as shall be necessary for their going to the nearest port of that Prince from whom they have obtained commissions.

THE EDITOR

MOST earnestly requests those of his distant Subscribers who are in arrears for the Gazette, to make payment as soon as possible.—Those persons who have received subscription money on his account are desired to remit the same. The arrears for the Gazette have accumulated to a serious amount—Serious, as they are the only resource to discharge very serious engagements incurred in the prosecution of this ever-free publication. Philadelphia, June 26.