

Judge IREDELL'S CHARGE, Continued.

It thus appearing, that the second proposition is as groundless as the first, and still more dangerous in its nature and tendency, it follows that neither will constitute any exception to the general duties which a state of neutrality requires. Those duties, so far as an actual observance of the laws is concerned, are equally incumbent upon persons who are resident in our country though not citizens, during their stay in it, as upon citizens themselves. They have not indeed equal motives to attach themselves to its honor and interest; but they receive the protection of the government; they partake of its benefits; and of course must be subject to its laws. That order and tranquility which every citizen is bound to support, ought not to be disturbed with impunity by any foreigners whatever. They therefore, excepting those only who may be exempted by peculiar privileges, are equally amenable to the justice of this court as citizens.

There still however remains a very important enquiry, whether a right of prosecution exists in cases where the Legislature of the United States has made no special provision, most if not all of the cases I have been considering (unblended with other circumstances) coming within that description. I shall give you my opinion, Gentlemen, upon this subject, with all the clearness and distinctness of which I am capable, and this I think it is more particularly proper for me to do, because I confess I had at one time considerable doubts in regard to it, though subsequent reflection and attention to very able arguments in an important case entirely removed them. The reasons upon which my present opinion is founded, that a prosecution is maintainable for such offences as I have been considering, though no act of Congress expressly prescribes it, are as follow.

1. The Common Law of England, from which our own is derived, fully recognizes the principles of the Law of Nations, and applies them in all cases falling under its jurisdiction, where the nature of the subject requires it. Even the Legislature cannot rightfully control them, but if it passes any law on such subjects is bound by the dictates of moral duty to the rest of the world in no instance to transgress them, although if it in fact doth so it is entitled to actual obedience within the sphere of its authority. In whatever manner the Law of Nations is violated, it is a subject of national, and not personal complaint. The nation injured, whether the injury be in fact committed by any branch of the government, or by any individual, is to apply to that nation from whose government the injury proceeds, or in which it is committed, and if due redress be not given it is a cause of reprisals, and under some circumstances may even justify war. Since therefore the nation to which any individual belongs is accountable for his personal observance of the Law of Nations, in all instances where his conduct may affect it, at the hazard of hostilities to the whole government and every person belonging to it, there can be no case in which it is more sacredly the duty of any individual to conform his conduct, to those principles which ought to direct it, nor can a violation of any duty of an individual be attended with greater danger to the community. Consequently, if there be a principle in the Common Law (as there unquestionably is) which subjects a man to a public prosecution for a contempt of his duty to the community, this must be understood as one of those cases comprehended within that class of public offences, and may be proceeded against accordingly. These principles are now so familiar, that I believe it will scarcely be questioned (whatever doubt might have been formerly entertained) that upon the genuine principles of the Common Law, where they are permitted to operate, a prosecution for an offence of this nature would be held maintainable. The act of Parliament passed on the complaint of the Czar of Muscovy, has been clearly considered by very high authorities to be in affirmance of the Common Law, which it is presumed would have afforded redress in that case if political considerations had not induced a different kind of satisfaction.

2. It will not be denied that this part of the Common Law subsisted in full force in this state previous to the Revolution, it being in no respect inconsistent with the peculiar circumstances of the country (which in case of an interference must necessarily control the general operation of the Common Law,) nor superseded by any special act of legislation. An offence against the Law of Nations might have been equally injurious to the public welfare and to individuals, if committed by an inhabitant of this country as if committed in England; and therefore there was the same reason for the application of the Common Law principle to it.

3. The change in the government could not do away the Common Law in this particular, that continuing (according to acknowledged principles universally received in America) upon the same footing as before, except in cases where its operation was absolutely inconsistent with the change in our situation, until altered by some act of the people or of the Legislature of the state; and no one will pretend there was the slightest inconsistency in this principle of the Common Law with the change in our government, because under the present as under the former the same injury would expose the state and all that belonged to it to the like danger arising from the misconduct of any individual, and of course the same security was required against it.

4. The only two acts, either of the Legislature or the people, affecting this subject, were, the Articles of Confederation,

and the present Constitution of the United States. I shall give these, for the greater perspicuity, a distinct consideration.

1. The Articles of Confederation gave all external authority as to peace and war to the Congress of the United States, but left full complete legislative authority as to all internal concerns in the several states, and except in very special cases, no way relative to our present subject, the whole judicial authority was likewise in the several states. The public faith could be pledged by Congress, and each state upon a principle of duty was bound to fulfil it, but if they omitted to do any thing on their part which a constitutional act of Congress required, tho' this might be deemed a breach of faith in the Union, the law subsisted as before. These articles, therefore, in themselves, effected no change, for if they had still continued the only remedy of Congress on an occasion like the present would have been by causing an application to be made to a competent state court acting under the laws of the state, and the controul of their public duty as bound to regard all the constitutional measures of Congress as to peace or war, which fixed the relative situation of the United States as to other powers accordingly.

2. The effect of the present constitution of the United States, in my opinion, was not to vacate all state laws concerning subjects in respect to which judicial authority was given, but to authorize Congress to establish courts for the trial of such cases, and also to make any alteration in the laws concerning such particulars as the nature of the new situation of the United States, under a proper construction of their legislative authority, might require. This view of the subject, if it be not strictly just, yet is certainly conformable to the actual situation in which we are placed, because the Congress in their judicial act passed at their first session, have provided as follows, viz.

"That the laws of the several states, except where the constitution, treaties, or statutes of the United States, shall otherwise require or provide, shall be regarded as rules of decision in trials at common law in cases where they apply."

There is a statute, particularly providing for the punishment of crimes against the United States, passed at the second session of Congress, and there are some other statutory provisions on the same subject interspersed in other acts. So far as those make provision they supersede all principles of common law in regard to them. But where they are silent, for the reasons I have stated, the common law which existed before (so far as it is applicable to our present situation) must still operate. They are silent in respect to most, if not all offences for breaches of neutrality, merely as such; the common law therefore as to such offences is still in force the prosecutions it authorizes for such offences being so far from any incofficiency with the Constitution or treaties of the United States, that they tend in the most effectual manner to protect the former, and give due efficacy to the latter.

Having had occasion, Gentlemen, to take up so much of your time on a subject which naturally and properly, at the present momentous period, engage so strongly the attention of us all, I shall not trouble you on any other. I doubt not your strictest attention to the whole of your duty, but I thought it of the highest moment on the present occasion to rectify many misrepresentations which had taken place, and to point out in the clearest manner I was able that duty of individuals in support of the government of their country which I fear is too little understood and too slightly regarded. Such a support is necessary to all governments, but is the natural protection of a free one which glories in having no other object than the true liberty and genuine happiness of that people by whom it was formed, for whose benefit it was intended, and whose prosperity I trust, by an invariable adherence to those principles which produced it, will be perpetuated, with increasing splendour and renown, to the latest period of time.

PHILADELPHIA, JUNE 14.

Thro' the favor and patronage of the public, the Editor is enabled to enlarge the size of the GAZETTE of the UNITED STATES. His advertising customers are thanked for the favors already bestowed—a continuation of them is solicited.

As the expence of the publication is augmented, without an enhancement of the annual subscription—and the size of the paper will admit not only an addition to the miscellaneous articles of news, politics &c. but also of ADVERTISEMENTS, the Editor requests a further participation in the ADVERTISING LIBERALITY of the Public.

Greenburgh, June 6, 1794.

SIR,
I beg leave to lay before you a statement of the information I have received, of the hostile disposition, manifested by the Indians on our frontiers:

On Friday last in the morning of the same day, a canoe was fired on, above the mouth of Keskemenetas, in the Alleghany river, by which one man was killed, and two wounded; on the same day in the evening, Capt. Sharp's boat was attacked in the Kilkemenetas river near to Chamber's station, having just set off for Kentucky, by a party of

Indians supposed to be twelve in number, there was but three men and one boy with the boat when attacked and the savages kept up a constant fire on the boat while she kept drifting down the river.

It appears that one man and a boy was killed, one made his escape, and Capt. Sharp supposed to be mortally wounded, the boat with some women and a number of children miraculously got to Pittsburgh.

By a letter just received from Col. Charles Campbell he informs me that the spies had made a discovery of a large trail of Indians on Pine creek, above the Kettaming, who appeared by the track to be making for the settlement.

By another discovery of the spies it appears, that three canoes with six or seven Indians in each had crossed the Alleghany river at the mouth of Puchoty, in consequence of which the settlement of Pine Run is broke up, and a very general alarm excited on the frontiers.

Several parties have turned out voluntarily to intercept the enemy if possible, and for the security of the frontiers, but as these are not regular drafts, it is not to be expected they will remain out more than a few days. There is great reason to believe these Indians are of the Six Nations, and that the frontiers will of course continue to be constantly harassed, by the best information it appears that many even of the frontier inhabitants are destitute both of arms and ammunition: and that a supply at this place would prove extremely useful to such as turn out on occasional scouts.

Waiting your pleasure and direction in the promises, I remain your excellency's very humble servant,

Wm. JACK.
His excellency Thomas Mifflin, Esq.

From a Baltimore Paper of June 11.

The schooner Flying-Fish, Captain McKinney, belonging to Bermuda, which has visited our coast for near 2 months past, and plundered a number of vessels off our coasts, was captured a few days since by the privateer ship Liberty, Capt. Laurenty, after a severe action of upwards of 3 hours, in which the latter had 17 men killed, and a number badly wounded. We further learn, that the Flying-Fish is now on her way to this port; her arrival may therefore be hourly expected.

By this Day's Mail.

NEW-YORK, June 13.
An account of the number of vessels in the harbor of New-York the 11th day of June.
38 Ships,
52 Brigs,
9 Snows,
52 Schooners,
71 Sloops,
162 Sloops from 5 to 75 tons entitled to Coasting Licences.
40 Schooners, including Petiaugers from 5 to 40 tons
424 Errors excepted.

BY AUTHORITY.
By GEORGE CLINTON, Governor of the State of New-York, &c.

ALL Ships and vessels of War belonging to Foreign Nations other than such as are employed in Commerce, coming into this Harbor, are forbid approaching the City nearer than one mile Southward of the Southernmost point of Governor's Island: And all Ships and other vessels of the Description first mentioned now in this Port, are with all convenient speed to remove to a situation, conformable to the above.
GIVEN at the City of New-York this 12th day of June, in the eighteenth year of the Independence of the said State, 1794.
GEO. CLINTON.

RICHMOND, June 9.

Friday morning, the 6th inst. a fire broke out in that thick-settled part of this city between Messrs. Lenox and Davidson's and Col. Gamble's; it was first discovered to be in the lumber-house of Mr. Joseph Gallego, from whence it communicated to that of Mr. James Heron, and notwithstanding the exertions of the citizens (whose endeavours were unremitting on this occasion) they were entirely consumed, together with several other buildings adjacent thereto.

The losses sustained by Messrs. Gallego and Heron (the principal sufferers) were very considerable.

Mr. BALTAZER DORISH, a worthy and meritorious citizen, who on these occasions has always particularly distinguished himself, by his manly ex-

ertions, fell a sacrifice at the shrine of benevolence, in the act of extinguishing the fire, by the sudden fall of a brick wall!—He invariably supported the character of an honest benevolent man, and was deservedly beloved by those who knew him.

NORFOLK, June 5.

Yesterday arrived here the St. Tammany, Capt. Dangerfield, in 8 weeks from Liverpool. Capt. Dangerfield was brought too by the Worcester British East-Indiaman, Capt. Halt, from Bechoolen, who informed him that the Prince's Royal, Captain Horncastle, was captured in the Straights of Sunday.

On the 25th May, was brought too by a British privateer schooner of 8 guns, belonging to Bermuda, under French National colours.

On the 3d inst. saw the French frigate Concord, take a brig from White-Haven, under Cape-Henry.

This day arrived the brig Courtney, Captain Bushnel, from Amsterdam. On the 9th of May, in lat. 37, 40, and long. 68, W. lost her main and fore-masts.

ARRIVED,
Ship Fame, Davis, Boston
St. Tammany, Dangerfield, Liverpool.
Brig Lively, Galt, White-Haven
Patty Wentworth, Sheerer, Amsterdam
Sloop Governor Baggs, Stammers, St. Eustatia

CLEARED,
Ship Molly, D'Estes, Liverpool

KNOXVILLE, May 8.

On Friday the 25th ultimo, Capt. Beard returned to this place from the pursuit of the Indians who stole the horses from Beaver-Dam-Creek. He followed the trail upwards of one hundred miles, overtook them, killed three Indians, wounded four others, and retook thirteen horses—he also took three guns, ten shot bags, and fourteen blankets. One of the fellows killed was richly dressed, and wore a medal engraved with the arms of the United States—from the date it was presented in 1789.

We are informed from good authority (via the Cherokee nation) that between the 20th and 28th ult. a large body of Creeks passed the lower Cherokee towns, for war against the Cumberland settlements.

On the 30th ult. Lieut. Col. Kelly, with a party of the Knox militia, went in pursuit of the Indians who murdered Caltee's family, as mentioned in our last, and on the day following, about day break, an advanced party of his command, forded the Tennessee, near Tellafsee, where they found the Indians encamped, fired on them, killed one fellow and wounded another—one squaw was killed contrary to the wishes or intention of the party.

The Indians took themselves to the almost inaccessible spurs of the mountain, but by the exertions of the men, who ascended it, in the face of a very heavy fire; they were routed, five warriors killed, and several squaws and children taken prisoners, who were set at liberty. Col. Kelly brought off three horses, lately taken from the frontiers. He left undisturbed, their corn, houses, and other property, which he found in Tellafsee.

SHIP NEWS.

Capt. Webb a few days ago, was chased by a privateer brig of 14 guns. The Brig Nancy of Norfolk, Captain Beefom, on her passage from Jamaica home ward bound, was cast a way upon the coasts of Florida. The Captain, Crew, and part of the cargo was saved, and the Brig lost. Captain Beefom and Crew came passengers in the Schooner Hopewell.

Capt. Foulke of the brig Sufannah, 58 days from Teneriffe, informs, that a brig from New-York, Capt. Reily, arrived in 36 days. A few days ago he spoke the ship Nancy, Adams, from New-York, out 5 days, bound to Limerick.

In the Bay he spoke the sloop Sally, Eggan from St. Eustatia, the mate of which informed him, that the Capt. landed at Cape May, in order to convey some important dispatches he had to Philadelphia.

Arrivals at New-York.

Ship S. Carolina, Sheffield Charleston
Adriana, Johnson, Amsterdam 35
Brig Harrison, King White Haven
Eunice, Saltonstall Cape N. Mole
Almy, Cutter, Jamaica
Schr. Dolphin, Brain Jamaica
Minerva, Sayer, Washington, N. C.
Sloop Hannah, Coneclin Jackmell
Friendship, Rock, Richmond
Favorite, Goodfellow, Charleston
Capt. Johnson, on the 23d April,

spoke the Commerce, Capt. Pody, of Bolton, in the English channel, from Brest, bound to Amsterdam.

May 5. Boarded by a French fleet, consisting of 3 sail of the line, about fifteen leagues to the windward of Scilly. Saw a large fleet lying at Spithead, as we came through the channel.

May 9. Spoke the Thomas Wilson, Capt. Killester, of Philadelphia, from Bourdeaux, bound to New-York.

June 2. Spoke the Ontario, Capt. Wheaton, from New-York, in long. 73; 30 W. lat. 36, 24, N. out 15 days, bound to Canton.

The piece signed "A Friend to the Theatre" was received—perhaps the writer may not have seen the criticisms on the same subject in Thursday's paper—Independent of the objections to the pointedness of his remarks, we submit to his consideration, whether the hints already given, do not preclude the necessity of any thing further being published.

LANDING
At Walm's wharf, from on board,
Brig Sufannah, Wm. Foulke Master
from Teneriffe.
80 P I P E S
Teneriffe Cargo WINE
50 Hogheads do. do. do.
250 Quarter Casks do. do. do.
10 Hogheads India Market do. do. do.
100 Quarter Casks do. do. do.
100 do. do. London particular, do. do. do.
For Sale by
PETER I. INCH
June 14.

NEW THEATRE.

Mr. & Mrs. Francis's Night
On MONDAY EVENING,
JUNE 16.

Will be Presented,
A TRAGEDY, called
Gustavus Vasa;

The DELIVERER of his Country.
Christiern, Mr. Marshall
Trollio, Mr. Green
Peterfon, Mr. Francis
Laertes, Mr. Cleveland
Gustavus, Mr. Fennell
Arvida, Mr. Wignell
Anderson, Mr. Finch
Arnoldus, Mr. Harwood
Sivard, Mr. Warrell
Dalecarlians, Messrs. J. Darley, Lee
Bafon, &c.

Christina, Mrs. Whitlock
Augusta, Mrs. Shaw
Gustava, A Child
Marianna, Mrs. Cleveland
End of the Tragedy, an occasional ADDRESS to be spoken by Mrs. Francis.

Preceding the Pantomime, the
Box Lobby Lounger;
Or, TIPPY BOB from Covent Garden,
By Mr. Bates.

To which will be added,
For that night only, an entire New Pantomime, called

Harlequin shipwreck'd;
OR,
The Grateful Lion.

The Music compiled by Mr. De Marque, from Pleyel, Gretry, Giornowicki, Giordani, Shields, Reeves, Morehead, &c. &c.

With new Scenes and Decorations.
The Scenes designed and executed by Mr. Milbourne.

The Pantomime under the Direction of Mr. Francis.

Harlequin, Mr. Francis
Leo, (the Lion) Master Warrell
Capt. of Ship, Mr. Cleveland
Principal Savages, Messrs. Darley jun.
Lee, &c.

Sailors, Messrs. Bafon, and De Moulin
Savage Princes, (afterwards Columbine) M. Gardie.

Old Thoughtless, (the Pantaloon) Mr. Warrell.

Billy Whiffle, (his Nephew) Monsieur Bellona.

Whimsical, (his Servant) Mr. Green.
Drowly, (the Clown) Pantaloon's servant, Mr. Bliffet.

Cobler, Mr. Darley jun.
Taylor, Mr. De Moulin
Hair-Dresser, Master T. Warrell
Farmer, Mr. Rowfon

Female Villagers, and attendant Spirits, Mrs. De Marque, Miss Willems, Mrs. Cleveland, Mrs. Rowfon, Miss Rowfon, Mrs. Bates, Miss Finch, &c. &c. and THE GENIUS OF LIBERTY, (with Songs) Mrs. Warrell.

The whole to conclude with
The Death and Restoration of Columbine;

And a GRAND GARLAND DANCE.
7 Tickets to be had of Mr. Francis, in Cherry-Alley, near North Sixth-Street—At the usual places, and of Mr. Franklin at the Theatre. Where places may be taken.

On Wednesday a Comic Opera called the WOODMAN, with entertainments for the Benefit of Miss Broadhurst. Mr. Green's Night will be on Friday.