

The Liberator

BY S. J. ROW.

CLEARFIELD, PA., WEDNESDAY, OCTOBER 2, 1861.

VOL. 8--NO. 5.

ON GUARD.
At midnight, on my lonely bed,
When shadows wrap the wood and lea,
A vision seems my view to greet
Of one at home that prays for me.
No roses blow upon her cheek—
Her form is not a lover's dream—
But on her face, so fair and meek,
A host of holier beauties gleam.
For softly shines her silver hair,
A patient smile is on her face,
And the mild lustrous light of prayer
Around her sheds a moon-light glare.
She prays for one that's far away—
The soldier in his holy fight—
And begs that Heaven in mercy may
Protect her boy and bless the Right.
Till, though the leagues lie far between,
This silent incense of her heart
Steals o'er my soul with breath serene,
And we no longer are apart.
So guarding thus my lonely bed,
By shadowy wood and haunted len,
That vision seems my eye to meet
Of her at home who prays for me.

CHARGE OF HON. SAMUEL LINN
TO THE GRAND JURY AT SEPT. TERM, 1861.

Gentlemen of the Grand Jury.—We enter upon the discharge of our official duties to day under very solemn and impressive circumstances. Since the last term of this court, events have occurred in the history of our national government of the most serious and startling character. I need not refer to these events in detail as they form a conspicuous part of the history of the rebellion against which this nation is now struggling, with which every intelligent citizen is presumed to be familiar. We have fallen upon strange times, and are experiencing a state of national trial, which would seem not to have been apprehended by the fathers and founders of this confederacy. In that admirable constitution by which the union and compact of these States were formed, and under which they have, until recently, remained linked together by a strong and peaceful bond of union, there are no provisions which contemplate either an amicable separation or an attempt on the part of any one or more of the States to forcibly withdraw from the Union, and consequently, those public functionaries whose duty it is to provide for the public safety and protection have been occasionally embarrassed by constitutional restrictions, apparent or real, for a want of constitutional authority to meet fully and promptly the exigencies of the times.

When we consider the magnitude of the rebellion, the years which have been occupied in diligent and systematic preparation for this attempt to overthrow the government—the number and character of the individuals concerned in it—the object and purposes, and we have reason to believe, have long been secretly meditated and are openly and defiantly avowed—the acts which they have already done in furtherance of their plans, and the further outrages and atrocities which they would seem to have in immediate contemplation, we cannot but consider it the most alarming event that has ever occurred in our history. There is enough in this to fill the stoutest heart with dismay and terror.

When our country is in the midst of such peril, every citizen has duties which flow from the allegiance that he owes to the government and which as a loyal freeman he is bound to perform. The sum of these duties is that he shall do all that in him lies to aid in protecting and defending the existence and the honor of the nation. This is a demand to which a patriot is always ready to yield a cheerful obedience. Next to his Maker, he acknowledges that his country has the highest claims upon him.

As a constituent branch of the State government have duties devolving upon them which relate to the present condition of public affairs—duties which we should perform, promptly, faithfully, and without fear, favor or affection, but we should at the same time give to them a temperate and impartial consideration. Of these I shall come presently to speak.

I am compelled, though with deep regret, to believe that there is not the present time amongst the inhabitants of the loyal States, an entirely unanimous and hearty cooperation with the national government in the attempt now making to suppress the rebellion, nay, more, I am credibly informed that there are amongst us not only persons who secretly sympathize with the rebellion, but those also who boldly and publicly avow sentiments which are in opposition to the authority of the government. Such persons, whilst they merit the contempt of the people of this, and every other civilized nation on earth, and are bringing disgrace upon themselves and their posterity, should nevertheless receive the punishment which the law assigns to them.

By the law of England there were various acts defined by statute which would render the perpetrator guilty of treason, but by our National Constitution it is directed that treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. That the inhabitants of those States of this Union which have assumed to withdraw therefrom, and form a new and independent government, have levied war upon the United States within the meaning of the Constitution will not admit of a doubt. Giving aid and comfort to such persons, by such overt acts as giving them intelligence, sending them provisions, furnishing them with supplies, or arms, or the like, would be treason, and would render the offender liable to punishment of death.

Misprison of Treason, is the concealment of treason, by being merely passive, for any assistance given to the traitor, makes the party a principal as there are no accessories in treason. This misprison is of a negative character, but, as has already been stated, there are other misprisons affecting the government of a positive nature, which we shall notice hereafter.

Treason may be committed against either against the government of a State, or of the United States. When the offence is against the sovereign authority of a single State, it falls within the jurisdiction of the courts of the State wherein it was committed, but where, as in the present instance, war is waged against the Federal government, the federal courts have exclusive jurisdiction. This court cannot, therefore, take cognizance of any act of treason, or misprison of treason growing out of this rebellion, inasmuch as the law levied by the Confederate States, as they are called, is against the general government and not against the State of Pennsylvania.

But, as has already been intimated, there are misprisons of a positive nature, some of which are grave misdemeanors, and may, like treason or misprison of treason, be offences against State or federal authority as the case may be. I have heretofore neglected to explain to you that the term "misprison" is of French derivation, and means, in legal parlance, contempt or neglect. Thus, misprison of treason, consists in the neglect to give information of the commission of an act of treason and to arrest the offender, or to cause his arrest and to bring him before the court. The positive misprisons which concern our present inquiry and of which we shall now proceed to speak, are such as involve an attempt to weaken the strong arm of civil power, or a contempt of lawful authority. Thus, for example, to dissuade a witness from giving evidence, or from obeying the process of subpoena, to persuade or assist a prisoner in custody to escape, to refuse obedience to the call of a police officer for assistance to quell a riot or apprehend an offender or endeavor to persuade others to disobey such call, are all misdemeanors of this sort, based upon the principle that it is unlawful to offer resistance to lawfully constituted authority. It is safe to assert, as a general principle, that any willful attempt to resist the authority of the government, or to prevent or hinder the success of its plans or designs in the prosecution of a war offensive or defensive, or to induce or persuade others to do the like, is unlawful and punishable as a high misdemeanor. Now, apply this general principle to the condition of our national affairs. A state of war actually exists. The President of the United States, by virtue of the power reposed in him, has issued his proclamation calling upon the Governors of the several States to furnish their quota of troops for the organization of a military force sufficient to protect the government from the aggression of the rebels. The Governor of Pennsylvania, in response to this demand, has issued a proclamation calling upon all the able-bodied citizens within the Commonwealth, subject to military duty, to form themselves into military companies and regiments, to be called and mustered into the public service. Now it must be perfectly apparent to the most ordinary understanding, that any attempt to prevent the carrying out of this design would be a gross insult to the government and a daring contempt of the authority vested in it, and therefore a high misdemeanor. For, if the designs and plans of the government can with impunity be thwarted and rendered abortive, then all our high sounding theories respecting the supremacy of the government, and allegiance and sovereignty are but beautiful figments of the imagination. Such toleration could spring from no principle other than would assert that the citizen is only bound by his allegiance to the government so long as its measures may be in accordance with his own views, and is obliged to obey only such laws as meet his entire approval.

Suppose a riot to occur in one of our streets. It is the duty of the officers of the law to suppress it, and it is the duty of all good citizens to aid and assist, for without such regulation the public peace could not be maintained, and we would constantly be in the midst of a disorderly and tumultuous and disorder. Now, suppose that on such an occasion some individual would take it upon himself to address the assembled multitude, denouncing the riot act and the administration under which it was passed, and assailing and condemning the political views of the officers who are endeavoring to preserve the peace, and advising and persuading the bystanders to withhold any assistance for these or any similar reasons. How should a court and jury deal with such an offender? The question need only be asked. And is not that man a thousand times more culpable who, by words or actions, persuasions or threats, would attempt to prevent or dissuade our citizens from responding to the call of the chief magistrate of the nation for aid to put down a rebellion that aims at the total subversion and overthrow of the government?

There is a great misapprehension abroad on this subject. Many persons erroneously suppose, that so long as individuals will refrain from an overt act of treason, they may speak and act as they please against the government, with perfect impunity. It is time that such dangerous misapprehensions should be corrected, and in our remarks on this occasion we are doing what we can to accomplish that purpose. There are other offences beside treason and misprison of treason, which effect the government and its claims to allegiance, as has been already explained. The late Judge Kane in his charge to the grand jury delivered in the District Court of the U. States a few years ago, in referring to the case of U. Stets v. Hanway, a case which produced no little excitement, uses the following language:

"There has been, I fear, an erroneous impression on this subject among a portion of our people. It has been thought safe to counsel and instigate others to acts of forcible opposition to the provisions of a statute—'to inflame the minds of the ignorant by appeals to passion and denunciations of the law as oppressive, unjust, revolting to the conscience and not binding on the actions of men—to represent the constitution of the land as a compact of iniquity, which it were meritorious to violate or subvert, the mistake has been a grievous one; and they who have fallen into it may rejoice if peradventure their appeals and their counsels have been hitherto without effect. If whose conscience, or whose theories of political or individual right forbid him to support and maintain it in its fullest integrity, may relieve himself from the duties of citizenship by divesting himself of its rights; but while he remains within our borders, he is to remember that successfully to instigate treason is to commit it."

The views that we have just expressed, do not, in our opinion, conflict in the least, with the freedom of speech or of the press. By the constitution of the United States Congress is forbidden to make any law abridging the freedom of speech or of the press and the constitution of this state provides that the printing presses shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of the government; and no law shall ever be made to restrain the right thereof. The free communication of thought and opinion is one of the invaluable rights of man; and every citizen may fully speak, write and print on any subject being responsible for the abuse of that liberty. What are we to understand from the words "freedom of speech or of the press" as used in the Constitution? The framers of that instrument evidently recognized it a well defined, pre-existing right, for they declare that it shall not be abridged. Certainly men of learning and experience, would not in so important a paper, forbid the abridgement of a right which was without any certain measure or extent; for it would involve one of the most cherished rights of the citizen in a maze of confusion and obscurity. At the time of the adoption of the constitution, 1787, when the freedom of the press was spoken of, the people understood exactly what it meant—its boundaries were well marked, and have continued so to this day. Justice Blackstone in his commentaries, vol. 4 p. 156, says, "Where blasphemous, immoral, treasonable, schismatical, seditious or scandalous libels are punished, the liberty of the press is properly understood, is by no means infringed or violated."

"The liberty of the press is indeed essential to a free State; but this consists in laying no restraint upon the publication of any matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of the press; but if he publish what is improper, mischievous or illegal, he must take the consequences of his own timidity. To subject the press to the restrictive power of a license, as was formerly done, is to subject all freedom of sentiment and expression to the will of an individual, and it is a great mistake to suppose that in time of war a government may not remove every obstacle which tends to embarrass or hinder the success of its military defenses, or to weaken its power moral or physical. Neglect or hesitation on the part of those who administer the government to resort to such measures, whenever exigencies arise that in their opinion require it, would be an expression of disloyalty or indignity to the government—and moreover, that if there should be any abuse of the liberty of the press, resort will be had to legal authority, and not to the power of an excited mob. There is no necessity for a resort to violence; the government has ample power to correct such evils, and in such times as these has never scrupled to exert it when occasion required. The right of self preservation by all the means within reach in times of imminent peril, belongs to the government as fully as to an individual, and it is a great mistake to suppose that in time of war a government may not remove every obstacle which tends to embarrass or hinder the success of its military defenses, or to weaken its power moral or physical. 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