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TRIAL
AND
SENTENCE,
OF
Thomas J. Wansley and
Charles Gibbs,
FOR
Murder and Piracy,
On board the Brig Vineyard.



NEW YORK:

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1831.



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TRIAL, &C.

Special Circuit Court of the United States;

For the Southern District of New-York;

FEBRUARY 27, 1831.

Present, his Honor JUDGE BETTS.

The United States of America,	}	MURDER.
<i>vs.</i>		
Thomas J. Wansley, impleaded with Charles Gibbs and Robert Dawes.		

Counsel for the United States, James A. Hamilton, Esq. District Attorney; for Wansley, H. E. Davis and N. B. Blunt, Esqrs. [The latter gentleman acted in the place of C. A. King, Esq. who was assigned by the court, but prevented from attending.]

Thirty-four of the petty jurors answered to their names.

The District Attorney moved for the trial of Thomas J. Wansley, on the indictment for the murder of Captain Thornber. The court directed the prisoner to be put to the bar. His counsel said they were ready for trial. He was instructed by the court as to his legal right of challenging.

Mr. *Davies* suggested that it would be well, before calling the jury, to establish the forms of questions which should be put to jurors. He read certain questions adopted in the cases of *Selfridge* and *Goodwin*. The District Attorney objected to them in the form suggested by the prisoner's counsel.—The Judge said the rule, as laid down in the United States Courts, was, that the jurors might be interrogated as to whether they had, from what had come to their knowledge, formed an express opinion as to the guilt or innocence of the prisoner.

The Jurors were then called. The Judge said that they were not bound to be sworn, when answering the general interrogatory. The following Jurors were then sworn.—

Obadiah Palmer,	Anthony Allaire,
Abraham Van Cleef,	Hervey Olter,
Forbes Clapp,	William Allen,
Timothy Olmsted,	James Cleland,
James Roper,	James Bulwer,
Aaron Chichester,	Jacob B. Ferris.

There were twelve peremptory challenges, and one to the favor, made by the prisoner's counsel.

Joseph W. Lockwood was challenged to the favor, on his stating that he had a prejudice against capital convictions, which might make him give weight to any possibility in the prisoner's favor. The two first Jurors were sworn as triers. They found him not indifferent, and he was set aside.

William Smith being called, stated that he was of the same opinion with Mr. Lockwood, and was set aside.

The Jurors not empannelled were discharged until Tuesday morning, at 11 o'clock. The Judge observed that, as there were two other cases to be tried, it was desirable they should not hear the evidence in this, in order that their minds might not be biassed.

The Court requested that no part of the proceedings be published, except the result, until all the trials

were 'over. The District Attorney then opened the case. He stated the provisions of the Act of Congress, under which the prisoners were indicted, and what circumstances must be proved, to give the Court Jurisdiction. He also stated the facts which he expected to prove.

Davies stated that there were three counts in the indictment, one charging the prisoner as principal, the others as accessory. He wished to know on which count he was to be tried.

The District Attorney contended that they were all principals.

Davies moved to strike out the first count of the indictment, which was founded on the 13th section of the Act of Congress, passed April 13th, 1790, of which he contended that a material part was omitted in the indictment, the words, "knowingly and wittingly," being left out. He cited authorities to show that all the words of the statute should be set out, where they are technical and constitute the offence. There was also an omission of the word, "Murder," in that part of the statute making persons liable for aiding and abetting, &c. It has been decided in the Supreme Court, that Murder and Piracy are not the same thing, and cannot be made such by construction.

The District Attorney cited a case decided by the Supreme Court, in which it is said to be more conducive to the administration of justice not to raise such questions during the trial before the Jury. The prisoner's counsel agreed to reserve their objections for a motion in arrest of judgment.

Thomas Morris, Esq. Marshal of the District, sworn. — *Wansley* told him he was from the state of Delaware. Understood him to say that he was born and brought up there. He was led to ask him the question by receiving a letter from Mr. Haight of New Jersey, enquiring whether *Wansley* had ever been in the employ of a neighbor of his in that state.

John Brawnrigg.—Shipped on board the brig Vineyard, as a common sailor, at New Orleans, on Thursday, at the beginning of November last. She sailed on the Saturday after. Wansley was on board as cook and steward. Captain Thornber was the commander. Wansley told witness that he had killed the Captain; that he went behind the binnacle, under some pretence, and struck the Captain, from behind, with a pump-break, which knocked him down; that he afterwards struck him other blows and threw him overboard. This was on the 23d November last, when the vessel was off Cape Hatteras, and they were expecting to get a pilot next day. Witness was aloft on the foretopsail-yard during the night. When he came down, he went aft, and saw Wansley wiping blood with a rag, tub and water; washing some blood from the quarter deck, and off the cabin ladder. He said, with an oath, that he had heard it said murdered blood could not be wiped up, butt hat he could wipe up that. Did not see the Captain nor the Mate on board, after he came down. The next thing was that every one had a glass around. They then got to the little hatch, Wansley held back the ladder, while others knocked the head out of a keg, in which they found money. They laid the head on again. Gibbs had charge of the vessel. They then brought up the grog, and after taking 3 or 4 bottles out, threw it overboard. The next day it began to blow. The money was shared on Thursday. The previous transaction was on Tuesday night. The vessel proceeded till she came off Long Island, when she was scuttled and burned. Witness came ashore in the boat with Wansley and others. Every one had a bek with money in it. They came ashore at Pelican Island. They buried between four and five thousand dollars there. This was on Sunday, the 29th, the day before he was examined at Flatbush. From Pelican Island they went to Barren Island, to the house of a man named Johnson. Witness informed Johnson that asteroouu of what had been done. They

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went thence to Mr. Leonard's house, where they procured a waggon to carry them further. As they were going to get in, witness said, in presence of Wansley, that he would go no further with any murderers. Mr. Leonard sent for a magistrate. Wansley ran into the woods and was taken.

Cross.—Is an Englishman. Left England two years ago. Left an English vessel at Savannah. Went thence to New-Orleans. There were nine persons on board the brig Vineyard. Mentioned the names, as in the previously published examinations. It was dark when the affair occurred, about a quarter past 12, of Wednesday morning the 24th. Had been in this country before, but not in this city. Met a gunner on Pelican Island, who told them its name, and how they might get off. Made no communication to him. He took an equal amount of the money, a seventh part of \$50,000. He had a belt, with \$170 in it. He made the belt. The money was put into the boats in bags. Witness helped make them. When he got ashore, he had \$27 about him. He had five or six bags in the boat, as his share. Coming on shore, the greatest part of the bags were thrown over. The boat was in great danger. He meant to save all the money if he could. Went up to the fore-top gallant mast to bend a sheet, which had got loose. Was not up longer than a quarter of an hour. He was in a boat alongside, when Henry Atwell scuttled the brig. Wansley came into the boat afterwards, when she was making water. When he was aloft, he could see nothing of what was doing below. There was no light except in the binnacle, fronting the tiller. The quarter deck was raised from the main deck. The entrance to the cabin was from the forward part of the deck. There was some blood on the hencoop, to be seen next day. Wansley told him of the murder on the same day they left the vessel, in the afternoon.—Witness asked no questions, for fear of being murdered. Knew nothing of the matter before. Knew there was

money on board. Charles Gibbs told him so. Wansley did not. Gibbs said Wansley had told him of it. Shipped to go to Philadelphia. There were but two watches on board. The affair happened in the Captain's watch. Leonard's is about two miles from Johnson's. Johnson accompanied them. They found two men there besides Leonard, perhaps more. The house was soon full of people. There were three or four present when he mentioned the murder. Had no quarrel with the men after getting on shore. They always treated him well. He held the boat while they carried up the money and buried it. He took up his clothes' bag, containing \$900, and buried it himself. They were going to share again, after getting on shore.

By the Court.—While aloft, we heard some one cry, Oh!—oh! two or three times. Did not imagine what it was. Came down four or five minutes after. Heard no scuffling. There was little wind. The sails were flapping against the mast.—Wansley was in no watch; he slept in all night. He saw him before he went aloft, lending a hand to do something.

Robert Dawes called—Blunt objected.—The Court ordered him to be sworn.

R. Morris, Esq. one of Dawes' Counsel, wished to know whether a *nolle prosequi* was to be entered in his case. The District Attorney said he had told Dawes that if he told the truth, he would not try him on the indictments. *Morris* still objected unless a *nolle prosequi* should be entered. The Court said the District Attorney might use him as a witness; he might refuse to answer what would implicate himself.—The witness was so instructed by the Court. The examination then proceeded.

He sailed as seaman in the brig *Vineyard*, from New Orleans, on Saturday in the first part of November last. Confirmed *Brownrigg's* statement as to the names of crew, &c. The Captain was killed when the brig was off *Cape Hatteras* on the high seas. The mate was

struck three or four blows on the head, and thrown over board alive. He swam after the brig two or three minutes. Witness was at the tiller when Wansley struck the Captain; saw him do it, with a pump-break on the back of the neck. Captain moved forward and fell, crying oh! murder. Saw Wansley strike him afterwards but cannot say where. When the Captain was hove overboard, witness thought he was dead. Cannot say who threw him over. It was done by two persons. He called Wansley aft to trim the light. He came on the lee-side of the deck, and was behind the Captain when he came to the light. He had heard that there was money on board. There was an agreement among the crew to take the vessel and get the money. He heard of it after they had been six days out. He knew four of the crew meant to kill the Captain. These were Gibbs, Wansley, Church and Atwell. Did not know when Wansley came up to the binnacle that he meant to do it then. Confirmed Brownrigg's testimony as to the distribution of the money. Saw Wansley wiping up blood from the stairs and over the gunnel the night of the murder. Described the manner of leaving the vessel and coming ashore, as in his published examination.

Cross- Was eighteen on the 10th December last. Wansley was on board the brig before witness. He looked in the Almanac and knew that the occurrence took place on the 23d. Was so near Wansley when the blow was struck, that he could almost touch him and could distinguish him. Never talked with Brownrigg on the subject before the murder. Was afraid to tell the Captain and Mate, for fear of his own life. The conversation in relation to the money began in a jocular way. Was born in Lancaster, England. Has followed the sea for nearly five years. Sailed from Boston with Gibbs and Church, about five weeks before the brig left New Orleans. Except Brownrigg and the steward, all the crew were from one boarding house in New Orleans.

Atwell seemed to be ringleader, He threatened witness to throw him overboard if he did not assist.

John Terhune and Elias Hubbard Esquires, Justices of the Peace for King's county, were sworn, but testified as to the examination of Wansley, taken before them. It was a voluntarily examination. He was duly cautioned that the evidence might be used against him. The examination was taken on Leonard's complaint.

Peter P. Wykoff, Keeper of the Flatbush Jail, was sworn at the request of the prisoner's counsel. Had Wansley in his custody. Told him it would be better for him to speak the truth on his examination. He was examined next day. Said nothing at any time to induce him to confess. Told him if he was guilty, he had better own it. The Court said the examination must be excluded.

Samuel Leonard.—Prisoner came to his house on the 30th day of November last. Heard Brownrigg say, when the waggon was got ready, and Gibbs was hurrying to go, that they might go when they pleased, but he would not go with them, as they were murderers. Wansley was present, in the bar-room when this was said. Thinks they were two or three other persons present, besides the crew, when this was said. The prisoner might have been two hours in the house at that time. Wansley went away. When the Squire came, he tied Gibbs, and took him, Brownrigg and Dawes to Flatbush, by the Squire's orders. When Brownrigg made the disclosure, Gibbs said he was drunk. At the prison. Mr. Wykoff took off a belt from Wansley, in which there was money.

P. Wykoff found a belt about Wansley, which he took off, and found in it \$259, and some small change in his pocket. Found eight or ten dollars upon Brownrigg.

Robert Greenwood. Pursued Wansley, and found him in the woods. He made no resistance, and he took

I witness
 him to the Justice. Went of his own accord, having
 Just heard Brownrigg charge him with murder. Overtook
 ut about a quarter of a mile from the house. Witness
 before was armed with a pistol.

s du *Joseph Juell*. Knew Captain William Thornber for
 t his sixteen years previous to his death, and corresponded
 nt. with him. Proved his hand writing to a bill of lading
 l, wa for specie. It was read by the District Attorney. It
 Ha was dated November 6th, 1830.

er fo *Tobias Lord*. Formerly owned the brig *Vineyard*.
 as ex—She was built at Kennebunk, in the State of Maine.
 duc He sold her to George Calendar of Boston a year ago
 d bet last October—She was a registered vessel. Has seen
 ist br her boat in South street, the same which belonged to
 her when witness owned her.

on the *William A. Welman*. Is a Clerk in the Custom
 say House at Boston. Keeps the record of the registry of
 urry vessels. A paper presented to him is a true copy of a
 , bu record made by him, with the Collector's name on the
 rers back of it and the seal of the Custom House. It is
 wa a registry of the ship or vessel *Vineyard* belonging to
 rson George Callender of Boston.—Dated in October 1830.

The *Thomas Morris, Marshal*.—Found among the cloth-
 e at ing brought to his office, a waistcoat and some other
 quire articles marked with the name of the Captain, as he
 and then understood it.

Then *B. W. Merrit*. took the clothes to the Marshal's
 was office. He looked for them by Wansley's request, at
 belt Johnson's and Leonard's. Confirmed the Marshal's
 he statement as to the marks. Witness and Stevenson
 nge brought Wansley, Gibbs and Dawes down from Flat-
 wn- bush. While on the way Wansley told him voluntarily
 the whole story. The prisoner's counsel objected to
 und the declarations being given in evidence, which was
 ook overruled by the Court. Wansley told the witness
 the whole story, being occasionally prompted by Gibbs.
 They both concurred in the statement that old Jack
 (Brownrigg) was an innocent man. Dawes protested

his innocence. Wansley said, Bob, God knows you have got enough to answer for.

W. F. Stevenson. Having heard Mr. Merrit's statement, confirms its correctness. Gibbs and Wansley said the plan was formed eight or ten days before the murder.

The District Attorney proposed to submit the cause without argument, upon the charge of the Judge.

Davies addressed the Court stating the conclusion the prisoner's counsel had arrived at, of leaving the cause to his Honor and the Jury; reserving their right to move in arrest of judgment.

His Honor then charged the Jury. The prisoner was charged with the highest offence known to our laws. The crime was charged to have been committed on the high seas, on board of an American vessel. It is necessary before this Court can have jurisdiction, that it must be proved the offence was committed on board of an American vessel, or that the offender was an American citizen. The proof established that the transaction occurred on the high seas, and that the prisoner is a citizen. He adverted to the proof of the vessel's being an American one, which it was for the Jury to pass upon. If the documents produced were satisfactory as establishing the identity of the vessel, they would abundantly prove that the property was American, which is sufficient to give the Court jurisdiction over the offence. He mentioned the substance of the different counts, the charges in which all amounted to the same offence, in the eye of the law. The evidence had taken but one direction, to which the Jury would specially direct their attention. It was under the count charging the prisoner with killing the captain by striking him a blow, &c. The Judge then recapitulated very distinctly the evidence. There were two facts to be found by the Jury: that a murder had been committed;—and that it had been perpetrated by the prisoner at the bar. No one can be convicted merely on his own confession that

he has committed a crime, unless the fact that the crime was committed be established by other evidence. The Jury were to judge whether they would give such credit to the testimony of Brownrigg and Dawes as would authorize them to say on their oaths that the murder, as set forth in the indictment, had been committed, before they could find that indispensable preliminary fact. If they entertained no doubt as to the fact, they were to take into consideration the voluntary declarations made by the prisoner himself.

The Jury left the box, and returned in 20 minutes, bringing in a verdict of GUILTY.

The Prisoner's Counsel took every objection in his favour which propriety would permit; and the cause was conducted on the part of the District Attorney with strictest regard to the rights of the accused.

February 8, 1831.

Present, his Honor JUDGE BETTS.

United States of America

vs

Charles Gibbs impleaded, &c.

} MURDER.

Counsel for the U. S., J. Hamilton, Esq. District Attorney. For the Defendant, S. P. Staples and Joseph Patten, Esqs.

The prisoner being informed of his right to challenge, the Clerk commenced calling the Jury. The first Juror called was Forbs Clapp. *Staples* objected to him, as he was on the jury by whom *Wansley* was tried yesterday. The *District Attorney* cited *State Trials* 738 and *Keeler*, to the contrary. *Staples* argued that the English decisions were founded on a Statute never enacted here; that the authorities were very ancient and belonged to an unenlightened age. It has been enacted here that a grand juror cannot be a petit-juror, and a *fortiori*, a juror is one of these cases cannot be inpannelled here. After several other objections founded on the circumstances, he persisted in his principal challenge. The *District Attorney* replied. He

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answered specially and rather indignantly to a remark made by Staples on the *feeble* promise given to Dawes, who, it was understood was to be again adduced as a witness. Staples replied.

The Judge decided that it was a good cause of principal challenge, and that the juror must be set aside. The same objection was sustained as to other Jurors who were called. The following Jurors were sworn.

John Moore,	Hugh Martin,
Darius Hoyt,	Daniel Van Pelt,
William Van Zandt,	John Niles,
James Riker,	Josiah Blackwell,
Gilbert Bogart,	William Cramsey,
Zachariah Griswold,	Andrew D. Hart.

Joseph W. Lockwood, found not indifferent by triers yesterday, was challenged to the favour by the District Attorney, and again stated that according to his principles, he would avail himself of every possibility of doubt to acquit a prisoner, in a capital case. The triers again found him indifferent. The pannel being exhausted after the seventh juror was sworn, a tales was prayed for, and the five last jurors taken from the pannel of the District Court Jurors. There were eleven principal challenges and ten for cause or to the favor.

Before addressing the Jury, the District Attorney asked the direction of the Court as to the publication of the trials. The Court gave direction that none should be made, until the trials were over, as further indictments were pending. The District Attorney stated to the Jury that it was necessary for him to prove against the prisoner, as in the trial of Wansley. The prisoner was indicted for the murder, with malice aforethought, of William Roberts, mate of the brig Vineyard, an American vessel, on the high seas.

Thomas Morris, Marshal of the District sworn. The Prisoner answered in reply to a question put to him by the witness, that he was a native of Rhode Island. Witness asked the question in consequence of

its having been said that he was a son of Governor Gibbs. Prisoner said that he was about 30 years of age.

Robert Dawes being called to the stand, the District Attorney moved to enter a *nolle prosequi* as to him, on all the indictments. The witness gave the same account of his shipping on board the *Vineyard* in New Orleans, &c., as he did yesterday. William Roberts was the mate. He repeated his testimony as to the report of money being on board, the crew talking about taking the vessel, and killing the Captain and Mate when they came nigh the land; the murder of the Captain on the night of the 23d November, &c. The mate came up when the Captain was thrown overboard, and asked what was the matter? He was struck, and either run or fell down in the cabin, he was followed by Charles Gibbs, who came up afterwards and took the light out of the binnacle and went down again. He then caught hold of the mate. Atwell went down and tried to strike the mate; found he could not do it effectually. Church then went down; there was a scuffle; Church said hold him down and I'll strike him. He was then brought up and thrown overboard by four of them, of whom Gibbs was one. Witness was looking down the companion-way, when the transaction occurred in the cabin. He repeated the account of the subsequent transactions as given by him before.

He was cross-examined by Staples. The first captain he sailed with, five years ago, was named Feathers. His father was a shoemaker. He went to school about eighteen months; went to sea by his father's consent. Sailed two years in an English vessel. Had no other schooling until winter before last, when he went to school three months at Cape Cod. He first shipped on board an American vessel at Liverpool, in the *Lagoda*, Bradford. Left her at Duxbury. His first acquaintance with Gibbs, was on shipping with him in the *Lexington*, for New-Orleans. Witness shipped as a

boy, for the voyage, which was to be to New-Orleans, Europe and back. Left the ship on account of bad usage, and not getting wages enough. Shipped for eight dollars a month. Shipped on board the Vineyard, for sixteen dollars. Left the Lexington, in plain sailing, by running away. Shipped in the Vineyard two days after. The Vineyard was fully loaded with molasses, cotton and sugar; some on deck. The first conversation in relation to money on board, which he heard, was in the day time. Gibbs was then at the helm. The men who talked about it were working forward. He cannot give their names; but Wansley came up and first broached the subject; he sat on the chain-box. Thinks Atwell was there, making pins. Witness was at work upon the rigging. Thinks the conversation lasted about an hour. He did not then think any more about it. It was mentioned again next day. It was said if they took the vessel they would never have to go to sea again.— Does not remember who spoke about it. He was told not to mention it or he would be killed. Does not know whether this was on the second or third or what conversation. It was mentioned every day and every night; talked of continually. Again examined as to his first voyage from England, says his father signed no indentures for him; that he merely signed the articles, and served during the voyage. Among other things said by the crew, it was observed that the Captain and Mate were old men, and it was time they should die; and the Mate was so peevish he ought to be killed. When Atwell told him to keep the matter a secret, he agreed to do so. Charles Gibbs also spoke to him about it. It was talked of by them all. Gibbs, Brownrigg and himself were in the Captain's watch. When all hands talked about it, witness was sent to the weather side of the deck to talk and divert the Captain's attention. When the money was dividing, Atwell and Church came to him and said—"Bob, what are you goingt a do with your money?" He said, "I dont know,

I'm at a stand still."—They said they would give him a thousand dollars to let them take his share. He said he would; it would be enough for him. They told him to keep the bargain a secret from the rest of the crew. He mentioned it one night in his watch, to Gibbs. Gibbs said, "No, no, you must take your part." Witness knew that the attack was to be made on the night of the 23d, when he went up to take his watch. Witness did not call Wansley aft, under the idea that he was to kill the Captain, nor did he know that he was to do it. When Wansley came aft, he saw a man who looked like Gibbs on the lee-side of the quarter deck. Thinks it was either Church or Atwell who struck the Mate. The Mate was struck by Atwell and Church with a pump-break and club. He was thrown over by the main rigging. The witness then went back to the helm. Charles Gibbs came and told him to keep her N. N. E. for Long Island; and afterwards told him to keep her N. by E. He told witness, after the affair, that he might thank him for his life; that he had saved it, and Talbot's also. Does not know that Talbot took any part in it, or that Brownrigg did. Gibbs told witness he had mentioned it to Brownrigg. The small boat, according to the original plan, was to go to Block Island, and the long boat to Long Island. Atwell scuttled the vessel with an axe. Gibbs set fire to her. He went down into the cabin alone for the purpose. This was a little before twelve on Sunday night. There was a difference between the men and the officers. The Captain threatened to still Atwell, and to flog the steward. There was a scuffle between them. Gibbs seemed to be down-hearted about killing the officers. He told witness to submit to the officers. There was some difference between the witness and crew, arising from his wages, and saying he neglected duty. Gibbs told witness not to fear for his life, he would take care of it. [The examination of the witness occupied two hours. Such of his answers only are reported as did

not contain repetitions of what he had sworn to on the previous day.] The Court took a recess from 3 until 4.

At about the latter hour, the trial was proceeded with.

John Brownrigg was called by the District Attorney. His testimony on the direct examination corresponded with that of yesterday as to all the facts upon which he was then interrogated. When called up to his watch on the night of the 23d, it was squally and went off with no wind. They had the fore-top-gallant-sail clewed up: The captain and mate were both on deck. The captain called the witness before he went below. They had not been down five minutes, when the wind shifted on the other side. Witness sung out to the captain, who told him to brace the after yards round. Gibbs, Wansley and Atwell went aft, and witness went forward to work. The starboard sheet broke, and he went up to set it, by the captain's orders, and unbent it and bent it. Gibbs and Atwell assisted him in hauling. The captain had again come upon deck. Dawes was at the tiller, when witness came down, he first met Atwell, who told him that the captain and mate were both overboard. Witness went aft, where he saw Gibbson the quarter deck.—They were steering N. N. E. Before witness went up, N. N. W. At 2 o'clock Gibbs sent witness to the helm. Gibbs was in command of the vessel from that time. When they were taking their grog, James Talbot was asked for, and it was said he was down below, and dared not to come up. Atwell went for him and brought him up. As he passed witness he said, "O dear Jack, what's this?" Witness said, "I don't know; go down and take a glass of grog; I have just been down and got one." Talbot did so. Atwell read a paper after the murder, stating that there was \$50,000 of money for a person in Philadelphia. Gibbs told him on Thursday afternoon that he might thank him for his life; if it had not been for him he would have been killed. Witness told this to Atwell

on the Saturday following. The district Attorney then proposed to ask what Atwell told witness in reply, on the ground that he had a right to give in evidence the declarations of the parties to the conspiracy which had been proved, when connected with the *res gesta*.

The court said that Atwell's declarations as to what the conspirators might have intended to do with their confederates or others of the crew, had nothing to do with the crime alleged in the indictment, which was the murder of the mate. It was matter merely collateral to the confederacy. The question overruled by the court, was, whether, Atwell did not tell witness that Gibbs had proposed to take his (witness' life. The rest of his testimony was the same with that he gave before.

He was cross examined by *Staples*. Was born in Cumberland; is 42 years of age, and had followed the sea since 1802-3. Begun in the English service; came to America after the peace, and has knocked about in different employments. Was five years on board of an English man of war, the Dreadnought, a 98 gun ship, which he entered in 1807.—Ranaway three times during the war. First from the Gloucester 74, last from the Thames sloop of war, in Bombay.—Was impressed three times.

Samuel Leonard. Repeated his testimony of yesterday. Gibbs made the bargain with witness to take the four to Brooklyn for \$3. After Brownrigg's disclosure, Gibbs took witness aside, told him Brownrigg was drunk, and offered to give him \$300 if he would take him to Brooklyn.

Henry W. Merrit. Examined and replied as on the previous trial.

William F. Stevenson. Confirmed the statement of the previous witness.

Robert U. Lang. Heard the testimony of Dawes. Knows that there is such a vessel as the Lagodea, built at Duxbury, engaged in the Liverpool and Boston trade, and between New Orleans and Liverpool.

Tobias Lord. Testified to the same facts as before in relation to the building of the Vineyard.

Robert Greenwood. Assisted in bringing the long-boat of the Vineyard.

The Counsel for the prisoner then summed up, and urged upon the jury every point which they could raise in his favor. They occupied two hours in concluding the defence.—The District Attorney replied, and the Judge delivered a luminous charge, upon the law and the facts in the case. At a quarter before 10, the jury retired and returned into Court, at a quarter past 12, with a verdict of **GUILTY**. At the request of the Counsel, the jury was polled.

The Judge then stated, that it was the intention of the counsel to make any motion in arrest of judgment; he would be prepared to hear them at the opening of the Court this morning. Mr. Patten replied that he would then be ready. The Court was then adjourned to 11 o'clock to-day.

The prisoner, who sat behind his counsel, seemed to take a quick and restless interest in the proceedings; and, as we learn from the *Gazette*, was evidently affected on hearing the verdict.

The two men, Wansley and Gibbs, can have no hope from the mercy of the Executive: Lenity to them would be cruelty to mankind. We have never been present of a capital trial in which the evidence was more conclusive and irresistible:



SENTENCE OF GIBBS AND WANSLEY.

Special Circuit
For the Southern
York.



Court, U. S.
District of New
11th March, 1831.

Present, his Hon. JUDGE BETTS,

The sitting of the Court was held in the District Court Room, at 11 o'clock. The prisoners had been previously placed at the bar, and gazed with apparent indifference as to their own situation, upon the people who were struggling to effect an entrance. They became however, fixed in their attention to what fell from the Court, when the ceremony of passing sentence commenced. The confusion was very great when the doors were first opened to admit the immense crowd collected on the stairs and in the lobbies of the Hall. As many were admitted as could possibly find standing room beyond the bar, and in a greater portion of the interior space.

The District Attorney then rose, and moved for judgment on the verdict rendered against Thomas J. Wansley, the questions raised in his case, on motion in arrest of judgment, having been decided by the Court in favour of the prosecution.

The Judge stated to Wansley, in the usual form the substance of the charge on which he had been indicted, arraigned and found guilty; and asked him the usual question. Wansley said that he would say a few words, though he did not know that it would be of any use to him.—He said that he had always known that a difference of colour produced a difference of treatment, where white men were judges. They had taken the b'acks from their own country, and scattered them over their own settlements, and treated them differently from those of their own country. There was an antipathy, as he knew entertained by the whites against the coloured persons. He had found it so himself both as regarded the witnesses and jurors in this case and at the hands of the District Attorney. Much false testimony had been given, as he of course had the means of knowing. The witness's would not disclose the manner in which he first came to give information as to the money being on board. Two indictments were found against him, of the offences charged in one of which he was guiltless. He guessed he had said enough.

The Court told him to proceed, if there was any thing else he wished to say. He then stated, that he was the first man who went on board of the Vineyard. He saw the money brought on board. When a conversation arose among the crew, as to what amount of money each had, he observed, in the way of conversation, that there was plenty on board.—Atwell said, "then let's have it."

This remark he took merely in jest, and considered such until a week after, when Atwell told him that a conspiracy had been formed; that they were the strongest party; that they meant to take the

lives of the officers, and of such of the men as would not join them. He felt no inclination to do so, and spoke to Church about it next day, Church was the only one of the crew he had known before he shipped in the Vincyard. Church advised him not to inform against the conspirators. If he had done so, he would only have been in the same situation in which he was at present. He had nothing more to say.

He was quite coherent in his remarks, and distinct in his utterance. There was nothing impudent in his demeanor. He has, naturally, a sort of sullen smile on his countenance.

The District Attorney then moved for judgment on the verdict against Gibbs for the murder of the mate, no motion for arrest of judgment having been made in his case. The Judge added and asked him the usual question.

Gibbs spoke fluently, rapidly, and with considerable propriety of language. He said he wished to state how far he was guilty and how far innocent, when he went on board, he knew only Church and Dawes. He was asked by Harry Atwood (so he pronounced the name,) to join the conspiracy, when he at first refused to do. But he subsequently agreed to it. So did all the crew, including Brownrigg and Dawes. He afterwards began to think that it was a dreadful thing to take a man's life, and declared that he would not assent to killing the Captain and Mate; that he would break any man's nose who proposed it to him. He persuaded all of them to abandon this part of the project, except Church and Dawes; and their opposition was such that he yielded. Brownrigg agreed to call up the Captain and did so. The Mate was thrown overboard by Church and Dawes. He, (Gibbs) protested before God that he was innocent of the murder of the Mate. He did help throw the Captan overboard.

The Judge then proceeded to pass sentence. It is utterly impossible for us to pretend to give more than a barren sketch of his impressive extemporaneous address which was calculated to move even the most hardened. What had fallen from the prisoner's, he said, might excite some feeling, but only tended to confirm the justice of their sentence. He observed to Wansley that whatever prejudice he might imagine existed, growing out of the distinctions of color, the utmost impartiality had been observed in his case. Admitting the statement that both Brownrigg and Dawes had sworn falsely, the prisoners' own words, just uttered, admitted that they had been guilty of a most horrible crime, that of taking human life, without any provocation whatever. If the Court could entertain a doubt that, in the case of Wansley, the least injustice had been done, or the slightest advantage withheld from him, they would afford him another opportunity of being tried. But there was not a shadow of such a doubt.

Where the accused denies the charges against him, courts must proceed upon testimony. There is no other mode of arriving at a conclusion. Sometimes, with all the care that may be taken, they may err; and it is most distressing for them to execute their painful duty of pronouncing sentence, when they entertain the supposition that a mistake may have been made in convicting. But here there

was no such embarrassment. The prisoners stood, for the last time, in the presence of an earthly tribunal admitted their deep and unequivocal guilt. In ordinary cases of the kind, there were some circumstances of palliation, or such as tended to provoke sympathy. The offender may have been led to commit the act by sudden passion, or strong resentment newly awakened: there may have been violent provocations to the deed; or other circumstances which may take away the control of reason for the time may mitigate the turpitude of the offence. It was not so here. What cause of offence had either the Captain or Mate ever given to the prisoners? They trusted in them as able and good citizens, and confided to them their lives and property. A sum of money was the temptation, and ever the scheme to obtain it, they had deliberated long and cautiously—had slept upon it, and reasoned long about it. If what Gibbs had stated were true, and though he did not strike the Mate, still he was equally guilty as an abettor, in the eye of the law, and in his own conscience. He might have stretched out his hand and saved him, when he stood by assisting and encouraging his murderers, and the unfortunate man petitioning in his agony for mercy.

Notwithstanding all this the Judge said, he could not believe the prisoners so wholly callous and incapable of feeling contrition, as not to have the hearts softened and awakened to repentant emotion, when they looked back upon their unprovoked outrage. They were American citizens. They had shown in what they had said in Court this day, that they were possessed of a more than ordinary share of common intelligence, and must have participated to some extent in the blessings of education so widely scattered over this country. They well understood their civil duties and responsibilities. The Court would believe them when they stated that up to a certain time, they were averse to the commission of the crime. In youth their early feelings must have been taught to revolt, when they heard of commission of murders, mutinies and robberies. Yet now, in mature manhood, they stood convicted of all.

When they entered on the arduous profession they had adopted, those crimes must have presented themselves as the most dangerous against which they would have to guard; nor could they then have dreamed of perpetrating them. But the evidence convicted them of every offence laid in the indictment; of murder, mutiny, robbery on the high seas, and scuttling the vessel; the penalty for each which is death. If they had saved the lives of the officers, and the cargo likewise, and scuttled the vessel, their condemnation would still have been the same.

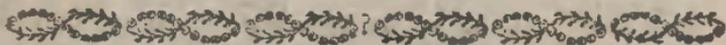
He then proceeded to pass sentence upon them severally, that each of them should be taken from the place where they then were, and thence to the place of confinement and should be hanged by the neck till he was dead; and that the Marshall of the Southern District of N. Y. should see this sentence carried into execution on the 22d day of April next, between the hours of 10 and 4 o'clock.

He observed that the only matter which the Court had under deliberation, was as to the time of executing the sentence. In many countries this followed the sentence immediately; nor was there any legal reason why they should not be forthwith conveyed to the scaffold, from the dock where they stood to undergo their fate. The

Court had allowed them six weeks for preparation; but it was by no means with a view of allowing them to indulge in the hope of pardon. They must not let their minds dwell on it for a moment. Their death must be inevitable. It was as certain as that they were now living men. That by the 22d April, they must die. He asked if it was not an affecting subject of consideration for them to bear this inevitable degree—did they realize, apply, and understand it? The Court hardly knew in what manner to present to them its closing remarks, or what view of their case would most penetrate and melt their hearts. Surely it must sometimes have presented itself to their minds, that it is a dreadful thing to die. Even in age, when the faculties have lost all their vigour, and the mind and body perform their functions most feebly, it is natural to cling to life. Doubtless so, in the fulness of strength and manhood. When laid on the bed of sickness, though surrounded by the nearest and dearest friends, and attended with every comfort and every appliance to resist the last enemy, it is felt to be a hard thing to die.—In their perilous profession, in which they must sometimes have been exposed to the dangers of the tempests, rocks, and shipwrecks, they must have felt the power of that principle, which induced them to make every exertion to save their lives, by the most desperate efforts. Even in the uproar and excitement of battle, where all the angry passions are aroused, the principles of self-preservation exist and operate.

But if the prisoners had never thought or felt that it is an awful thing to die, he besought them now to consider of it, coolly; and with a steady attention to regard it singly. Let them also consider what is to come after it.—The humanity of the Marshal would afford them every convenience for communication with pious men, such as they might choose to see. The Court had discharged its duty.

Gibbs asked if he might see his friends. The Court replied that the Marshal would allow him every proper indulgence.



FURTHER PARTICULARS.

We are credibly informed that Gibbs is not the real name of the prisoner who passes by that name. He admits this, and further states, that he formerly commanded a Buenos Ayrean privateer, in which he made several cruises. During the last spring he took passage for Gibraltar, and thence for Algiers, in the hope of procuring a situation on board some of their corsairs; but he found it impossible to elude the vigilance of the French blockading squadron, and proceed to Tunis. His attempt was unsuccessful there, and he was compelled to return to Gibraltar. He sailed thence for Boston, and afterwards to New Orleans, where he shipped as one of the crew of the Vineyard.

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