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LAW INTELLIGENCE.

FROM THE ORLEANS GAZETTE, MAY 1. LAW DECISION.

United States District Court, Lou siana District. Present the Henorable Donthick A. Hats.

Hers of Livingston and Fulton, vs. John Cromwe l, George Shiras and others

Last week an incidental point was raled in a series of cases, which have excited much interest, and involved a question supposed, and, we believe justly, to be of great importance of the west, to the unvigation of the Mississipfavored with a copy of the opinion of his hon- miss the suit. or Judge Hall, delivered in one of the cases in question, which we take great pleasure in laying before our readers, tagether with a brief sketch of such proceedings in relation to the subject as we are acquainted with.

comply with : and it was provided also, " that United States having declared that " the judiany person or persons, whosoever, without be- cial power shall extend to controversies beter craft, which should or might be urged, de cial power granted by the Constitution.

the supreme court touching questions of juris- appears clearly to have been his opinion, that it is of British capital, and by which the country has diction were cited.

ucas

the same side.

and Mr. Winston contended :---

avment of at least \$1 50 in advance ; and no dis- diately from the constitution, and that congress act are perfectly consistent-where citizeus of We hope, and expect, that Congress will not could no more abridge than enlarge it.

stood in these relations.

parties.

After taking some time to consider upon the both indifferent ; and therefore there is no danimportant questions raised at the bar, Judge ger that the state courts would be partial to Hall pronounced the following

DECISION : This is a motion to discharge the bail order- izen of the state where the action is brought ---

ed on this case on the ground of want of juris- and therefore give the federal courts cognito the commerce of the states and territories diction and for other cases. If it shall appear zance of the cause. So in the case of an alien of the west, to the uavigation of the Mississip- in the course of the examination of the subject, -this privilege is given to him solely on the tion of a term. We are as food of Independence, pi and its tributary streams. We have been that the court has no jurisdiction, I shall dis score of his alienage; to satisfy foreign nations in a political view, as any of those who so la-

in the year 1811 the legislature of the theu of another state ... the plaintiffs and defendance cognizance of controversies between citizens of which arts, inventions and science, become the territory of Orleans, granted to Messrs. Ro-bert R. Livingston and Robert Fulton, their are citizens of the state; it is therefore con-heirs, &c. "the sole and exclusive right and ended that this action cannot be maintained. templated by the constitution-that is to cases most distant parts of the world.-There has, in privilege to build, make, use, employ and ua- In answer to this, it is said, first, that in the where there would be any danger arising from fact, been marvellous magic in this word indevigate all and every kind or species of boats same sec. it is declared, " that no civil suit the influence of local laws and prejudices. pendence, and it is yet expected to work more or vessels or water craft, which may be urged shall be brought before either of the said courts This not being such a one, it is not included in than common wonders, by being adroitly playor impelled through the water by the force of against an inhabitant of the United States in the grant, and this court deriving its jurisdicfire or steam, in all creeks, waters, Se. with- any other district than that whereof he is an tion immediately from the judiciary act, canin the jurisdiction of the said territory, for and inhabitant, or in which he may be found at the not take cognizance of this case. during the full term of eighteen years from time of serving the writ ; ' from which it is inand after the 1st day of January then next-en- ferred that any inhabitant of the United States suing." To this grant certain conditions were may be sued wherever he may be found. It annexed, which the grantees were required to is said secondly, that the Constitution of the FROM THE (CHARESTON) SOUTHERS PATRIOT,

through the water by the force of in for steam I shall consider the second point first. of t within the jurisdiction of said territory, bould I appears clearly to have been the second point first. or chait and every offence, forfeit and pay the of the judges of the United States, ever since guage. Belf interest gives a fatal obliquity to the effervesence of feeling expressed by us would said Livingston and Fulton, their heirs, &: the formation of the constitution and judicial our views, on all questions which ever so re-not have been considered sudden or unexpected. accord dollars, and should forfeit to the said laws, that excepting a few cases of original ju-Livingston and Fulton. all such boats or water risdiction, given the supreme court by the con-rity of the species. On what other principle, gister in America, we made a full statement of craft together with the steam engine and all ap- stitution, the disposal of the judicial power ba- can be explained, the revival of doctrines, from the views entertained by us of that affair; and paratus thereof." Under this privilege Messrs. Livingston and Judges Elsworth and Chase in 4th Dallas .- been forever cast among the rubbish of anti- cause we doubted his integrity. The American Fulton, in the year 1812, commenced ranning . If Congress has given the power to this court, quated error and perdicious opinions ? Why is right in not believing that " sympathy for the steam-hoats on the Mississippi, which they we passes it not otherwise; and if Congress is it so d ficult to bring disputants to agree, as principles of Lord Castlereagh," could have inhave continued successfully ever since-but has not given the power to this court, or to any to the elements of their reasonings, and the re- fluenced us to " fight his lordship's battles;" for not without rivals, or free from interruption or other court, it still remains at the legislative sults? It does seem, therefore, to be the usual the readers of the Recorder well know our ointerference in the enjoyment of the exclusive disposal." " Besides, congress is not bound, terable destiny of human nature, to fevolve for- pinion of the British government, and the Britprivilege, which they derived from the territo- and it would perhaps be inexpedient to enlarge ever in the same circle of error and absurdity ; ish ministers. But how can our disapprobation. ry of Orleans, and which they now hold under the jurisdiction of the federal courts to every and there appears to be no possibility of escap- of Cobbett, be construed into a partial " coalsthe state of Louisiana. About the time or soon subject which the constitution might warrant." ing from the sophisms of partial and interest-after the time when Messrs. Livingston and Without this construction, I do not see how the cd reasoners. The light of philosophy has ac-we forever jumble the politics of foreign nations Fallon commenced their operations, several judicial power of the United States could be complished all, in this view, it is ever able to with that of our own? If we entertain the steam-boats were built upon the western was exercised. By the constitution congress has effect for the species. All the facts of human highest approbation for Lord Castlereagh, ters; and in the necessary course of trade found power to establish tribunals inferior to the Su- nature have been generalized, and theerry has (which is not admitted) how is this circumtheir way to New-Orleans ; there they were preme court, and the judicial power is vested advanced very far in the explanation of its most stance to deprive us of the honor of possessing denounced as intruders by those interested in in the supreme court, and in such inferior courts difficult phenomena. Yet questions on morals American feeling? or what connexion can it posthe privilege of Messrs Livingston and Ful- as congress may from time to time ordain and -on legislation -on government -on the rights sibly have with opinions of the political characton. To these uncourteous denunciations the establish; but the whole judicial power is not of maskind, are still debated with the same ter of William Cobbett? We would never apstrangers of the west answered in the tone of given to each court ; portions of that power are pertinativy-the same mental blind ...- the plaud a secondrel because he abused a personal defiance, and immediately the artillery of the to be distributed to the different tribunals that same obstinate devotion to prejudice, as on the enemy ; and why should we approve of Cobher was marshalled on the sides of the respec- may be established -- to parcel out the power first moment they were propounded, tive combutants. For some time the contest is the duty of congress, and the particular ju- To make an application of these general re- and the British Stars and Garters? There was carried on in the state courts with vari- risdiction, so distributed to the particular marks, and to their illustration, we are Lound-are many reasons why we should not admire ous success ; from thence it was recently re- court, is the only one that can be expected by to notice the obstinacy with which statesmen, Mr. Cobbett, and there are a few, and we think moved to the United States court, where the it. Congress has performed this duty as far in both Europe and America, still eling to the very substantial ones, why we should entiredefendants in the present action, with several as it has deemed it expedient to use the power. principles that characterized the mercautile po- iy detest and despise him. When he formerly others, were prosecuted for the penalties accru- In the case of Bolman, it is stated by the chief liey of an ignorant age. and which have been resided in America, he was the avowed enemy ing under the privilege, and ordered to be held justice, that it is incumbent on the counsel, in long since discarded from the reasonings of all of our constitution, laws and government-the to bail-some not being able to find security order to maintain their motion, to prove that enlightened œconomists. Mr. BROUGHAM ac- slarderer of our illustrious Jefferson, and mawere confined in prison. It was moved that the bail should be releas- act within the powers of the supreme court in making such opinions or tents, the basis of their in establishing our independence, and preserved in the cases in which it had been given, and its original jurisdiction ; that is, the power di- commercial policy ; and they have been brought ing unsullied the sacred purity of our laws.

neconsary, in the circuit court, between citizens, been largely benefited, to participate in pro-2d. Because the plaintiffs claim under a spe-tof different states, that one of the parties to moting the interest of the manufacturers : that cial and private act of the state of Louisiana, the suit should be a citizen of the state where he is also assisting the independence of his derived from its sovereignty, and solely cogni-ithe mat is brought-but there is a case in which country, if he will help to close these profitable it is not necessary in order to give jarisdiction. channels of foreign commerce, by which our Mr. Duncan and Mr. Hawkins followed on that either of the parties should be a citizen of produce commands a high price abroad, and we the state where the suit is brought-that is the procure articles which superior skill and capi-On the part of the plaintiffs, Mr. Grymes case included in the latter part of the 11th tal can afford at a low rate. In fact, to sell see a suit brought by an alien against a cit- dear, and to purchase cheap, is rainous commer-1. That the judicial authority vested in the izes who may be found in any district."-Thus cial policy with a certain class of statesmen, courts of the United States, was derived imme- we find that all the parts of the 11th see. of the and one which calls for legislative interference. different states sue, one party must be a citizen be hurried, by the clamors of interested per-That by the constitution it was declared that of the state where the suit is brought, but the sons and their partizons, into measures which the judicial powers of the United States, shall alica may sue a citizen where he may be found.] extend to controversies " between citizens of Let me ask upon what principle is the law so different states," and that the present parties established? The answer is obvious-the prin-

the motive for giving tederal jurisdiction is, 2. That the right accruing to the plaintiffs to pour mattens and citizens from local preju-wader the sate net was a civil right, remediat dicks. It there is to danger of local proju-in any court having jurisdiction between the dree where born parties are citizens of states other then where the suit is brought-they are

> either. But the constitution and law apprehead partiality where one of the parties is a cit-

we declare, that an alien may sue in the na-

ses between citizens of the different states, on- appears to me that the spirit of the constituly where the suit is between a citizen of the tion is complied with in the grant of jurisdic- that beneficent intercourse by which they are state where the suit is brought, and a citizes tion to the circuit courts. Congress has given bumanized, and their prejudices weakened-by

POLITICAL.

A Republican paper.

It will sever, we believe, cease to e matter ing properly authorised by the said Livings- tween citizens of different states," congress of astonishment, how slowly truth a kes its ton and Fulton or their heirs, &c. who should had no right to restrain or limit the jurisdic- way against selfish views and absurd projudices, make use, employ or navigate any boat or was tion, and this court may exercise all the judi- all over the universe. We widely diff a, in fact, with those philosophers, who assert that most bett, and something explanatory is desired on of the uncertainty of moral and political reason- the subject. Had the American referred to tion in the proved to the internation with a

will prove especially injurious to the great staple of the southerp States. What was known to be a hazardous speculation, fostered by temporary circumstances into unnatural maturity, ought not, we conceive, to be considered as the permament interests of a population essentially agriculturni, and probably to continue so for ages to come.

But the greatest fallacy in the argument on this subject consists in this-that manufactures make us really independent. Now, of all absurdities, that of supposing a nation to legislate in order to promote commercial independence in a commercial era, is the greatest. It is a miserable sophism, founded on the misapplicavishly abuse file word. But what sober politi-It is contended, that the 11th sec. of the just tional courts any of our citizens wherever they cian, what friend to human improvement could diciary act gives this court cognizance of ea- may be found. From the above reasoning it wish for such a result. (if feasible.) as that of insulating nations from each other, cutting off ed off in subservience to private interest. It is the shibboleth of the party employing it-but the good sense of our representatives will not permit them, we hope, to sacrifice the permanent interests of the commonwealth, to views which falsely assume the name of patriotism.

FROM THE CAPE-FEAR RECORDER, A Democratic print

Cobbett .- In the Fayetteville American of the 22d instant, are some remarks on a few observations made by us concerning William Cobsome of the stand housers of the accorner.

cessary to detail their orguments at length.

court had no jurisdiction.

of the state in which the suit is brought ; the ot, the chief justice in reasoning on the ques- moting their true interests. of Kentucky.

and laws of the United States-the limits of would be deprived, if the restricted construction than its actual worth, and when he is obliged to experience has unquestionably qualified him, the judicial authority which they may ordain of the act of congress, establishing its juris- pay perhaps, twice the value of the fabrics with would foresee the necessity of providing for his and establish are designated in the 2d sec. of diction, should prevail. The circuit courts of which he clothes himself and household -- that sons, his nephows, and his cousins. He were the 3d art. of the constitution. But as the dis- the United States have cognizance of cases all this is for the benefit of a balance of trade ; knew that his treasonable writings would event trict and circuit courts owe their organization where an alien is a party, or the suit is be- to keep our cash at home, and ultimately to draw ually compel him to fly to his country, and that to, so they derive their powers immediately tween a citizen of a state where the suit is that of other nations to our shores-that he is no country opened so fair a prospect of aggrand-from congress. Their authority being thus brought and a citizenof another state; the judge, promoting the independence of his country, izing his family as the United States -- But the limited the judicial act must be sought in order observes " the court of Orleans would have no whilst he is, in fact, fostering the interests of a temper of the public mind in America, so evito determine its extent, and ascertain its boun- jurisdiction of a suit brought by or against a few large capitalists, who, having found, du- dently against him, must be softened by a few daries. By the 11th section of that act the cit-cuit courts have original cognizance of civil nother state because neither party would be a vestment of capital, are desirous to keep up their the people, and it bedt in unison with his wishsuits in three cases only. 1st. Where the U- citizen of the state in which the court set." establishments, by persuading all patriotic es. The New-York Register obtained extenited States is plaintiff ; 2d. Where an alien But this would not follow according to the rea- citizens, to take their articles at monopoly pri- sive patronage ; and the time has come for put-

tween a citizen of the state where the suit is be-brought, and a citizen of another state. In a citizen of the state where the court sits. Would find it to be his interest to throw up the [SEZ FOURTH FAGE] support of these positions, all the decisions of From this observation of the chief justice, it lextensive credit which he now enjoys in the use !

Kentucky. That this point depended on the constitution and of what cases the circuit court of Orleans market for his produce, and sold it for much less well as he professes to, and for which his long

longs to Congress. This is the language of time to time, which it has been supposed have we did not run with the current in his favor, behett because he binckguards Lord Castlerengh

the issuing of the writ of habeas corpus is an cuses the present ministry of Great Britain, of my other worthies, who had been conspicuous that such of the defendants as were in prison, rectly given to it by the constitution—or that should be discharged. As the points taken by the counsel for the parties are examined by the Judge, it is unne-not pretended that this jurisdiction is expressly our manufactures. A balance of trade, realiz-draw upon him the just abhorence of the Amergiven to the circuit courts exclusively, by the ed in the precious metals, is sound doctrine with lican people. But it is said he has made amends The case on the part of the defendants was constitution, it would appear from the reason- these liberal economists, and which they have -- that he is now the friend of America. Are opened by Mr. Dick, who contended that the ing of the chief justice, that it is incumbent on dragged from the obscurity in which it had we to take the fulsome flattery, which he has the plaintiff to shew that it is given by some slept for a considerable time, to enlighten all lavished on our country for a few years past, as 1. Because neither of the parties are eitizens act of congress. In the case of Sera vs Pit- classes of our community on the means of pro- a pledge of his friendship ? No-at least we ought not to do so. His designs have been too plaintiffs declaring as citizens of New-York, tion of jurisdiction in the Orleans district court, and the defendants being designated as citizens mentions some of the cases in which the circuit cessively consoled, when he is told by this class who will reflect on the movements of himself