

Case No. 14,738. UNITED STATES v. CARTACHO.
[Richmond Inquirer, Vol. 22, No. 52.]

Circuit Court, D. Virginia.

November 3, 1823.

TRIAL FOR MURDER.

[On the prosecution of a foreigner for murder the court may direct that half of the array shall be foreigners.]

[Cited in brief in U. S. v. Carnot, Case No. 14,726.]

A special session of the circuit court of the United States for the district commenced at Norfolk, October 27, 1823, pursuant to public notice, for the trial of Manuel Cartacho upon a charge of piracy; Chief Justice JOHN MARSHALL presiding, Hon. ST. GEORGE TUCKER, associate judge.

The Chief Justice having delivered his charge to the grand jury, the jury retired, and about two hours after came into court with a true bill.

The clerk being about to call the petit jury summoned to try the issue, Albert Allmand, Esq., of counsel for the accused, moved the court to set aside half of the array, and allow

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to the prisoner the substitution of the like number of foreigners,—a privilege, sometimes accorded to alien criminals by our courts with whom it is discretionary, but in regard to which there is no act of congress, although the state laws have a provision to that effect. The court held the motion under advisement, and adjourned till the next day, when it acceded to the motion of the prisoner's counsel, and directed the discharge of the jury that had been previously summoned, and that a new array should be empanelled, one-half of which should be foreigners who were not citizens of the United States. The jury being sworn, the examination of witnesses on the part of the United States and for the prisoner commenced, and did not close until 5 o'clock P. M., when the court adjourned to October 31st, having previously directed that the jury should be kept together in custody of the marshal until the meeting of the court. By consent of counsel the case was committed to the jury without argument, and in a short time they returned into court with a verdict of guilty, but recommending the prisoner to the clemency of the president of the United States, and on November 3d the Chief Justice pronounced upon the prisoner the sentence of death, and appointed Friday, the 5th of December, for his execution.