

Case No. 18,264. CHARGE TO GRAND JURY—NEUTRALITY LAWS.
[5 Blatchf. 556.]¹

Circuit Court, N. D. New York.

June 20, 1866.

THE LAW OF NEUTRALITY.

1. The 6th section of the act of April 20, 1818 (3 Stat. 449), forbidding military expeditions by individuals against countries with which the United States are at peace, commented on.
2. The duties of neutrality, enforced.

SHIPMAN, District Judge (charging grand jury). I intimated to you yesterday, at the close of my brief remarks on the general business of the term that would come before you, that I would this morning submit a few observations to you on a single subject. The district attorney has informed me that he intends to lay before you charges against certain individuals alleged to have been engaged in a military expedition against the provinces of Canada, in violation of the neutrality laws of the United States. The particular section of the statute upon which he intends to found the in

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dictments is as follows; “If any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or any colony, district, or people, with whom the United States are at peace, every person so offending shall be deemed guilty of a misdemeanor, and shall be fined not exceeding \$3,000, and imprisoned not more than three years.” This is the sixth section of an act of congress approved April 20, 1818 (3 Stat. 449), and forms part of a series of provisions enacted for the very purpose of preventing hostile incursions from our own territory into that of governments with which we are at peace, as well as the fitting out or arming vessels to operate by sea. This act is founded upon the highest considerations of justice, peace, and safety, and every person within the limits of the United States is bound to yield obedience to its provisions. It applies not only to citizens of the United States, but to all persons within their territory or jurisdiction, whether permanently or temporarily residing therein. It was the duty of the national legislature to enact this law, and it is the duty of every magistrate and every juror to whom any jurisdiction over the subject matter is committed, to give his aid, under proper legal rules, to the enforcement of its obligations. The duty of a government to restrain its own citizens, and all others within its territorial limits, from engaging in military expeditions against powers with which such government is at peace, arises out of the law of nations, and its faithful observance is of the very highest importance to the peace of the world, the stability and good order of society, and the welfare of mankind. Were individuals, however numerous or respectable, by whatever motives actuated, permitted, upon their own motion, to organize warlike enterprises in their native or adopted country, and engage in incursions into the territory of neighboring friendly nations, governments would no longer have control of the momentous questions of war and peace. A comparatively small portion of the population of a country could effectually embroil it with other nations, and all the calamities of war be precipitated upon a people, at any moment however unfavorable, without the sanction of their constituted authorities, and against the will of a majority of the people themselves. A country which should permit such a flagrant violation of its national obligations, would soon become a theatre from which hostile expeditions would issue, both by sea and by land. It would inevitably be brought into collision with every respectable government on the globe, whose disaffected citizens might seek its shore, in order to securely prepare and send forth the means of retaliation, revolution, or conquest. The honor and dignity of the United States, the reciprocal duties which rest upon it as one of the nations of the earth, and the welfare of its citizens, both native and adopted, all demand that this act of congress shall be obeyed, or, if violated, that the offender shall be promptly punished. If, therefore, evidence shall be presented to you proving that parties have, within the territory or jurisdiction, of the United States, begun or set on foot, or provided or prepared the

means for, a military expedition against Canada, it will be your duty to present them to the court for trial. You deal with the fact. You will be governed by the evidence.

I hardly need remind you that many considerations which find a place in appeals to popular feeling are hardly proper for your deliberations. We are at peace with Great Britain. Whether, in the judgment of individuals, the people of England or of Canada have, during our late civil war, said or done things distasteful to us or not, is a matter entirely foreign from our duty to enforce our own laws. I have said that we are at peace with Great Britain. That is a question of law for the court to determine, and one over which the grand jury have no just control. The only question, therefore, for you to determine is, whether or not the accused parties have, in any invasion, or attempted invasion, of Canada, broken the law which I have read to you; and, in determining that question, you should consider the acts done on both sides of the boundary line, as giving character to those acts which were done exclusively on our own soil. You will say whether, "if an expedition started from this country, and actually made war in a neighboring province, the acts done here were not a beginning or setting on foot, within the United States, of a military expedition or enterprise, having for its object that which it actually accomplished.

Neither can the grand jury properly consider any supposed grievances which the offending party may have suffered at the hands of the government against which this military crusade was leveled. With the merits of that question we have nothing to do here. Our laws must be enforced. If men of one nationality, who have sought homes among us, can violate our neutral obligations, men of every other nationality can do likewise; and thus the foreign relations of a great country may be taken out of the hands of its government, and the issues of war and peace be committed to as many irresponsible parties as we have classes of adopted citizens or resident foreigners among us. I need but allude to such an absurd idea, to satisfy you that considerations affected by sympathy with one or another class of adopted citizens, can have no proper place in the inquiry upon which you are about to enter. We live under a government of laws, and, when we cease to administer those laws, and to submit to their requirements, we may prove ourselves unworthy of that safety and dignity which they are designed to secure. You will, gentlemen, retire to your room, and, if you find that the offences to which I have alluded have been committed, you will present the offenders for trial.

¹ [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]