The United States Versus Major General Andrew Jackson

Mr. Deutsch relates the story of the trial for contempt of court—and later vindication—of Andrew Jackson. The contempt charges grew out of incidents that occurred when Jackson proclaimed martial law as commander of the New Orleans garrison in the War of 1812.

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ON DECEMBER 16, 1814, "Major General Andrew Jackson, commanding the Seventh Military District, declared the City and Environs of New Orleans under strict martial law . . ."[1]

Shortly before Jackson's arrival in the city to defend it against the British, Governor William C. C. Claiborne of Louisiana had advised the General that the local troops had actually resisted his orders, "being encouraged in this disobedience by the Legislature of the State then in session . . ."

Not long after his arrival on December 2, 1814, Jackson asked the Legislature to suspend the writ of habeas corpus to render it possible to impress seamen for the armed vessels *Carolina* and *Louisiana*, but the Legislature refused and instead offered a bounty of $24 per month to sailors who would engage voluntarily in the public service.

During the early engagements, a committee of the Legislature waited upon General Jackson and asked him as to the course he intended to pursue if he found it necessary to retreat; to which the General replied: "Say to your honorable body that if disaster does overtake me . . . they may expect a very warm session."

Rumors were rife, and on December 28, Jackson was told that the Legislature was contemplating surrender of the city to the enemy.

The General immediately wrote a hasty note to Governor Claiborne, directing him to watch the movements of the Legislature closely and to place a guard at the door of its hall the moment any sign of surrender appeared.

The Governor, only too willing to hold the Legislature in check, placed a guard at the door of its chamber before the houses met, and thus, instead of locking them in, he shut the members out.

On January 8, 1815, in a brief but decisive engagement, the British were ignominiously defeated in the Battle of New Orleans, at Chalmette just below the city, with over 2,000 casualties against less than 100 for Jackson's forces, and the British withdrew and abandoned their expedition.

Actually, fifteen days prior to this last engagement of the War of 1812, the treaty of peace bringing the war to a close had been signed at Ghent on Christmas Eve, 1814.

By the middle of February, unofficial reports of the peace began reaching New Orleans.[2] This intelligence had so demoralizing an effect on Jackson's forces and created so intense a feeling among the populace that on February 20 Jackson found it necessary to issue a warning proclamation.

"We must not be thrown into false security by hopes that may be delusive", he said. "To put you off your guard and attack you by surprise, is the natural expedient of one who, having experienced the superiority of your arms, still hopes to overcome you by stratagem. . . Peace, whenever it shall be established on fair and honorable terms, is an event in which both nations ought to rejoice; but . . . in the meantime, every motive that can operate on men who love their country, and are determined not to lose it, calls upon us for increased vigilance and exertion."[3]

This proclamation again aroused the ire of the Legislature, whose members were by now convinced that peace had actually been concluded. Still angered at their forcible exclusion from their chamber, they adopted a resolution of thanks to all of the officers of Jackson's staff, except the General-in-Chief himself.

Too Many Take French Leave

The French, who had volunteered for service with the American forces and had contributed brilliantly to the defense of the city, satisfied that their services were no longer needed, now asserted their right to leave the ranks as freely as they had entered them.

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1. 2 Parton, LIFE OF ANDREW JACKSON (Houghton, Mifflin & Co., Cambridge, 1860) 60.

2. One of these was brought by a commission sent to the British fleet, to arrange an exchange of prisoners, and recovery of slaves who had fled to the enemy vessels. Two members of this commission were Captain Maunsel White, ancestor of Chief Justice Edward Douglass White; and Edward Livingston, compiler of the Louisiana Codes, and volunteer aide to Jackson. See footnote 10, *post*.

3. 4 Gayarré, HISTORY OF LOUISIANA (F. F. Hansell & Bro., Ltd., New Orleans, 1903) 578-79. Excerpts from official documents, throughout this article, are quoted, unless otherwise noted, from standard histories and biographies.

Many of these obtained from the French consul at New Orleans certificates of their nationality, and were promptly released from service; but so many of these certificates appeared that Jackson began to suspect, undoubtedly with considerable cause, that they were being issued indiscriminately to all who applied for them.

Jackson thereupon issued a general order commanding all French subjects to retire, within three days, to a distance from New Orleans not nearer than Baton Rouge.

On March 3, 1815, there appeared in the *Louisiana Courier*, an article bitterly critical of Jackson's order expelling the French. It was written by Louis Louallier, a Frenchman who had become a naturalized American citizen and who was a member of the Louisiana Legislature.

The article began with the statement that "to remain silent on the last General Orders, directing all the Frenchmen who now reside in New Orleans, to leave within three days, and to keep at a distance of 120 miles from it, would be an act of cowardice which ought not to be expected from a citizen of a free country . . ."

"Are we", it asked, "to restrain our indignation when we remember that these very Frenchmen who are now exiled, have so powerfully contributed to the preservation of Louisiana . . . and when those brave men ask no other reward than to be permitted peaceably to enjoy among us the rights secured to them by treaties and the laws of America . . .?"

"Could it be possible", the article continued, "that the Constitution and laws of our country should have left in the power of the several commanders of military districts, to dissolve all at once the ties of friendship which unite America and the nations of Europe?"

"The President alone has, by law, the right to adopt, against *alien enemies*, such measures as a state of war may render necessary . . . We do not know any law authorizing General Jackson to apply to *alien friends*, a measure which the President himself has only the right to adopt against *alien enemies*."

In a really brilliant assertion of civil rights, the article concluded "that it is high time the laws should resume their empire; that the citizens of the state should return to the enjoyment of their rights; that, in acknowledging that we are indebted to General Jackson for the preservation of our City and the defeat of the British, we do not feel much inclined, through gratitude, to sacrifice any of our privileges, and less than any other, that of expressing our opinion about the acts of his administration . . . and that, having done enough for glory, the time for moderation has arrived; and finally, that the acts of authority which the invasion of our country and our safety may have rendered necessary, are, since the evacuation of it by the enemy, no longer compatible with our dignity and our oath of making the Constitution respected."[4]

Louallier Arrested by Jackson's Order

Jackson immediately ordered Louallier's arrest, strangely enough, under the Second Article of War, imposing the penalty of death on "all persons *not citizens of, or owing allegiance to, the United States of America*, who shall [in time of war] be found lurking, as spies, in or about the fortification or encampments of the United States . . ."

At noon on Sunday, March 5, 1815, while Louallier was walking along the banquette opposite the Exchange Coffee House, he was arrested by a detachment of soldiers. One P. L. Morel, a lawyer who saw the arrest from the Coffee House, rushed over to Louallier and was immediately retained to effect his release.

Morel promptly presented a petition for *habeas corpus* to United States District Judge Dominick Augustine Hall, who, on condition that Morel would advise General Jackson with regard to the matter before having formal service effected upon him, endorsed the petition in his own hand as follows:

> Let the prayer of the Petition be granted, and the petitioner be brought before me at 11 o'clock tomorrow morning.
>
> 6th Mar. 15[5] Dom. A. Hall

Pursuant to the Judge's instructions, Morel immediately wrote "To his excellency Major General Jackson", that he had "made application to his honor Dom. A. Hall, Judge of the District Court of the United States, for a writ of habeas corpus in behalf of Mr. Louallier, who conceived that he was illegally arrested by order of your excellency; and that the said writ has been awarded, and is returnable tomorrow, 6th instant, at eleven o'clock A.M.—I have the honor to be your excellency's most humble and obedient servant, P. L. Morel, Counsellor at Law."

On receipt of this communication, Jackson flew into a violent rage against Judge Hall, and immediately (March 5, 1815—7:00 P.M.) addressed Colonel Mathew Arbuckle of his staff as follows:

> Having received proof that Dominick A. Hall has been aiding and abetting and exciting mutiny within my camp, you will forthwith order a detachment to arrest and confine him, and report to me as soon as arrested. You will be vigilant; the agents of our enemy are more numerous than we expected. You will be guarded against escapes.
>
> A. JACKSON,
> Major General Commanding

At about 9:00 o'clock on the evening of Sunday, March 5, 1815, Judge Hall was arrested.

Having confined the Judge in the guardhouse, the General sent an aide to obtain from Richard Claiborne, Clerk of the United States District Court, Morel's original petition bearing the Judge's order for issuance of the writ of *habeas corpus*.

Claiborne refused to surrender the document, but was persuaded to accompany the officer bringing the petition with him. At his request, Jackson was permitted to see the petition and order and then refused to return it, saying that it was needed to convict the judge of forgery, for changing the

4. Compare the argument of Jeremiah Black in *Ex parte Milligan*, 71 U. S. (4 Wall) 2, 75-76 (1866): "It is precisely in a time of war and civil commotion that we should double the guards upon the Constitution. In peaceable and quiet times, our legal rights are in little danger of being overborne; but when the wave of power lashes itself into violence and rage, and goes surging up against the barriers which were made to confine it, then we need the whole strength of an unbroken Constitution to save us from destruction."

5. This date was later corrected to "5th", and the correction became peculiarly significant in subsequent developments, as will be noted hereunder.

date of the order from the fifth to the sixth.

On the next morning, John Dick, United States Attorney for the District of Louisiana, applied to Seth Lewis, a Louisiana State District Judge (and a volunteer officer in one of the companies under Jackson's command) for a writ of *habeas corpus* for release of Judge Hall.

Lewis instantly issued the writ—and Jackson immediately ordered the arrest of District Attorney Dick, who was thereupon confined with Hall and Louallier in the guardhouse at the barracks.

Louallier Freed by the Court

On March 9, 1815, on Jackson's orders, Louallier was tried by general court martial on seven charges: (1) mutiny; (2) exciting mutiny; (3) general misconduct; (4) being a spy; (5) illegal and improper conduct and disobedience of orders; (6) writing a wilful and corrupt libel; (7) unsoldierlike behavior and violations of the proclamation of martial law.

All of the charges rested on the single publication of March 3 in the *Louisiana Courier*; and Morel pleaded that the military court had no jurisdiction to try Louallier on the charges against him.

The court sustained Morel's plea as to all of the charges except that of being a spy, and it promptly acquitted Louallier on that charge.[6]

Jackson nevertheless refused to accept the verdict of the court. He issued a general order, justifying martial law as warranting the temporary suspension of civil liberties and processes for their permanent preservation, and Louallier remained a prisoner.

Realizing, from the collapse of the court martial of Louallier what the outcome of a trial of Judge Hall on charges of exciting mutiny in the camp would be, Jackson, finding himself embarrassed by his six days' imprisonment of the Judge, had him escorted out of the City on March 11 with directions to "remain without the lines of my sentinels until the ratification is regularly announced, or until the British shall have left the southern coast".[7]

Fortunately, the Judge was not forced to remain long in exile. On Monday morning, March 13, a courier arrived from Washington with the long-awaited official news of the ratification of the Treaty of Ghent; Jackson was instructed by the President to pardon all military offenders; and Judge Hall resumed his place on the bench.

On March 21, 1815, John Dick, the United States Attorney, appeared in open court before Judge Hall, and gave a full oral recitation of events before and after Jackson's issuance of his proclamation of martial law.

The District Attorney then adduced the testimony of Richard Claiborne, Clerk of the Court, in part as follows:

> In this case, on Sunday, the 5th of March, 1815, the Honorable Dominick A. Hall gave an order on the original petition of Louallier . . . dating the said order on the 6th of the month . . . Upon my suggesting the mistake to the judge, he changed the figure "six" to "five". On the evening of the said 5th, I met with Major Chotard, one of General Jackson's aides, who . . . showed me a written paper which he said was an order from the General requiring me to give up the original of the order of the judge aforesaid. I told Major Chotard that there was an order of Judge Hall's court that the clerk should deliver no original paper out of the office—but that I . . . would go with it myself to the General . . . and we went together, Mr. P. L. B. Duplessis [the U. S. Marshal] with us. . . The General asked me for the original order of Judge Hall as before mentioned . . . and I handed the General the paper. The General read the order and also the affidavit of Mr. Morel . . . and observed to me that the date of both the order and the affidavit had been altered, and asked me what was all the juggling about. I assured him there was no juggle, and that the reason of the alteration of the date was as I have stated above. The General mentioned to me that he should keep the paper in his own possession. I observed to him that there was an order of court that no original paper should be delivered out of the office. The General said he should keep it under his own responsibility; that it should be safely preserved and that he would give me a certified copy of it, which he did . . .

On the following day (March 22), the depositions of a number of other witnesses were taken in open court.[8]

U. S. Marshal Duplessis testified that "on or about 9 o'clock of the night of the 5th of March last . . . he went to General Jackson's headquarters . . . the General observed he had shopped the judge . . . [and] that as long as martial law continued, he would acknowledge no other authority than that of the military . . . that he believed it a concerted plan between the judge and Louis Louallier that the writ should issue . . . that from the whole tenor of the conversation . . . with the General . . . a disposition was manifest by him to disregard the writ of habeas corpus . . . This deponent served the writ upon

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6. "In some parts of the country, during the war of 1812, our officers made arbitrary arrests and, by military tribunals, tried citizens who were not in the military service. These arrests and trials, when brought to the notice of the courts, were uniformly condemned as illegal." *Ex parte Milligan*, 71 U. S. (4 Wall) 2, 128-29 (1866). See *Smith* v. *Shaw*, 12 Johns. (N. Y.) 257 (1815).

7. In his LIFE OF ANDREW JACKSON (Samuel F. Bradford, Philadelphia, 1824) 426-27, Senator John H. Eaton says that "Judge Hall was not imprisoned: it was simply an arrest . . . On his arrest, he was simply sent to a distance and placed at liberty . . ."

8. Excerpts from, and accounts of, the court proceedings, are taken from the original records: "*Louallier* v. *Andrew Jackson*, Commanding General of the Seventh Military District" (March 5, 1815—never formally docketed by number); and *United States* v. *Major General Andrew Jackson*", No. 791, United States District Court, District of Louisiana. Some of the original documents are missing from the records in court, but photostatic copies of practically all of the original documents in the record, are to be found in the archives of the Louisiana State Museum Library. The Clerk of Court apparently wrote some of the depositions, as given, in narrative form, with references to the witness in the third person, but the depositions are all signed by the deponents.

the General agreeably to the return which is made upon it . . ."

Colonel Arbuckle deposed that on Sunday, March 5, as commander of the garrison of New Orleans, he received from General Jackson, an order for the arrest of Judge Hall, pursuant to which he "sent out a detachment of about 60 men under the charge of Major Butler of the 3d Regiment, who returned in a short time with Judge Hall, who was confined agreeably to the above order, and who was detained in the custody of the deponent until the following Sunday".[9]

Louallier's attorney, P. L. Morel, testified to the relevant facts within his knowledge as hereinabove recited, as did Captain Peter V. Ogden who had carried out the General's order to escort Judge Hall out of New Orleans on March 12.

Louis Louallier himself merely deposed "that he had never had any conversation or understanding, directly or indirectly, with Judge Hall, on the subject of an article published in the 'Louisiana Courier' the 3rd of March instant . . ."

There was one further witness: Major William O. Winston, who testified that the original writ of habeas corpus was handed to him for use in the court martial of Louallier when he was "detailed by General Jackson as Judge Advocate of the court aforesaid, of which he was informed by General Jackson before breakfast on the 6th of March instant—that in a conversation with General Jackson, he expressed doubts as to Louallier's being tried by a court martial, but . . . General Jackson said that he was enabled to be tried by court martial by virtue of a general order issued by him, declaring martial law to invest the City of New Orleans. . . This deponent expressed a doubt as to the extent and effect, and legal operation, of the order declaring martial law . . . This deponent inferred from the general tenor of General Jackson's conversation . . . that he did not intend or conceive it proper to pay any attention to the writ of habeas corpus for Louallier, or any other writ issued within the limits of his camp."

Jackson Called To Answer Contempt Charge

On the basis of the foregoing testimony, District Attorney Dick moved for a rule to show cause why process of attachment should not issue against Major General Andrew Jackson for contempt of court. The motion was granted, and Jackson was ordered to appear on Friday, March 24, to make his return to the rule.

On Thursday, the twenty-third, Abner L. Duncan, a prominent member of the Louisiana Bar, appeared in court in behalf of General Jackson and obtained a continuance of the return date of the rule until Saturday, the twenty-fifth.

But on the twenty-fifth, Edward Livingston, a veritable giant in Louisiana legal history, appeared in the General's behalf, and, with the consent of District Attorney Dick, obtained another continuance—this time until 10:00 o'clock on Monday morning, March 27, 1815.

At the latter date and hour, Major General Andrew Jackson appeared in court with both Messrs. Livingston and Duncan as his advocates, and, by way of return to the rule, filed an elaborate, lengthy written plea unquestionably drafted in Edward Livingston's distinctive legal style.[10]

The plea begins with ten exceptions, principal among which were want of due process under the Fifth Amendment; a claim of right of trial by jury under the Sixth; and one to the jurisdiction of the court.[11]

The document then set forth, in great detail, the circumstances leading up to the facts constituting the alleged contempt. Jackson described the warnings given him by Governor Claiborne as to disaffection in New Orleans, and stated that, on his arrival in the city, "the same ideas were expressed, and he was advised . . . to proclaim martial law, as the only means of producing union . . . detecting treason and calling forth the energies of the country".

Jackson's plea then stated expressly: "This measure was discussed and recommended to the respondent, as he well recollects, in the presence of the judge of this honorable court, who not only made no objection, but seemed, by his gestures and silence, to approve of its being adopted."

Jackson painted a very vivid picture of the military situation with which he found himself confronted at New Orleans: "A disciplined and powerful army was on our coast, commanded by officers of tried valour and consummate skill; their fleet had already destroyed the feeble defense on which alone we could rely to prevent their landing on our shores. Their point of attack was uncertain—a hundred miles were to be guarded, by a force not sufficient in number for one . . . Treason lurked among us, and only waited the moment of expected defeat to show itself openly. . .

"The physical force of every individual", the General continued, "his moral faculties, his property, and the energy of his example, were to be called into . . . instant action. No delay —no hesitation—no inquiry about right, or all was lost; and everything dear to man . . . his country, its constitution and laws were swept away by the avowed principles, the open practice, of the enemy with whom we had to contend. . .

"In this crisis", Jackson went on, "and under a firm persuasion that none of those objects could be effected by the exercise of the ordinary powers confided to him—under a solemn conviction that the country committed to his care could be saved by that measure only from utter ruin—under a religious belief, that he was performing the most important and sacred duty, the respondent proclaimed martial law."

9. See footnote 7, *supra*.

10. Livingston had been a member of Congress from New York, his native state, United States Attorney for New York and Mayor of New York City. During his illness in the yellow fever epidemic of 1803, a subordinate embezzled funds of the United States for which Livingston was responsible. Livingston resigned as United States Attorney, gave his note (which he later paid) for the missing funds, and moved to Louisiana. He drafted codes for Louisiana, based on the Code Napoleon, and later a "System of Penal Law" which won him international fame, although the system was never actually adopted anywhere. Sir Henry Maine referred to Livingston as "the first legal genius of modern times". He became a member of Congress, and later Senator, from Louisiana; and on Jackson's accession to the Presidency, was appointed Secretary of State and later Minister to France.

11. This document is missing from the record in court. The within excerpts have been taken from Volume 5 of the LOUISIANA HISTORICAL QUARTERLY. The document is also reproduced in its entirety in Senator Eaton's LIFE OF ANDREW JACKSON (see footnote 7, *ante*), 450-466; and in Goodwin, Philo A., BIOGRAPHY OF ANDREW JACKSON (Silas Andrus & Son, Hartford, 1850) 179-189.

Jackson conceded that "he intended, by that measure, to supercede such civil powers as, in their operation, interfered with those he was obliged to exercise. He thought, in such a moment, constitutional forms must be suspended, for the permanent preservation of constitutional rights, and that there could be no question, whether it were best to depart for a moment, from the enjoyment of our dearest privileges, or have them wrested from us forever...

"Personal liberty cannot exist", he insisted, "at a time when every man is required to become a soldier... Unlimited liberty of speech is incompatible with the discipline of a camp; and that of the press more dangerous still, when made the vehicle of conveying intelligence to the enemy, or exciting mutiny among the troops."

There followed then an ingenious defense—unquestionably the brainchild of the combined geniuses of Livingston and Jackson. They submitted that "If the proclamation of martial law were a measure of necessity—a measure without the exercise of which the country must unquestionably have been conquered, then does it form a complete justification for the act." But—

"If it does not", they asked, "in what manner will the proceeding by attachment for contempt be justified? It is undoubtedly and strictly a criminal prosecution; and the constitution declares, that in all criminal prosecutions, the accused shall have the benefit of a trial by jury; yet a prosecution is even now going on in this court, where no such benefit is allowed. Why? From the alleged necessity of the case, because courts could not, it is said, subsist without a power to punish promptly by their own act, and without the intervention of a jury." And so—

The General submitted that if necessity "may, in some cases, justify a departure from the constitution: and if, in the doubtful case of avoiding confusion in a court, shall it be denied in the serious one of preserving a country from conquest and ruin?"

"*Martial Law Was a Necessity*"

Returning to his principal argument, Jackson continued: "The respondent, therefore, believes he has established the necessity of proclaiming martial law... It only remains to prove, in answer to the rule, that the power assumed from necessity, was not abused in its exercise, nor improperly protracted in its duration."

"All the acts mentioned in the rule", the General conceded, "took place after the enemy had retired from the position they had at first assumed—after they had met with a signal defeat, and after an unofficial announcement had been received of the signature of a treaty of peace."

But, he insisted, "if, trusting to an uncertain peace, the respondent had revoked his proclamation, or ceased to act under it, the fatal security by which we were lulled, might have destroyed all discipline, have dissolved all his force, and left him without any means of defending the country against an enemy, instructed by the traitors within our own bosom, of the time and place at which he might safely make his attack."

At about this time, Jackson went on, "the consul of France, who appears, by Governor Claiborne's letter, to have embarrassed the first drafts, by his claims in favor of pretended subjects of his king, renewed his interference; his certificates were given to men in the ranks of the army; to some who had never applied, and to others who wished to use them as the means of obtaining an inglorious exemption from danger and fatigue...

"Under these circumstances", he explained, "to remove the force of an example which had already occasioned such dangerous consequences, and to punish those who were so unwilling to defend what they were so ready to enjoy, the respondent issued a general order, directing those French subjects, who had availed themselves of the consul's certificates, to remove out of the lines of defense, and far enough to avoid any temptation of intercourse with our enemy, whom they were so scrupulous of opposing."

This general order, Jackson conceded, "created some sensation... Aliens and strangers became the most violent advocates of constitutional rights, and native Americans were taught the value of their privileges, by those who formerly disavowed any title to their enjoyment. The order was particularly opposed in an anonymous publication. In this the author... closes by calling upon all Frenchmen to flock to the standard of their consul—thus advising and producing an act of mutiny and insubordination, and publishing the evidence of our weakness and discord to the enemy, who were still in our vicinity...

"To have silently looked upon such

Statue of Andrew Jackson in Jackson Square, New Orleans. In the background is the Cathedral of St. Louis.

an offense", Jackson submitted, "without making any attempt to punish it, would have been a formal surrender of all discipline . . . and public safety. This could not be done; and the respondent immediately ordered the arrest of the offender. A writ of habeas corpus was directed to issue for his enlargement."

And then Jackson bared the sharp barbs on the hooks of his defense: "The very case which had been foreseen", he said, "the very contingency on which martial law was intended to operate, had now occurred. The civil magistrate seemed to think it his duty to enforce the enjoyment of civil rights, although the consequences which have been described, would probably have resulted."

And now, the frank explanation of General Jackson's arrest of Judge Hall: "No other course remained", the General submitted, "than to enforce the principles which he had laid down as his guide, and to suspend the exercise of this judicial power, wherever it interfered with the necessary means of defense. The only way effectually to do this, was to place the judge in a situation in which his interference could not counteract the measures of defense, or give countenance to the mutinous disposition that had shown itself in so alarming a degree.

"Merely to have disregarded the writ", Jackson went on candidly, "would but have increased the evil, and to have obeyed it, was wholly repugnant to the respondent's ideas of the public safety and to his own sense of duty. The judge was therefore confined, and removed beyond the lines of defense."

And so, finally, in his return to the rule to show cause why a writ of attachment for contempt should not issue against him, the General summed up: "This was the conduct of respondent, and these the motives which prompted it. They have been fairly and openly exposed to this tribunal, and to the world; and would not have been accompanied by an exception to the jurisdiction, if it had been deemed expedient to give him that species of trial, to which he thinks himself entitled, by the constitution of his country."

At the very end of his dissertation, in his two concluding sentences, Jackson apparently could not refrain from calling attention to his military victory, as sanctioning his usurpation of civil authority:

> The powers which the exigency of the times forced him to assume, have been exercised exclusively for the public good; and, by the blessing of God, they have been attended with unparalleled success. They have saved the country; and whatever may be the opinion of that country, or the decrees of its courts, in relation to the means he has used, he can never regret that he employed them.
>
> (Sgd) ANDREW JACKSON

During the reading of the foregoing return to the rule, District Attorney Dick raised various objections to admissibility of parts of the document and these were renewed at the conclusion of the reading, when the court, having expressed itself as willing to hear any relevant matter, took the rule under advisement.

On the following morning (March 28, 1815), Judge Hall took the bench, and stated: "The court has taken time to consider the propriety of admitting the answer that was offered yesterday. It was proper to do so... If the court be convinced that the attachment may legally issue, it goes to bring the party into court, and then interrogatories are propounded to him . . ."

The court then heard further argument, and, on the next morning, the twenty-ninth, entered the following order: "The Court being of opinion that sufficient cause had not been shown why an attachment should not issue: It is ordered that an attachment do issue against the defendant, Major General Andrew Jackson, returnable on Friday, the 31st of March instant."

On the thirty-first of March, at the appointed hour, Jackson appeared in court in the dress of a private citizen. Nineteen interrogatories having been filed with the Clerk by the District Attorney, Judge Hall ordered them read and presented to General Jackson, to be answered by him in accordance with law.

The interrogatories, generally, covered the facts as charged, and were directed at proving the contempt as made out in the testimony theretofore adduced. Thus, the Sixth asked: "Did you not, in conversation with the Marshal on the 5th and 6th of March instant, say to him that you had no intention of obeying the said writ of habeas corpus, or language to that effect?"

The Thirteenth and Fourteenth Interrogatories asked Jackson to admit or deny that he caused a court martial to convene to try Louallier "upon charges which jeopardized his life"; and that Louallier was, "at the time, a member of the Legislature of the State of Louisiana".

And the Sixteenth and Seventeenth Interrogatories asked Jackson whether he had not, upon learning of the Judge's signing of an order for the writ of habeas corpus, sent "a detachment of soldiers to arrest the said judge"; and was he not "arrested accordingly on the night of the 5th of March instant, and detained as a prisoner . . . until Sunday, the 12th of March instant?"[12]

Jackson Held in Contempt

At the conclusion of the reading of the interrogatories, they were tendered to Jackson, who simply refused to receive them or to make any answers thereto; whereupon Judge Hall found General Jackson guilty of contempt, and sentenced him forthwith to pay a fine of $1000 to the United States.

While there are conflicting accounts as to when the fine was paid, that given by the eminent Louisiana historian, Charles Gayarré, to the effect that the fine "was instantly discharged", is undoubtedly correct.[13]

There are also conflicting stories, most, if not all, apocryphal, as to reimbursement of the General's fine by public subscription. One of these is credited to an officer named Nolte on Jackson's staff. He is stated to have made oath that such an effort was made, but that, after raising, with difficulty, $160, the campaign was quietly given up.[14]

While Jackson was unquestionably the popular hero of the Battle of New Orleans, the humiliation of his convic-

12. See footnote 7, *supra*.
13. 4 *History of Louisiana*, *op. cit.*, note 3, *supra* at 625.
14. 2 Parton, LIFE OF ANDREW JACKSON, *op. cit.*, note 1, page 320.

tion for contempt nevertheless rankled within him.

Taking advantage of his popularity, he arranged for publication in newspapers throughout the country of his exhaustive return to the rule to show cause why an attachment should not issue against him, as the most eloquent means of telling his side of the story.

And then followed a strange circumstance indeed: A long and detailed "Note to General Jackson's Answer" by Judge Hall himself, published in the *Louisiana Gazette* of April 15, 1815.

The introductory sentence to this "Note" gives the key to the entire article: "Judge Hall has seen in a late paper, a publication called 'Answer of Major-General Jackson', and has observed much art exists to divert the public attention from the outrage which he committed against the laws . . ."

From that time on, however, for more than a quarter of a century, the incident remained a closed one; and in 1829, Major General Andrew Jackson became President of the United States.

And at the conclusion of his second term as President, the Hero of New Orleans returned to the Hermitage, his home in Nashville.

At the Hermitage, Jackson continued to brood bitterly over his fine for contempt of court in New Orleans on March 31, 1815, which he felt to be a dark blemish on his otherwise gleaming escutcheon.

On March 14, 1842, General Jackson addressed Senator Linn of Missouri, with a plea in his own behalf: "When I declared Martial Law, Judge Hall was in the city. . . Judging from his action, he appeared to approve it . . . Ought not Congress to interpose and return a fine imposed, as mine was, for the performance of an act which was indispensible to the safety of the country?

"Can it be expected", the General continued, "that a general will take [such] a high and necessary responsibility . . . if he is insulted, fined or imprisoned by a mistaken or vindictive judge, whose fiat, under an erroneous view of what is due to the forms of law, cannot be changed by legislative power?"[15]

Senator Linn introduced a bill for refund of the fine, and spoke in its behalf: "The question is . . . Was the declaration of Martial Law necessary to aid in saving the 'booty and beauty' of New Orleans? The ladies of the city have said it was . . . and you are now called upon to do an act of sheer justice to an individual who was punished for doing his country a service never to be forgotten."

The debate became a long and bitter one. Senator Conrad of Louisiana, who had been a member of the Louisiana Legislature, insisted that the question was one of principle; and that after the lapse of a quarter of a century, Congress should not reverse the judgment of a competent tribunal on the ground of its illegality. He accordingly opposed Senator Linn's bill.[16]

The question as to whether the fine of General Jackson for contempt of the federal court at New Orleans should be refunded became a national issue. Many states, by acts of their legislatures, instructed their congressional delegations to vote for the refund.

Finally, in the spring of 1843, came such an enactment from the Legislature of Louisiana itself. This body, in the recollection of its feud with General Jackson, who, in 1815, had posted guards at its doors to exclude the members of the Louisiana Legislature from their own hall, had, up to this time, stood firmly opposed to the refund.

But when the Legislature of Louisiana did finally act, it went further than that of any other state. After "requesting" its congressional delegation "to use its best endeavors to procure the passage of a law to restore [the fine] to General Andrew Jackson", the statute went on to say, "that in case a law shall not be passed by the next session of Congress, the Legislature of this State will direct . . . [refund of] the fine imposed on General Jackson by Judge Hall".[17]

This ultimate capitulation of Louisiana, and Jackson's deteriorating physical condition, combined to bring about the enactment, on February 16, 1844, of an Act of Congress, directing "that the sum of One Thousand Dollars, paid by General Andrew Jackson, as a fine imposed on him at New Orleans, the 31st day of March, A.D. 1815, be repaid to him, together with the interest, at the rate of 6% a year since then . . ."[18]

At last, Andrew Jackson received the vindication on which his heart had so long been set; the final chapter in that episode had been written; and on the eighth of June in the following year, the book of his eventful life was closed.

15. 1 CONGR. GLOBE, 2d Sess., 27th Congress, 1841-42, page 364.

16. Interestingly, Senator Conrad, who later became President Fillmore's Secretary of War, had studied law in the office of Abner L. Duncan, who, with Edward Livingston, had been Jackson's counsel, at his trial before Judge Hall.

17. Joint Resolution No. 115 (April 3, 1843), La. Acts of 1843, page 80.

18. Act of February 16, 1844, C. 1.