

**PETER DAVIS, Plaintiff in Error, Vs. REPUBLIC of LIBERIA, Defendant in Error.**

**LRSC 2; 1 LLR 17 (1862) (1 January 1862)**

[January            A. D. 1862.]

Appeal from the Court of Quarter Sessions and Common Pleas, Montserrado County.

Treason— Native inhabitants.

1. It is undoubtedly a fact that our native inhabitants, under treaty stipulations, which treaties are laws when confirmed by the Legislature, are bona fide subjects of this state, and the political authority of the same covers them in all of their relations.
2. The peculiar situation of the natives, in their mode of living, their depth of ignorance and their incapacity to understand the workings of civilized governments, made it necessary to draw their connection and acknowledgment of our political rule over them in form of treaties, but not to be misconstrued that the whole law of the land is not binding upon them, and that they are not to have the benefit of it when arraigned under it, for crime committed.
3. The native inhabitants of the country are capable of committing treasons against the State.

In reviewing the case of one Peter Davis, a native subject of this Republic, brought up to this court upon a writ of error, several features present themselves which are important to speak of, as the charge for which he was condemned in the Superior Court is one of high magnitude. The execution of the law of the land ought to be understood to be done according to its letter and intent, and not to be misconstrued to meet the circumstances surrounding it, but to affect the circumstances as brought in contact with said laws. It is well for the judiciary to understand, as well as the whole people, whether they be rightful franchised citizens, or such of its inhabitants as are held as subjects, over whom extends the sovereign and political jurisdiction of the authority of the government. It is undoubtedly a fact that our native inhabitants, under treaty stipulations, which treaties are laws when confirmed by the Legislature, are bona fide subjects of this state, and the political authority of the same covers them in all of their relations. The peculiar situation of the natives in their mode of living, their depth of ignorance and their incapability to understand the workings of civilized governments, made it necessary to draw their connection and acknowledgment of our political rule over them by forms of treaties, but not to be misconstrued that the whole law of the land is not binding upon them, and that they are not to have the benefit of it when they are arraigned under it for crime committed.

To speak of the records as a whole might be done with propriety, but as the error is simply a question of law founded upon treason, it is well to say that our native inhabitants are capable of committing treason. The treaties and laws extending over their political, as well as sovereign jurisdiction, and they being answerable to this government alone, and this government answerable for their acts toward foreigners, constitute them a part and parcel of the people of this Republic, and they, being such, would make any act of theirs in concert with the enemies of this government with whom it may be contending, treason. If the people against whom this man was contending were not in treaty with this government, and they were waging a war against the government and he aided them, it would be treason. But, as we have been informed, both parties owe an allegiance to this government, and as such they entered into an uproar

which resulted in a riot. A riot, being usually the act of a large number of persons, is otherwise described as a tumultuous disturbance of the peace by persons assembling together of their own authority (which this man and people have done) with an intent mutually to assist one another against anyone who may oppose them in the execution of some enterprise of a private nature, and afterwards actually executing the same, in a violent and turbulent manner, to the terror of the people of the town, whether the act intended was of itself lawful or unlawful.

The act of the man now a prisoner apparently partook of this feature. It may be considered that they 1an rebel, as others might do living under the same Constitution and laws, to prevent its due execution, or put themselves up in defiance of the lawful authority preventing the course of government. All this may be repelled by force of arms by government, when milder proceedings cease to prove to be a virtue. But treason, that highest of all crimes, can only be committed by an attempt, by conspiracy or otherwise, to destroy the government, by giving aid and comfort to its enemies to accomplish it. "Treason, to betray: the attempting to overthrow the government of the state to which the offender owes an allegiance, or of betraying the state into the hands of a foreign power."

In England, treason is an offence particularly directed against the person of the sovereign, "in carrying war against the King in his realm, in adhering to the King's enemies." In the United States the definition of treason is fixed by the Constitution, it being declared to consist only in levying war against the United States or the adhering to their enemies giving them aid and comfort. (Burrill, part 2, page 996.) Such is the law of Liberia, as the laws of both countries in criminal cases have been adopted by this country. The fact attempted to be proved against the prisoner falls short of the law, and the crime he has committed, being only a misdemeanor of a high character, has been unfortunately magnified to be treason, and thereby supported by the court, which would, if allowed to stand upon such a construction, hazard the liberties of the people. In finding this conclusion, the court holds that our native subjects have of right the privilege of a trial by jury, and the law of the land ; but in all cases they must be allowed the full benefit thereof, as the law guarantees, and not deprive them of right the privilege of a trial by jury, and the law of the under the panoply of the law. The court is of the opinion that the prisoner, from the records; has committed a crime against the peace of this Republic, and the indictment •endeavored to show it, and the court to support it, to be treason. This court declares that he has not committed treason, but this crime is in the nature of high misdemeanor, for which he is responsible to the laws and government of the land.

As the laws of the Republic make it obligatory on this court to reverse or affirm all cases coming before it on appeal or otherwise, and award such decisions as in its opinion it may deem best, or to remand, as the case may be,—therefore, the court decrees that the finding of the jury and court below constituting the crime of Peter Davis treason, is erroneous, and the same is hereby reversed; and that he, Peter Davis, be considered as committing a misdemeanor, partaking of an armed riot against other subjects of this Republic. It is further decreed that all fines and forfeitures imposed on said Peter Davis, and under which he stands committed, are hereby annulled. Also that the said Peter Davis be and he hereby stands committed, to be disposed of by the executive of the country, according to the spirit of an act supplementary to an act entitled, "An act to maintain peace and enforce order on the highways to the interior," passed 1859, page 53, sec. 4.