

to it which I must explain. I had, by being in the army, injured my private affairs very considerably, and meant to leave it, if a proper opportunity to enter into business should happen. I had several conversations on the subject with general Arnold, who promised me all the assistance in his power; he was to participate in the profits of the business I was to enter into. At that time, previous to our going into Philadelphia, I had several particular conversations with him, and thought that the period in which I might leave the army with honor and enter into business (had come). I received at that time, or about that time, I think several days before the enemy evacuated the city, the paper mentioned in colonel Fitzgerald's deposition that was not signed, as well as the other. Upon our coming into town we had a variety of military business to do. I did not purchase any goods, neither did I leave the army. That paper was entirely neglected, neither did I think anything concerning it until I heard of colonel Fitzgerald's deposition. General Arnold has told me since, which is since I came from Carolina some time in August last, that the reason for his not supporting me in business was, supposing that I had left the army, it was incompatible with his excellency's instructions and the resolution of Congress."

The Undisputed Facts in the Case

THIS testimony, seemingly straightforward in form, is rather damning to the characters of both the men involved. Arnold, upon taking command of Philadelphia, ordered the stores and shops to be closed and no goods sold. He stopped business outright. It was a most unpopular order, because it prevented the merchants profiting by the new order of things, the return of the Americans.

The very first day the closing law is in force, Arnold writes an order to Franks to make large purchases of European and East Indian goods "to any amount" and to keep the transaction secret from his most intimate acquaintance. That is, Benedict Arnold and the Jewish major on his staff, have an understanding that under cover of the military closing, they will loot the city of its most profitable goods at the enforced low selling prices—for the obvious purpose of selling at higher prices when the military order was rescinded.

These are the undisputed facts. Colonel Fitzgerald saw the papers and knew the unsigned one to be in Arnold's handwriting, even as the signed one was. They were both addressed to the Jewish Major Franks. In his testimony, Major Franks admits the existence of the unsigned order as Colonel Fitzgerald saw it, and admits also its character.

Even Benedict Arnold admitted the order, but he endeavored to show that having exhibited General Washington's orders to him (Arnold) to command Philadelphia, that fact would be a sufficient countermand to the order given to Franks to load up on valuable goods.

"General Arnold to Major Franks. Did you not suppose my showing you the instructions from general Washington to me, previous to your going into the city, a sufficient countermand of the order I had given you to purchase goods?"

"Major Franks. I did not form any supposition on the subject."

Guilty of Intention if Not of Act

THIS admission that he wrote the order, and the fact that no large purchases of goods could be shown, constituted Arnold's defense. It requires no keen legal mind to show its weakness. If the order was countermanded several days before they entered the city, what was it doing in Miss Brackenberry's house in Philadelphia on the first morning of Arnold's command and the first morning of the operation of his order to close the stores? And why did Franks come in search of it? Discarded orders are not thus carried around and preserved.

Probably no purchases were made. Probably the order was not carried out. When Colonel Fitzgerald walked into the room early in the morning and saw the papers, and when soon thereafter Major Franks walked into the room and saw both Colonel Fitzgerald and the papers, there was nothing else to do than to call the plan off. It had become known. Colonel Fitzgerald waited in the room to see what became of the papers. He saw the Jew Franks come and get them. He saw him go out with them. He knew what those papers directed the Jew to do, and he knew that the directing hand was Benedict Arnold's. Doubtless with this clue he kept his eyes open in Philadelphia during the operation of the closing order. And doubtless Franks lost no time in transmitting to General Arnold the fact that he found Colonel Fitzgerald in the room where the papers had been left. The inadvertent visit

of Colonel Fitzgerald is the key-fact in that phase of the matter.

But the Jewish major, becomes talkative in his effort to explain the situation. "There are circumstances which I must explain," he says. And then, in words that were frequently in the mouth of Arnold, he represents that his service in the army was injuring his private affairs very seriously, and that he was contemplating retiring from the army and going into business.

It is worth noting at this point that numerous opportunities were given Franks to retire, both before and after the Arnold treason, but he developed into a persistent clamorer after official jobs. In spite of his testimony, he could not be shaken loose from public employment.

Evidence of Arnold's Intimacy With Jew

AND then Franks revealed the whole secret of his relations with Arnold. They were in close association in profiteering matters. "I had several conversations on the subject with general Arnold . . . he was to participate in the profits of the business I was to enter into." Arnold was to remain a general in the army; his aide was to get out of the army and work with him privately, sharing the profits.

But what had all this to do with the orders to close the stores at Philadelphia? What had this to do with the papers found by Colonel Fitzgerald? For after all, this was the "circumstance" which Major Franks had set out to explain. At last he reaches it: "At that time, previous to our going into Philadelphia, I had several particular conversations with him . . . I received at that time, or about that time, the paper mentioned in Colonel Fitzgerald's deposition which was not signed, as well as the other."

The paper authorized him to get the most merchantable goods out of the closed stores. It followed upon "several particular conversations" about the business of which Arnold was to "participate in the profits." But, apparently, the deal did not go through. Colonel Fitzgerald's untimely appearance, and the carelessness of someone in leaving the papers about, were most unfavorable to the Arnold-Franks project.

There can be no question of the intimacy of the relations between the Jew and Arnold and the use that both made of their relationship. There can be no question, either, that these relationships must have been the result of continuous acquaintance and testing.

Merely to show that a Jew once crossed the path of Benedict Arnold and was implicated with him in a discreditable scheme that probably did not fully mature, means nothing. But that this Jew was involved in Arnold's fortunes from the time the two first met in Canada until the day that Arnold betrayed his country, may mean something. And that is the case. From the time of their first meeting, their lines run along together—Franks always being relied upon by Arnold as the credible witness who extricates him from his scrapes, and Franks usually doing it with a sort of clumsy success, as in the instance just cited.

They Both Desire the Sea at Same Time

THE reader may refer now to the reference made above to Franks' record of himself in which he mentions having joined Count D'Estaigne, the French admiral, at Sandy Hook. This was just a month after Arnold took command at Philadelphia, just a month after the events on which the above charge was based. Evidently Franks got out of town for a little while. He would notice the coolness of his fellow officers among whom reports of Colonel Fitzgerald's discovery must have circulated. There would be no prejudice against him because he was a Jew, it would be solely due to the suspicions concerning him. Indeed, readers of the ordinary history will never learn that Arnold had Jews around him. There were David Franks, moneyed man and merchant in the city, and David Solesbury Franks on Arnold's staff—both outstanding figures, yet wholly passed over by the historians, with one or two exceptions, and even these have never caught the Jewish clue. In that day there was no prejudice against Jews as Jews, even as there is none now.

Franks, then, easily gains letters which permit him to join the French fleet of D'Estaigne, within a month after the Philadelphia business. And strange to relate, at precisely the same time, Benedict Arnold conceived the notion that he too should go into the navy, and a month after his appointment to Philadelphia he writes to General Washington suggesting nothing less than that he be given command of the American Navy!—at precisely the time Major Franks takes to the water.

" . . . being obliged entirely to neglect my private affairs since I have been in the service," Arnold writes to General Washington, "has induced me to wish to retire from public business, unless an offer, which my friends have mentioned, should be made to me of the

command of the navy . . . I must beg leave to request your sentiments respecting a command in the navy."

So far as the historians have been able to discover, no one ever proposed such a thing as making Arnold the admiral of the American Navy. But, then, the historians did not know David S. Franks. He, a landsman, had gone for a few weeks with the French ships. Perhaps he was the friend who "mentioned" the matter. At any rate, when Franks came off the ships again, it was to serve as witness once more for Benedict Arnold.

The charges against Arnold were such as these: Permitting an enemy ship to land, and buying a share in her cargo; imposing menial service on soldiers (a charge brought about by an action of Major Franks); issuing passes unlawfully—the case in point being that of a Jewess, named Levy; the use of army wagons for his private affairs, and so forth.

This is Major Franks' testimony concerning Arnold's permitting "The Charming Nancy" to land at a United States port, contrary to law:

"Q. (by the court) Do you know whether general Arnold purchased any part of the Charming Nancy or her cargo?"

"A. I do not know of my own knowledge, but I have heard general Arnold say he did, and I have also heard Mr. Seagrove say he did.

"Q. Was it previous or subsequent to general Arnold's granting the pass?"

"A. It was subsequent."

Trading in Contraband Under Washington's Nose

HERE is a complete admission of all the facts, but the defense consisted in laboriously showing, by means of quite leading questions addressed to Franks, that the owners of "The Charming Nancy" were indeed good Americans though residing and doing business in enemy territory. Franks was rather useful in this part of the business, and the court, overlooking the other elements, simply found that the permission which Arnold gave to "The Charming Nancy" was illegal. The fact that a major general of the United States Army speculated in the cargo of the ship which had come into port in violation of law and on his military permission, was not considered at all. Neither was the fact, stated in the charge, that he gave this permission while he was in camp with General Washington at Valley Forge, whom he did not consult in any way.

But here again the fact is established that Major Franks was privy to the whole matter, and was the chief witness for Arnold's defense.

If it had occurred but once, as at Montreal, that Arnold had been charged with irregularities involving profitable goods; or if it had occurred but once, as at Philadelphia, that Major Franks happened to be the chief available witness, no serious notice could be taken of it.

But time and again Arnold is caught in shady acts involving profitable goods, and time and again the Jewish Major Franks is his accomplice and chief witness. And this partnership in shady transactions, extending from the time Arnold first met Franks till the time Arnold betrayed his country, is significant, at least as a contribution to history, and possibly as a side light on the gradual degeneration of Benedict Arnold.

The First Snuffer on Arnold

ARNOLD could no longer wholly escape. But still the good fortune that seemed patiently to accompany him, as if waiting for his better nature to recover from some dark spell, remained with him; the court could not exonerate him entirely, but neither could they punish him as he deserved; and so it was given as a verdict that General Arnold should be reprimanded by General Washington, his best friend.

Washington's reprimand is one of the finest utterances in human record. It would have saved a man in whom a shred of moral determination remained:

"Our profession is the chastest of all; even the shadow of a fault tarnishes the luster of our finest achievements. The least inadvertence may rob us of the public favor, so hard to be acquired. I reprimand you for having forgotten that in proportion as you have rendered yourself formidable to our enemies, you should have been guarded and temperate in your deportment toward your fellow-citizens. Exhibit anew those noble qualities which have placed you on the list of our most valued commanders. I will myself furnish you, as far as it may be in my power, with opportunities of regaining the esteem of your country."

It was a bad day for Benedict Arnold when he got into touch with the Jewish syndicate of army-contractors. There was hope for him even yet, if he would cast off the evil spell. But time pressed; events were culminating; the alien, having gripped him, was about to make the best of the baleful opportunity. The closing chapter was about to be written in glory or in shame.