

J. C. Zimmerman

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Extract from Hon. J. P. Benjamin's Speech, delivered in the Senate.

### Slavery Protected by the Common Law of America.

Now Mr. President, I come to another point in my argument, which I approach with extreme pain, with unfeigned regret. From my earliest childhood I have been taught to revere the judges of the highest court in the land, as men selected to render justice between litigants, not more by reason of their eminent legal acquirements than because of a spotless purity of character, and undimmed lustre of reputation, which removed them far, far beyond even a doubt of their integrity. The long line of eminent judicial worthies, which seemed to have culminated in a Marshall, has been continued in the person of one upon whom the highest eulogium that can be pronounced is to say that he was eminently worthy of being the successor of that illustrious judge. I know not, Mr. President, whether you, as I, have had the good fortune to see that magistrate in the administration of justice in his own circuit, or in the court sitting below us, of which he is the honored chief. I know not, sir, whether it has been your good fortune, as it has been mine, to hear the expressions of affectionate reverence with which he is spoken of by the people amongst whom he has passed his pure, his simple, and his spotless life. I know not, sir, whether you have listened, as I have, with interest to the expressions of respect and admiration that come from the members of his bar in their familiar intercourse with each other—spontaneous tributes, worth a thousand labored eulogies, to his eminent sagacity, to his vast legal learning, to the mild and serene dignity of his judicial deportment—above all, sir, above all, to the convictions, earnest, almost painful sense of responsibility with which he holds the scales of justice in even and impartial hands between the litigants whose rights depend upon his judgment.

Mr. President, he is old, very old. The infirmities of age have bowed his venerable form. Earth has no further object of ambition for him; and when he shall sink into the grave, after a long career of high office in our country, I trust that I do not rudely or improperly invade the sanctity of private life in saying that he will leave behind him, in the scanty heritage that shall be left for his family, the noblest evidence that he died as he had lived, a being honorable to the earth from which he sprang, and worthy of the heaven to which he aspired.

This man, sir, thus beloved, thus revered, thus esteemed, has been compared upon this floor to the infamous Jeffreys, by the Senator from Maine, [Mr. Hamlin.] This man has been charged by the Senator from New York, [Mr. Seward] with a corrupt coalition with the Chief Magistrate of the Union. He charges, in fact—not always in direct language, but partly by bold assertion and partly by insidious suggestions—that the Supreme Executive Magistrate of the land, and the judges of our highest court, and the parties to the Dred Scott case, got up a mock trial—that they were all in common collusion to cheat the country.

He represents the venerable Chief Magistrate of our country, whose reputation has been beyond reproach—he represents the venerable Chief Justice—as enacting a solemn farce, in the face of the American people, on the eastern portico of this Capitol; and he tells us, that on the day when that great sea of upturned faces was here presented, all looking on the solemn pageant three passing before them, the Chief Justice of the nation was whispering into the ear of the President the terms of this nefarious bargain—and that, too, at the very moment when the former was administering

ing and the latter taking the oath of office by which the high majesty of Heaven was invoked as witness to the purity of his intentions the administration of the government of his country!

Mr. President, accused, thrice accused, is that fell spirit of party which desecrates the noblest sentiments of the human heart; and which, in the accomplishment of its unholiest purposes, hesitates at no reckless violence of assault on all that is held sacred by the wise and good. It was difficult, extremely difficult, for us all to sit here and hear what was said and observe the manner in which it was said, and repress the utterance of indignation that boiled up within us. All this is charged by the Senator without the proof of a solitary fact, without the assertion even of a fact, on which to base the foul charge. Luckily, sir, luckily, for us these eminent men are too highly placed in the reverence, the estimation, and the regard of the American people, to have their bright escutcheons injured by such attacks as these. Mr. President, in olden times a viper gnawed a file.

Although it may not be possible to make direct answers to all these insinuations, because no fact is even suggested on which they rest, there are some of them in relation to which I have the authentic evidence upon my desk in proof of their falsity.

Was this case got up? What are the facts? Men should be a little careful in making such accusations as these; unless, indeed, they care not whether they be true or false, intended to answer the same purpose, whether the one or the other. This case was got up, was it? By accident, or design? In the exquisitely decorous and appropriate language of the Senator from New York, the Chief Justice of the United States and the Chief Magistrate of the Union were gambling at cards for the case, and Dred Scott was dummy in the imaginary game? What truth is there in these insinuations of design? Why, sir, Dred Scott had sought his freedom by the assertion of his rights in the State courts of Missouri years before the Kansas-Nebraska act was ever suggested, and years before the President of the United States was even a candidate for office; years before he was even Minister to England.

This case was determined in the supreme court of the State of Missouri, in 1852, adversely to Dred Scott, and was remanded to the lower court for further trial. Mr. Buchanan had, I believe, not then gone to England. The Kansas bill had not been heard of, and was not in the imagination of any man. When the case got back into the lower court, the counsel for Dred Scott, finding that the opinion of the supreme court of the State was adverse to his rights, withdrew his case from the State court, and endeavored to better his client's chances by going into another jurisdiction. That is the way the case got into the Federal court; and when was this? The case was carried into the Federal court in the City of St. Louis, in November, 1853, before even the meeting of the Congress which passed the Kansas-Nebraska act; of course months before Mr. Dixon, the Senator from Kentucky, first sprang upon the country, by his amendment, the question in relation to the repeal of the Missouri compromise. Here is the record:

"Be it remembered that heretofore, to wit: on the second day of November, in the year of our Lord 1853, came the above named plaintiff, Dred Scott, by his attorney, and filed in the clerk's office of the circuit court of the United States for the Missouri district, the following declaration against the defendant, F. A. Sanford."

Was that a case gotten up by design, between the President and the court here? It was never carried there until they had lost all chance in the State court; it was carried there as the last desperate resource of defeated counsel, eager to maintain what he conceived to be the rights of his client. Who was the counsel? The Senators of Missouri can tell us who R. M. Field, of St. Louis, is, and probably they will verify here—say—that he is one of the most determined Free-Soilers in the State of Missouri; has always declined to vote at elections until he was able to cast his vote for a Free-Soil candidate, and until he aided in the election of the Free-Soil Representative from the St. Louis district who now sit in the other Chamber.

This case, thus instituted in November, 1853, was determined in the court below, and a writ of error was taken to the Supreme Court of the United States, before the Kansas bill was passed, and whilst Mr. Buchanan was in England! When it reached the Supreme Court of the United States what became of it? What does the Senator from New York say became of it? "The counsel who had appeared for the negro had volunteered from motives of charity, and ignorant of the course of the disposition which was to be made of the cause"—which the Senator had previously insinuated was gotten up by design—

—had argued that his client had been freed from slavery by operations of the Missouri prohibition of 1820. The opposing counsel, paid by the defending slaveholder—

I happen to know, however, what may be the fact with the other, that one of the opposing counsel was not paid by any slaveholder at all; that one of the opposing counsel volunteered as *amicus curia* by virtue of his position as head of the

bar of the Supreme Court of the United States, by virtue of his position as ex-Attorney General of the United States, by virtue of his position as a compeer of the honorable Senator, and his former colleague on this floor from the State of Maryland, Mr. Beverley Johnson. That gentleman volunteered in the case as *amicus curia*, because the whole section of the county to whose interests he had been devoted from his birth had an interest in this great question to be decided, and which he did not yet know to be represented by counsel. The Hon. Mr. Geyer, of Missouri, afterwards entered his name of record, and appeared for the defendant.

Says the Senator from New York: "The opposing counsel, paid by the defending slaveholder, had insisted, in reply, that that famous statute was unconstitutional. The mock debate had been heard in the chamber of the court in the basement of the Capitol, in the presence of the curious visitors at the seat of Government, whom the dullness of a judicial investigation could not disgust. The court did not hesitate to please the incoming President!"

Where are we, sir, that such language as this is used? Is this the Senate of the United States, and are we here the ambassadors of equal sovereignties, to be insulted by language like this? Is not this an insult to every one of us, direct and personal?

"The court did not hesitate to please the incoming President by soving this extraneous and idle forensic discussion, and converting it into an occasion for pronouncing an opinion that the Missouri prohibition was void, and that, by force of the Constitution, slavery existed, with all the elements of property in man over man, in all the Territories of the United States, paramount to any popular sovereignty within the Territories, and even to the authority of Congress itself."

"The day of inauguration came—the first one among all the celebrations of that great national pageant that was to be desecrated by a coalition between the executive and judicial departments, to undermine the National Legislature and the liberties of the people."

Is there a solitary word of truth in this? Not one. Is their solitary fact alleged? Not one; but a broad and naked charge is made, which is intended to stamp infamy upon characters hitherto beyond the breath of reproach. Shame, shame upon the Senator that makes such charges as these, and has no support to show!

"The President, attended by the usual lengthened procession, arrived and took his seat on the portico. The Supreme Court attended him there, in robes which yet exacted public reverence. The people, unaware of the import of the whisperings carried on between the President and the Chief Justice, and imbued with veneration for both, filled the avenues and gardens far away as the eye could reach. The President addressed them in words as bland as those which the worst of all the Roman Emperors pronounced when he assumed the purple. He announced (vaguely, indeed, but with self-satisfaction) the forthcoming extra-judicial exposition of the Constitution, and pledged his submission to it as authoritative and final."

Does anybody find that in the President's inaugural? Does anybody find in the President's inaugural anything on this point, except that he learns the question to be decided by the highest tribunal in the land, and that he, as every other good citizen is, is willing to render obedience to that tribunal?

"A few days later, copies of this opinion were multiplied by the Senate's press, and scattered, in the name of the Senate, broadcast over the land, and their publication has not yet been disowned by the Senate."

As if we were going to *disown* publishing the opinions of the Supreme Court of the United States.

"Simultaneously, Dred Scott, who had played the hand of dummy in this interesting political game, unwittingly, yet to the complete satisfaction of his adversary, was voluntarily emancipated; and thus received from his master, as a reward, the freedom which the court had denied him as a right."

Now does not the Senator from New York know, was it not published in every newspaper in the country, that the slave's master had died? Was it not known that the man who had emancipated the slave was a Black Republican compeer, in the other house, of the Senator of New York, [Mr. Chaffee of Massachusetts,] who was forced to give this emancipation after having long hesitated, by the indignant denunciations of the fellow-Republicans around him? Everybody knows that, and yet we are told by the Senator that this gift of freedom to the slave was the reward granted by his master, the defendant, for playing the hand of dummy in a game of cards—a political game—with the venerable Chief Justice and Chief Magistrate of the Union. Shame, shame, once more, upon the Senator who makes charges like these, without the shadow of ground for their support.

### Wise and Douglas.

The Washington correspondent of the Philadelphia *Inquirer* says: "Gov. Wise and Senator Douglas had several long and important interviews in this city before the departure of the latter on his Western mission."

Astronomers regard it as of evil portent when two malignant stars come into conjunction.

From the London Telegraph, June 2.

It is at all times difficult to determine the rights of nations at sea. They depend less upon actual treaties than upon that general and indefinite code known as the law of nations, and great wars have frequently originated in a misconception of the privileges enjoyed by maritime Powers under the undeclared jurisdiction of this authority. The rights thus acquired are partly natural, partly customary; and much depends upon the method by which they are enforced. A very painful question involving the interpretation of this universal international law, has arisen between Great Britain and the United States of America; but in dealing with it we shall be careful not to prejudice the points at issue, or accept the allegation on either side in their entirety, since there is an obvious and unfortunate amount of bitterness on the part of the American merchantmen and British cruisers, between whom the controversy has taken place. In the absence of official information of a kind which has certainly not yet reached any one in this country, unless it be the discreet Secretary for Foreign Affairs, it would be rash to anticipate what complexion the dispute may assume; and all that is possible, or even desirable, at this stage, is to express a hope that, foreseeing as we must a diplomatic contention of a most unhappy character, accompanied by free recriminations from the press in both countries, a spirit of mutual generosity and forbearance will be displayed. We want no American war upon our hands; we can afford to make no unworthy or unjust concessions; but, if we are to escape the one and the other alternative, this matter must not be allowed to become one of jealous and arrogant boastings. If it be not exactly necessary that a new conservative Ashburton should undertake to arrange the terms of a British capitulation, it would be equally unwise to invoke a policy of affronts and menaces, dangerous to the peace of the world, and conducive to the interests and to the honor of neither nation.

It must be remembered that the complication is one of serious difficulty. Certain British cruisers are charged with having wantonly and violently stopped, challenged, fired into, boarded and searched a number of U. S. States merchant vessels, in the Central American waters and the Gulf of Mexico, the complaints from the latter being before the most numerous and important, since it is stated that the commander of the British war steamer *Styx* had announced that the orders of his government were to examine the papers and cargo of all ships proceeding up or down the Gulf. Now, this collision between our public marine and that of the North American republic is one in every sense to be regretted, since the circumstances themselves are embarrassing, and it does not appear that any decision can immediately be arrived at without compromising, in an injurious degree, one of the great Powers concerned. We cannot abandon the right of search in reference to America without abandoning it as regards the rest of the world; we cannot recall our Gulf cruisers without establishing an African squadron; we cannot suppress our ocean police without again licensing, practically, if not avowedly, the slave traffic which has been the curse of one mighty continent and the reproach of another. But, at the same time, if it be really essential, in order to maintain this principle, that American ships should be treated as we are led to believe by the reports in the transatlantic journals, we may be assured that we must give way or fight for our prerogative; and, if there be a nation upon earth inclined to suffer the inconvenience of such a system, it is not the hardy, proud and powerful race which, in the New World, speaks our language and inherits our independence.

The Supreme Court of the United States has laid down, in a memorable judgment, that the slave trade is opposed to the law of nature and of nations, and America has entered into treaties with Great Britain for the suppression of this infamous traffic, so far as the sea is concerned. We have a right, then, to capture and confiscate every slave trader, and even to punish the captains and crew; but how far and in what shape is that right to be asserted? Does it authorize us in visiting a principal port of Cuba, boarding twelve American vessels inspecting their papers, ransacking their holds and gauging their water barrels? Does it qualify our captains to fire into American ships in the Gulf of Mexico so as to endanger life and property, and to be guilty of insulting and domineering behavior? These questions we ask without condemning any one in anticipation of the evidence. The statements are before us, and they must be sifted. The British public has no interest whatever in countenancing acts of outrage, or even excess of zeal, on the part of its naval officers. In the strict performance of their duty they will meet with every support; but there is a very clear difference between the courtesy of a gentleman and the swagger of a pirate; and, if the conduct of certain English commanders has been such as the American papers allege, they may, although in the literal execution of their orders, have deserved the severest reprobation. We send out our cruisers to prevent the traffic in slaves, but we do not send them out to establish a nautical reign of

terror in the Gulf of Mexico. We trust that the most ample and impartial investigation will be made into the whole of this affair, which is not one to be explained away by a few words of official ambiguity. In reply to the question put by Mr. Lindsay last night on this important subject, Mr. S. Fitzgerald, it will be observed, on the part of Mr. Walpole, denied that the government had received any official information from Washington, assigning as a reason for the frequent exercise of the right of search by British cruisers, that it was the constant practice of slavers to hoist American colors. For this manoeuvre it would be rather difficult to find a remedy, though our trans-atlantic friends could doubtless well dispense with so questionable a compliment. Mr. Fitzgerald further intimated that orders have been sent out to the commanders of our cruisers, conveying instructions to act with greater caution as regards vessels, under the circumstances which had been made the subject of complaint. As usual, however, he left us in the dark as to the precise nature of these instructions, and we are not in a position to judge how far they are calculated to answer their professed object.

The difference, we say, is unfortunate in every respect. The honor of this country, and the conduct of her officers, have been called in question, but this is not all. With regrettable precipitancy, a number of the American journalists have rushed into print with magniloquent denunciations, doing their worst to provoke the popular hostility against Great Britain. It would be easy to excite a similar feeling on this side of the Atlantic; but all rational men will desire to witness a speedy and amicable solution of the embarrassments which have arisen. If it be true, however, that eight weeks ago our government received an intimation from General Cass that the proceedings complained of would no longer be permitted, the country will look to Lord Malmesbury for an explanation of the fresh and vigorous orders stated to have been transmitted to the Gulf since that period. We have been thrown into a perplexity, to say the least, and the best means of eluding it is not by blind audacity. Of course, if any American merchantmen were so ill advised as to come across one of our cruisers with shotted guns, she would merely put America in the wrong, damage her moral position, and draw upon herself something beyond an official inspection; but we can scarcely suppose that the United States captains will act with so much rashness, ignorance and barbarity. The only course for them to pursue is to appeal to their government for protection, and not to rest while their grievances, if grievances they be, remain unaddressed. To take the law into their own dispensation would be to afford a clear diplomatic advantage to Great Britain.

What are termed, however, the "public ships," or the men of war of the United States, stand in a different category.—Should the Cabinet at Washington, conceiving that the British cruisers in the Gulf and on the Cuban coast were straining their privileges, order the commodore on the Mexican station to protect American shipping *et cetera*, the result might be that a war would break out in the Western hemisphere altogether without the connivance and beyond the control of our statesmen. We might hear of a Navarino in the Atlantic, and the whole world would have reason to deplore the procrastinations of diplomacy. Let us repeat, then, that a delicate and perilous controversy has been awakened—that our cruisers are charged with violence and illegality—that the American mind is taking fire—and that it is the duty of Parliament anxiously to watch the policy of the government. In the name and interest of civilization let this matter be settled without appeals to Vattel or Grotius, to Dutch jurists and Spanish quibblers, to constructive conventions and distorted analogies. What, for the sake of the comity of nations, do we owe to America in her own neighboring waters? What is fair and right between the United States and Great Britain? What can be arranged upon terms of mutual respect and confidence? War against aggressors, but peace, in the spirit of peace, with our natural allies, brethren and friends.

THE WAY TO EMINENCE.—Long ago a little boy was entered at Harrow school. He was put into a class beyond his years, and where all the scholars had the advantage of previous instruction denied to him. His master chid him for his dullness, and all his efforts then could not raise him from the lowest place on the form. But, nothing daunted, he procured the grammars and other elementary books which his class fellows had gone through in previous terms. He devoted the hours of play, and not a few of the hours of sleep, to the mastering of these; till, in a few weeks, he gradually began to rise, and it was not long till he shot far ahead of all his companions, and became not only leader of the division, but the pride of Harrow.—You may see the statue of that boy, whose career began with this fit of energetic application, in St. Paul's Cathedral, London; for he lived to be the greatest Oriental scholar of modern Europe—it was Sir William Jones.

### Hon. Bedford Brown

The Richmond *Examiner* has an article on North Carolina politics, from which we extract the following complimentary notice of the Hon. Bedford Brown, of Caswell county:

"North Carolina elects her Legislature as well as her governor on the first Thursday in August; and we observe with pleasure, that she is likely to have some of the oldest and most experienced statesmen in her State councils next winter. Of that class, we may mention Col. Bedford Brown well and favorably known to the reader as an actor on the National stage of politics for some time. Col. Brown, as we understood the other day, has consented to occupy the position of candidate for the State Senate for Caswell county. He will be elected, we understand, without opposition. The people of Caswell will surely act wisely in calling him again to represent them in the councils of the Old North State.—We mean no flattery to Col. B. when we say that the members of the North Carolina Legislature especially the younger members, will be fortunate in having for an associate in council, one who has had so many years' experience in legislation; one who was, from early manhood to middle life, in the public service associated with the first men of his own State, and with the greatest national celebrities of our times; and who, in his subsequent retirement, has been an attentive and philosophic observer of public events. There are but few men in any State from whom the young politician can derive so much information and instructions in the political history of the last forty years; and especially in relation to the men who have figured at Washington, and the events with which they have been identified. Col. Brown can narrate the stirring events at Washington from 1829 to 1840—of which he might say *quorum pars fui*—minutely and graphically, as he is sure to do with fidelity.

Mr. March, in his popular book, entitled "Webster and his Contemporaries," published in 1850, placed Col. Brown among the able debaters in the U. S. Senate in the discussion upon the celebrated Force Bill, in the days of Nullification. He speaks particularly of the speeches of Webster, Forsyth, Wilkins, Dallas, Freelinghuyzen, Holmes, Clayton, Grundy and Rives in the affirmative, and of those of Poindexter and Miller, in the negative. Mr. March paid Col. Brown the compliment of extracting the following passage from his speech:

"I repudiate," said Col. Brown, "the doctrine of Nullification. I repudiate, also, the high-toned doctrine of the Federal party. It is to that high-toned doctrine that we are to attribute Nullification. It is by an improper pressure of the Federal government on the rights, and by its exercise of doubtful powers, that South-Carolina has felt called on to take the defiant position she has assumed; which, if not justifiable is at least susceptible of great palliation."

"Proud as I am," said Mr. Brown, in conclusion, "of the achievements which have been performed under the star-spangled banner; proud as I am of the stars and stripes which have fluttered in every breeze and in every clime; anxious as I am for the glory of the country, yet God forbid that those stars and stripes which have heretofore been the rallying points of heroism should float over the mangled corpses of our own countrymen. God forbid that our country should undergo this sad disastrous revolution; for when that shall take place, not only the liberties of this country, but the best and brightest hopes of the civilized world will be destroyed forever."

TO PREVENT CONVULSIONS.—The following curious mode preventing a convulsion, commonly called "fit," is given in the last number of the Charleston Medical Journal and Review, in a long article on the treatment of Epilepsy, by Wm. M. Cornell, M. D., of Boston:

"I have employed various modes to ward off an epileptic attack for the time being. Stretching the muscles powerfully will generally prevent an attack; for example, when the aura commences in the great toe or leg, strong traction, or elongating the toe, or stretching the muscles of the leg, will carry the patient over the threatened attack for the time; or, when the patient has premonitory symptoms of an attack, opening the jaws as widely as can be done, and placing some hard substance between the teeth, to keep the mouth open will have the desired effect. I have had one patient, who, by my advice carried a piece of iron with him for a year, fitted for the purpose of expanding the jaws to their utmost capacity, and keeping them thus expanded. When he has felt what he calls 'little spasms,' which have usually, been the precursors of the great ones, or 'the fits,' he has immediately drawn from his pocket the iron wedge, opened his mouth to its utmost width, and placed the wedge between his teeth. He then becomes quiet, goes about his business, or gives himself no further trouble about the convulsion, and has none."