

THE VOICE OF FREEDOM.

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THE VOICE OF FREEDOM.

From the Emancipator.

To the Committee on behalf of the African Captives.

Gentlemen—

Agreeably to your request, I proceeded to Hartford, on the 18th inst. for the purpose of attending the trial of the Libel for salvage against the Africans, brought by Lieut. Gedney, U. S. N., and the various claims and questions which have been engendered thereon. In stopping for a few hours at New Haven, where I met our esteemed friend Dr. Madden, I was grieved to learn that the African interpreter, James Covey, who was so kindly permitted by Captain Fitzgerald to remain in this country to assist at the trial, was quite unwell, and not able to go up in the evening boat, as had been arranged. As it was then too late to see any one in town, I addressed a note to Mr. Townsend, urging that Covey should be sent in the morning boat at every hazard short of life and death; and I have reason to believe that Mr. T. urged his attendance as far as a due regard to humanity would allow, but the very respectable physician who was in attendance, remained of the opinion that he could not safely take the journey. I will now give you, from my notes, an account of the

PROCEEDINGS OF THE DISTRICT COURT.

The U. S. District Court was opened by the Hon. Andrew T. Judson, District Judge, at the appointed hour. It was a special session, appointed expressly to try the case of the Amistad. Messrs. Isham and Brainerd, of New London, appeared in behalf of Lieut. Gedney, the libellant, who grounds his demand upon meritorious services, rendered in rescuing and preserving the schooner Amistad and her cargo from the hands of Jiqua and other Africans, in whose possession said vessel and cargo were found. The two Spaniards, Ruez and Montez, had, at the September term, filed a claim to the vessel and cargo as their property, and employed, as their counsel, Messrs. Ingersoll and Hungerford; but neither gentlemen appeared on this occasion, thus giving color, at least, to the report, that the Government of the United States had kindly volunteered to maintain the Spanish claim against liberty, and that the Spaniards had wisely concluded to abandon their cause to such powerful advocacy. Mr. Hollabird, the District Attorney for Connecticut, appeared on behalf of the United States, as the patron or protector of the claims of the Spaniards.

R. S. Baldwin, Esq., informed the court that he proposed to interpose a plea in abatement to the jurisdiction of the court. This was a "several" plea, in form, and set forth briefly the facts in regard to the Africans; that they were natives of Africa—that they were kidnapped, and transported to Cuba by persons to them unknown—that they were never domiciled in Cuba, but were thence embarked by Ruiz and Montez, their pretended owners, whether they knew not—that, animated by the natural love of liberty, they took possession of the vessel, with the desire and intention of returning to Africa—that, hence, neither the constitution nor the laws of the U. S., nor the law of nations, nor treaties with any foreign power, require our courts to regard them as property—that when taken by Lieut. G. they were off Culloden Point, within three quarters of a mile of shore, and consequently within the District of New York—that a large number, twenty or more, were upon the shore, within the body of the State of New York—that they were withdrawn from the jurisdiction of the District of New York, to that of Connecticut, and were taken by the marshal to the jail at New Haven, and subsequently to Hartford, where they were subjected to further process—concluding with the allegation, that from all the facts in the case, the District Court of Connecticut had no jurisdiction over them whatever.

Isham, for the libellants, said it was strange that counsel should appear in this manner, and not disclose for whom he appeared. If he was acting on behalf of either of the libellants, or claimants, he should have no objection; but he did not understand that to be the case, and he should object to the gentleman's appearing at all on behalf of the slaves. He would ask, who are the parties here? The libellants ask for salvage on these slaves, as the property of these claimants; that is, that the court shall order the owners of this property to pay us a reasonable compensation for having saved their property. It is not now a question to be agitated here, whether this vessel and cargo, including the slaves, are the property of the claimants, or by their very claim they have admitted it; and we are agreed, that if any salvage is due, it is due from Messrs. Montez and Ruiz, as the owners of the property, to Lieut. Gedney as the salvor. The only parties before the court are the parties in interest, and these parties have no question between them as to the property. Lieut. Gedney has been accused of seeking a decree of the court that these slaves should be sold here, in Connecticut, at public auction, for his benefit, or to test their value. But we ask no such thing. The owners say it is their property, and we believe it is their property, and we demand such per centage as the court shall decree to be reasonable for having saved their property. What disposition shall be made of these individuals can be settled hereafter, by the proper authority, but it has nothing to do with the case. We pity the condition of these Africans as much as the gentleman himself, but that has nothing to do with this case. Had the question been left to the proper parties, without this interference, it would have been amicably settled long since. I submit to the court, therefore, that the Africans have no now that kind of interest which gives them a right to appear to embarrass this case, which is between other parties.

Baldwin, in reply, thought it a most extraordinary proceeding, that objection should be raised against the admission as parties in this case of the very persons who are most deeply interested. These persons are libelled as property, and only as property. The libellant comes with his demand, founded on his "meritorious service," rendered not to these individuals, but to certain other persons claiming to be the owners of these persons, who now come in to question the jurisdiction of the court over such an extraordinary claim. The very foundation of the whole proceeding is

the demand that these individuals should be treated, not as persons, having rights, but as property, as the mere chattels of other persons. The libellant even alleges their value in money to be \$25,000, and for the service rendered, not to humanity, in saving so many lives of his fellow men, but to the "Spanish gentlemen," in saving their property, he asks this court to go into an inquiry to ascertain their value, and to pursue the usual measures of an Admiralty Court in regard to property saved from the perils of the seas. And now he denies the right of these individuals to appear in court and deny that they are the property he alleges them to be. Unless they are property, Lieut. Gedney has no foundation for his libel, and this court no foundation for proceeding in regard to them, for no process is against them in this court as persons.

The constitution and laws of the United States have not vested this court with a decree in this case against these persons in any other capacity except as property. If, then, the court award salvage to Lieut. Gedney, a per centage on all the property claimed, and if Ruiz and Montez claim these persons as property, and they are not allowed to come in and prove that they are persons and not property, and therefore not subject to a process that lies only against property, it is plain that their dearest rights are to be sacrificed without a hearing.

This court will remember that we have once applied to your honor, sitting in another court, on a writ of habeas corpus, and we wished then for an opportunity to make proof that these persons were entitled to be free; but the Circuit Court said that the whole question was regularly before the District Court where we could be heard in full. But now the doctrine of the gentleman is, that we are not to be heard in this court. We could not be heard under the good old writ that was made for the very purpose of guarding the rights of men; and now if we are to be debarred a hearing in this court, it will be rendered impossible for these persons to obtain redress in any court whatsoever. Surely, the gentleman will not press his objection.

And how can the gentleman say he does not ask the court to sell these persons? He asks the court to seize all the property. The persons I represent are claimed to be a part of the property. And then he asks this court of Admiralty to proceed in the usual manner, which is to order the whole property to be sold, and the proceeds to be divided according to the decree. If the court decide these persons to be property, they must be treated by the court as property, and nothing but property.

And now we ask the court to look at this question of jurisdiction, and determine at the outset whether the constitution and the laws have given any authority to treat these persons as property.—We call the attention of the court to the obvious difference contemplated by the constitution, between the rights of American citizens who hold slaves, and foreigners. These individuals for whom I appear, stand before this court, on the face of the proceedings, just as an Englishman or a Spaniard would stand, who was claimed as property by an Algerine slaveholder.

Isham. That I shall not deny. After some remarks by Isham in reply, and a few suggestions of the District Attorney, the Judge decided that the plea should be received—remarking at the same time, that upon the trial of the plea of jurisdiction, the parties would not be permitted to go into the general merits of the case, but that the evidence must be confined to the simple question, whether the seizure was made within the district of New York, or of Connecticut. The remainder of the day was consumed in the examination of witnesses upon this point.

Wednesday, November 29.

The court held its session this morning in the City Court Room. In consequence of the absence of a material witness on the part of the Africans, the interpreter who is detained by sickness at New Haven, and to accommodate Messrs. Isham and Brainerd, counsel for the libellants, whose engagements rendered it impossible for them to remain in the city after Thursday, the Court decided to arrest the proceedings in their present stage, and adjourn the whole matter as it now stands, to the 7th of January, 1840, when its session will be held at New Haven.

In the afternoon, the Judge held a session at his chamber in the City Hotel, for the purpose of receiving the testimony of Dr. Madden, which was declared by Messrs. Staples and Baldwin to be material to their cause, as the Doctor was about to sail immediately for Europe. This testimony was taken in writing, reserving all question as to the admissibility of the whole, or any part of it, for determination hereafter. The cross examination was conducted by Hollabird, United States District Attorney, acting for the government. After the testimony was given in, Dr. M. requested the clerk a copy of the testimony, that he might show to his government what he had done, and for no other purpose. The clerk assented, and the scrivener commenced copying, when the judge interposed, and said that it was irregular to give copies of testimony taken in this manner, before even its admissibility was determined. In consequence of this order, measures were immediately taken to prepare, from the Doctor's memoranda, and the notes of a reporter, as perfect a transcript as possible of the whole testimony. And then, as one of the daily papers of this city had obtained and published what professed to be an abstract of the testimony, (and which, it is believed, were furnished by an officer of the court, as no other persons likely to furnish it were present,) which abstract presented quite an inadequate view of the testimony, it seemed plainly necessary to publish the whole, which, it is believed, will be found hereafter to be nearly verbatim with that in the hands of the court.

From the New York Commercial Advertiser.

Dr. Madden testified—That deponent is a British subject who has been resident at Havana during three years and upwards; had held official situations there during that period for three years; the office he at present holds as superintendent of liberated Africans, and for one year that of British commissioner in the mixed courts of justice. That his duties and avocations made him well acquainted with the

details of slavery and the slavetrade in Cuba, and with the class of persons carried from Africa and brought into that island as slaves. That he has seen the negroes of the Amistad in the custody of the Marshal of New Haven, with the exception of the small children, and examined and observed their appearance, manner, and language, and has no doubt whatever but that those negroes have been recently imported from Africa, and are of that class called Bozales. That he spoke with one of them and repeated in the Arabic language, a Mohammedan form of prayer, and the words 'Allah Akbar,' or God is great, were immediately recognized by the negro, and some of the words of the same prayer, were repeated after him by the negro. That deponent addressed another negro standing by the former in the ordinary terms of Oriental salutation, 'Salaam Aleikow,' or, peace be with you; and the man immediately replied, 'Aleikow Salaam,' or, with you be peace.

The deponent has seen and has now before him a document, purporting to be a permit of license, called a *traspaso*, for the removal of forty-nine negroes from Havana to the Amistad, bound to Porto Principe, granted to Don N. Ruiz, wherein those negroes are called 'Ladinos,' a term given to negroes long settled in Cuba, and acclimated there, and introduced before 1820; a term totally inapplicable to Bozales, or negroes recently introduced. This document is dated the June 20th, 1839, and bears the signature of Espeleta, the Captain General of the Island.

He has also seen another document similarly signed, purporting to be a permit or *traspaso* for three negro children, likewise called Ladinos, dated June 22d, 1839, and which name of Ladinos is totally inapplicable to Bozal African children, who could not have been long settled and acclimated to Cuba. He has further seen an endorsement on the said document, purporting to be a permission for the removal of the said negroes and appears signed by Martinez & Co. But deponent does not know the hand writing of Martinez.

That the custom, on landing the negroes illegally introduced by the slave traders of the Havana, is to take them immediately to the Barracoas, or slave marts, which are fitted up exclusively for the reception and sale of Bozal negroes recently introduced, where they are kept by slave traders till sold, generally for a period of 2 or 3 weeks, that among the slave traders of Havana, one of the houses, the most open, engaged and notoriously implicated in the slave trade transactions, is that of Martinez & Co., and that the custom of this house is, like all other slave traders of the Havana, to send the negroes they import into the island, immediately after landing, to the Barracoas.

That deponent is well acquainted with these slave marts, and on the 24th September last he went to one situated outside the walls of Havana, called the *Misericordia*, and kept by one Riera, accompanied by a person well acquainted with this establishment; and there, in the absence of the owner, conversed with the factor or major domo of the latter, who said to deponent that the negroes of the Amistad had been purchased in that Barracoa by a person from Porto Principe; and speaking of their fate, this factor made use of the expression, "che lastima,"—or, what a pity it is, which surprised the deponent—but the man farther explained himself, and the regret he expressed, it proved, was the loss of so many valuable negroes who were likely to be executed, as he thought, in the United States.

That the house of Don Pedro Martinez & Co., continue openly and notoriously engaged in the illegal traffic, and has negroes to be sent to these Barracoas. That the *traspasos* or permits for all such negroes are commonly and usually obtained at the Havana, simply on application to the authorities. The "Bozal" negroes are called "Ladinos," and no examination is made by the Governor, or any officer of his, into the truth of the statement, but the permit is granted for the removal of the negroes falsely called Ladinos, on the simple application of the buyers, on the payment of the fees, and no oath required of them.

That to apply for these permits, and obtain them, representing Bozal negroes as Ladinos, as in the present case, is a fraud on the part of the purchaser, which cannot take place without connivance at the trade, and collusion with the slave traders on the part of the authorities, who receive a bounty on the negroes imported from Africa. That the vast number of Bozals thus illegally introduced, are by these means carried into the interior, and fall into hopeless slavery. That there is no Spanish law in force in Cuba, either statute or common, that sanctions the introduction of any negroes from Africa for the purpose of carrying them into slavery in that island, and consequently that no negro is legally held there in slavery, who has been introduced since the year 1820.

That the object of giving the name of Ladinos to Bozals in the permit or *traspaso*, is to prevent capture by the British cruisers on the coast of Cuba.—That deponent has had charge, in his official capacity, of many hundreds of Bozal negroes, when emancipated by the mixed court of justice at Havana, and having to assist at the registering of these negroes, can speak confidently as to his opinion of the ages of such persons; that having examined those of the Amistad, he states the age of Sa to be about 17, Ba about 21, Snkinwa about 19, Sussi about 30, Beli about 18, Nama about 20, Shuma about 26, Jinguas about 24. The ages of the others deponent had not time to take note of. With respect to the jurisdiction of the mixed commission at the Havana, deponent says it is limited to the adjudication of cases wherein negroes captured in slave ships of Spanish or British cruisers are brought before it by the captors for adjudication.

CROSS EXAMINED, by Wm. S. Hollabird, Esq., U. S. District Attorney.

1. Are you acquainted with the language of any African nation or tribe?

Answer.—I am not acquainted with the dialects of the African tribes, but am slightly acquainted with the Arabic, and in those parts of Africa where Mahomedanism prevails, the principal forms of prayer are repeated in that language.

2. Are not lawful slaves in Cuba, when offer-

ed for sale, often or generally placed in the Barracoas?

Ans.—They are not.

3. Are not lawful slaves in any part of the island placed in the Barracoas?

Ans.—At Havana they are not. I cannot say what is done elsewhere, but on whatever part of the coast the slave trade is carried on there must be Barracoas; they are things that belong to it, and are exclusively for it. When creole slaves are sold in the country, they are sold on the estates or with them.

4. Is not the use of native languages often continued for a long time on certain plantations?

Ans.—I should say the very reverse if this was the fact. It has been a matter of astonishment to me to observe the shortness of the time in which their native language is disused by the African negroes, and the Spanish language adopted and acquired.

5. Was not the limit of your duties at Havana; and therefore the circumstances alluded to may not have been within your knowledge?

Answer.—On the subject of slavery in Cuba, and of the condition of the negroes held in slavery, I believe I am as fully informed as any foreigner can be. I have visited a great many estates, and made many journeys into the interior.

6. How many Barracoas are there at Havana, and how many in other parts of the island?

Answer.—There are five or six at Havana, outside the walls, and contiguous to the Governor's country house. Wherever the slave trade is carried on they must be established for its use. For instance, in the vicinity of Matanzas there is one, and others on other parts of the coast.

7. After the negroes are landed, are they not bona fide transferred by sale, without any interference of the Spanish authorities, or of the mixed commission?

Answer.—When negroes are introduced at all from Africa into the island of Cuba, they are illegally captured and illegally enslaved. And it unfortunately happens that the Spanish authorities, receiving an impost of ten dollars a head for each negro thus introduced, which is called a voluntary contribution, but is in reality a tax, which has no legal sanction for its imposition, never to interfere to stop this contraband trade and transfer, but connive at it, and collude with the slave-traders; the manifest evidence of which is the number of illegal introductions having been for the last three years, from twenty to five and twenty thousand a year into the island of Cuba. As to the interference of the Commission, once the negroes have been landed, it is not to be looked for; their jurisdiction extends only to cases of violation of the treaty, brought before them by the captors of slaveships; but the cognizance of all transgressions of the Spanish law on Spanish soil, in this as in every other case of crime, belongs to the captain-general.

The District Attorney objected to some of the statements in the deposition being received, which were allowed to stand, on the understanding that their admissibility was to be hereafter decided.

There are several incidents connected with the proceedings, which are important to be known, which will be reserved for another report. It is but just to remark, that the department of the judge towards the Africans and their counsel, was perfectly fair and honorable, worthy of his office, and satisfactory to the friends of humanity. We make this remark, because it is due, and because many will wish to know how the fact is, and without any reference to what is past, or what may be to come.

CONDITION OF THE AFRICANS.

While at Hartford I took the opportunity to have a very free and friendly conference with Mr. Wilcox the U. S. Marshal, in regard to the condition and treatment of the Africans. And on returning to New Haven, I visited the jail, in company with two highly respectable and impartial citizens of that town. I called several times in order to see the keeper, Col. Pendleton, but did not succeed in finding him. I found the prisoners generally, in the same condition described by the correspondent of the American. They were clad in checked cotton shirts, and cotton and wool trousers, with woolen stockings and thick shoes. They also had each one a blanket. Of the sufficiency of this clothing, under the circumstances of the case, the public will form their opinion. A few of them had an under-shirt of white cotton.—The rooms were hot enough; one of them was ventilated by the breaking of a pane of glass, but the air left a very disagreeable savor in my mouth and throat, that remained for several hours, and was not removed until I had taken food. The citizens of New Haven have some interest in guarding against the occurrence of a jail-fever in their town, from having so large a number of human beings confined all winter and sweltering in such an atmosphere. The sick room is about 14 feet by 10, and quite high between joists. There are four bunks or boxes of rough board, two on the floor, and the others over them, at the height of about three feet. They are four feet and seven inches wide, and each one is occupied by two sick men. Their clothing is the same as the others. I have good medical authority, that two sick men ought not to be put into the same bed, especially one so narrow; and that persons affected with a complaint in the bowels, like that described by Dr. Hooker, ought always to have flannel shirts, as a regular part of their medical treatment.

The Marshal told me, that the prisoners had some garments brought from the Amistad, which they wore when they washed their shirts, which he said was done as often as once a week. But I should presume, from appearances, that the blankets had not been washed since they were first given out—not even those of the sick. Why should not the rules of the navy be observed with regard to cleanliness of these people, especially as to washing their blankets, and cleansing the floors with hot sand? The Marshal also assured me that it was his intention, immediately after the court, to furnish all the prisoners with such clothing as was worn by the six individuals who were brought to Hartford, that is, with baize jackets and pea coats. If this is done, and the needful regulations enforced with regard to cleanliness and air, the public ought to be satisfied.

The Marshal is regarded as a man of kind and

humane feelings, and his explanations of some matters that have been censured, are worthy of regard. He has a difficult part to fill at this time, to meet the claims of humanity and the orders of his government. On the question, what is necessary for the health of the prisoners, he says he is officially bound by the directions of his medical adviser, Dr. Hooker, who is a gentleman of irreproachable character, and of high professional standing, being a professor in Yale College. And if he were to incur expenses which the physician declares needless, he might become liable to have his accounts rejected. He has also to keep forty men in safe custody, and under due subjection, and at the same time, to allow them the indulgences that humanity requires. It is necessary that he should maintain his authority in the prison; and his understanding or belief that the coats which have been referred to, were sent in as an act of express defiance of his authority, is given as the reason why they were taken away from the prisoners and sent back. Another reason was, that furnishing coats for two only created jealousy and uneasiness in the rest, who were clamorous to know why they had no coats.

The girls are now, very properly, removed to a room below. As I did not visit their present apartment, I cannot speak of it. The Marshal gave us to understand that the man, Bernah, who is said to talk a little English, and Beach, a Timmanee man, shall no longer be excluded, as they have hitherto been, from access to the interpreter, and to the instructions of the benevolent teachers. By the way, a good Timmanee interpreter is wanted, and might render essential service, in communicating with this Bee-ah. It is believed that the Africans are making as good progress as could well be expected in the acquisition of knowledge. The indefatigable researches of Professor Gibbs, are producing many valuable results. I hope that now all things may go on harmoniously, believing that neither the public nor any committee who represent them, desire of those in charge any concessions that are needless or incompatible with their official duty, and that the Marshal is determined to do whatever he deems necessary for the health of his prisoners. JOSHUA LEAVITT.

Ministerial Independence.

Our readers were informed some few weeks since of the dismissal of the Rev. Mr. Pierpont from Hollis Street Church, Boston, for his fearless exposition of the sinfulness of using and trafficking in Ardent Spirits. One general burst of indignation from the press throughout the country has been expressed against this proceeding; and Mr. Pierpont has received deserved honor for his independence. The Hollis street Church is Unitarian. The Christian Register, a Unitarian paper, sustains Mr. Pierpont and utters the following noble sentiments on the independence of the pulpit. They deserve to be written in letters of gold.—*Me. Wesleyan Journal.*

The minister, who suppresses and tramples down one impulse, that becomes and exalts him as a citizen, a Christian, a man, is false to himself and his people. Without freedom he is nothing and can do nothing. He may talk and exhort. But it is only the sounding of brass. He is no longer a living soul. His higher life has departed. The law of God is working within him. And nothing but what is sickly, unreal, powerless can proceed from him. The moment one drop of timidity, subserviency enters his mind, the Holy Spirit is resisted and grieved. Its true power is blighted. It is no longer the temple of the living God. Those that are in their graves hear not his voice and come forth. He is there himself and emits only hollow mutterings. He is the most pitiable actor on earth. Angels blush and weep as they behold him amid his miserable mockeries—with a wringed, shrinking, shackled, crushed spirit proclaiming those truths, that fill heaven with rapture and inhabit the throne of the Almighty. He takes counsel of flesh and blood, when about essaying to put forth that quickening energy, that should redeem souls from all baseness and bondage! Is he the minister of Christ—of him who said 'fear not them that can only kill the body,' whose spirit entering into holy souls makes them sons of God and is subverting all tyranny? No! He is not the minister of Christ. He does not know him. He has lost the element through which alone he can be perceived and felt. He cannot preach *him* who is the power of God. He can be preached only so far as the mind is as free as truth and the highest influences can make it.—The least shadow of servitude quenches a portion of the beams that fall from his sun. There is nothing so much need as fearless, noble men, who will do and dare all things for conscience and truth's sake. We have flatterers and impostors in abundance. They abound on every side. They are poisoning every fountain that nurtures a people's greatness and glory. Multitudes are deceived and deluded. Every breeze is laden with the babblings and cajolings of selfish, reckless ambition. The father of lies and hypocrites is establishing his empire over us. The sacred fire burns feebly among us. No living coals descend and touch timid lips. How refreshing is one word of simple sincerity! O that God would send us a goodly company of prophets, who would count not their lives dear unto themselves, and whose inspired words might thrill through the hearts of this great people! Will we drive honesty and truth from their last refuge? Will we compel them back to heaven? Will we bring the pulpit into bondage? Will we seduce the oracles of God and turn his service into a farge? Will we break the last link that binds us to what is real, everlastingly divine? Will we cast away the last morsel of true bread? Have we partaken so deeply of forbidden fruit, and listened so long to syren voices, that we imagine we are like unto gods and can then determine for ourselves what is good and what is evil? In the name of all that is fearful, solemn and hopeful, in our condition and destinies, we beseech you, brethren, reverence the independence of the pulpit. Tamper not with the freedom of your ministers. Encourage them to preach with boldness. We allow they may abuse their freedom. But there is little danger of it—far more reason to fear that they will come short of its demands. There is a limit to forbearance.—But bear long before you do or say any thing, that may impair their faith and force. It is a sad thing