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Slavery and the Federal Courts

Roger J. Miner '56

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February 10, 1984

PROGRAM

Exhibition - "SLAVERY IN THE FEDERAL COURTS"

Presented by

THE HISTORICAL COMMITTEE OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK IN CONJUNCTION WITH THE FEDERAL BAR COUNCIL.

12 Noon - Courtroom No. 1

Remarks - WILLIAM J. QUINLAN, Schenectady,
New York, Chairman Historical
Committee, United States District
Court, Northern District of New York.

WAYNE H. JUDGE, Glens Falls, New York for Federal Bar Council.

HON. ROGER J. MINER, United States District Judge, Northern District of New York.

Viewing of Exhibit "Slavery in the Federal Courts" in alcove opposite Courtroom No. 1.

The Historical Committee is deeply grateful to the Federal Bar Council for originating the Exhibit and compiling the materials, to the Albany Institute of History and Art for its invaluable professional assistance in displaying it, and to the New York State Library for making

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

OPENING OF THE EXHIBITION "SLAVERY AND THE FEDERAL COURTS"

United States Courthouse Albany, New York February 10, 1984 Noon

PROGRAM

HON. HOWARD G. MUNSON, CHIEF JUDGE, PRESIDING

REMARKS

HON. ROGER J. MINER, U.S. DISTRICT JUDGE

MR. WILLIAM J. QUINLAN,
CHAIRMAN, NORTHERN DISTRICT
HISTORICAL COMMITTEE

MR. H. WAYNE JUDGE,
FEDERAL BAR COUNCIL

ADMISSION OF ATTORNEYS

HON. JAMES T. FOLEY,
SENIOR U.S. DISTRICT JUDGE

THE COURT IS GRATEFUL TO THE FEDERAL BAR COUNCIL AND THE SECOND CIRCUIT HISTORICAL COMMITTEE FOR ORIGINATING THE EXHIBIT; TO THE ALBANY INSTITUTE OF HISTORY AND ART FOR ITS PROFESSIONAL ASSISTANCE; TO THE NEW YORK STATE LIBRARY FOR THE LOAN OF THE EMANCIPATION PROCLAMATION; AND TO THE FOLLOWING MEMBERS OF THE NORTHERN DISTRICT HISTORICAL COMMITTEE: WILLIAM J. QUINLAN, MICHAEL WHITEMAN, EILEEN KELLEY, DAVID R. HOMER, STEPHEN R. COFFEY, EDWARD L. BOOKSTEIN, H. WAYNE JUDGE, BRIAN F. MUMFORD AND GEORGE CARPINELLO.

THE EMANCIPATION PROCLAMATION

All slaves in any state in rebellion against the United States"shall be then, thence-forward, and forever free." With these words, Abraham Lincoln proclaimed the end of slavery in the United States.

Written during the summer of 1862, the Proclamation was completed after the bitter Battle of Antietam resulted in a military victory for the discouraged Northern Armies. The Proclamation was presented by Lincoln to his Cabinet on September 22, 1862. It proclaimed the emancipation of slaves as of January 1, 1863.

The document exhibited is that read by Lincoln to his Cabinet, with minor written corrections by Secretary of State William Seward. When the Confederacy continued to fight, the President issued his Final Proclamation on January 1, 1863, thus completing the legal action begun in September.

The Emancipation Proclamation came into the possession of the New York State Library two years later. In the winter of 1864, the Albany Army Relief Bazaar was held to raise funds for the U.S. Sanitary Commission work with the war wounded. Lincoln generously donated his draft Proclamation to the Bazaar for a charity raffle. Over 1,100 tickets were sold, the drawing was held, and Gerrit Smith, the renowned abolitionist was the winner. Smith gave the Proclamation to the Sanitary Commission, where it remained until Lincoln's assassination of April 14, 1865.

The New York State Legislature on April 28, 1865 appropriated the sum of one thousand dollars to purchase the Emancipation Proclamation for the State of New York. Since that time the document has been in the collections of the New York State Library.

The document is preserved by encapsulation in a double-chambered steel case which is filled with nitrogen gas. Each page is laid upon a sheet of pure cellulose. Preservation of our country's written heritage, such as the Emancipation Proclamation, is a major concern of libraries and scholars.

This document is loaned by courtesy of the New York State Library.



The University of the State of New York
The State Education Department
The New York State Library
Albany, New York 12230

SLAVERY AND THE FEDERAL COURTS

IN COMMEMORATION OF BLACK HISTORY MONTH AND THE BIRTHDAY OF ABRAHAM LINCOLN, WE ARE PLEASED TO OPEN TO THE PUBLIC OUR UNIQUE HISTORICAL EXHIBIT, "SLAVERY AND THE FEDERAL COURTS." THIS DISPLAY COMES TO US THROUGH THE COURTESY OF THE FEDERAL BAR COUNCIL AND THE SECOND CIRCUIT HISTORICAL COMMITTEE. ORIGINALLY PRESENTED AT THE UNITED STATES COURTHOUSE AT FOLEY SQUARE IN NEW YORK CITY LAST YEAR. THE EXHIBIT HAS BEEN REMOUNTED HERE AT ALBANY, WITH SEVERAL ITEMS ADDED, BY THE NORTHERN DISTRICT HISTORICAL COMMITTEE, CHAIRED BY WILLIAM J. QUINLAN OF Schenectady. Among these items is President Lincoln's original DRAFT OF THE EMANCIPATION PROCLAMATION. I TAKE THIS OPPORTUNITY TO THANK BILL QUINLAN AND THE MEMBERS OF HIS COMMITTEE, NOT ONLY FOR THEIR WORK ON THIS PROJECT BUT FOR THEIR ONGOING INTEREST IN, AND ATTENTION TO, THE HISTORY OF THIS COURT. INCLUDED AS PART OF TODAY'S CEREMONIES WILL BE THE ADMISSION OF APPROXIMATELY EIGHTY NEW LAWYERS, GRADUATES OF ALBANY LAW SCHOOL, TO PRACTICE BEFORE THIS COURT.

THERE ARE THOSE TODAY WHO CONSIDER THE FEDERAL COURTS TO BE THE MOST IMPORTANT GUARDIAN OF INDIVIDUAL CIVIL RIGHTS AND CIVIL LIBERTIES. INDEED, IN OUR DAILY WORK HERE IN THE DISTRICT COURT, THERE IS CONSIDERABLE LITIGATION ARISING NOT ONLY FROM CLAIMED DEPRIVATIONS OF CONSTITUTIONAL RIGHTS BUT ALSO FROM ASSERTED

VIOLATIONS OF NUMEROUS SPECIFIC LAWS ENACTED BY CONGRESS

PROHIBITING DISCRIMINATION BECAUSE OF AGE, SEX, RACE, RELIGION

AND PHYSICAL HANDICAP. IT WAS NOT ALWAYS SO.

BEFORE THE CIVIL WAR AND THE CONSTITUTIONAL AMENDMENTS AND LEGISLATION THAT FOLLOWED, THERE WAS PERMITTED BY LAW IN THE United States of America the ownership of one human being by ANOTHER, AN UNCONSCIONABLE CONDITION THAT HAD EXISTED SINCE THE FOUNDING OF THE REPUBLIC. VARIOUS ACTS OF CONGRESS REGARDING SLAVERY GAVE RISE TO LITIGATION IN THE FEDERAL COURTS, AND THE COURTS WERE DUTY BOUND TO ENFORCE THE FEDERAL LEGISLATION. SHOULD ALWAYS BE REMEMBERED THAT OUR CONSTITUTION AND LAWS ARE ONLY AS GOOD AS OUR CITIZENS WANT THEM TO BE. SOME YEARS AGO, WHEN I TAUGHT A COURSE IN CRIMINAL LAW TO COLLEGE STUDENTS, IT WAS MY CUSTOM TO ASK THE STUDENTS TO NAME THE ULTIMATE AUTHORITY FOR LAW IN THE UNITED STATES. THE USUAL ANSWER WAS THE SUPREME COURT. THE CORRECT ANSWER, OF COURSE, IS THE PEOPLE, BECAUSE ONLY THE PEOPLE HAVE AUTHORITY TO AMEND THE CONSTITUTION AND TO FLECT THE CONGRESS AND THE PRESIDENT AND THUS TO OVERTURN ANY DECISION OF OUR HIGHEST COURT.

The ambivalent attitude of our citizens toward human bondage before the Civil War was reflected in two sets of statutes. The Importation Acts of 1807 and 1819 and other acts of Congress prohibited the importation of slaves into this country and outlawed the international slave trade. The Fugitive Slave Laws

OF 1793 AND 1850 PROTECTED SLAVE OWNERSHIP IN THE UNITED STATES, AND THE COURTS OFTEN WERE ASKED TO DETERMINE QUESTIONS OF SLAVE OWNERSHIP. ACCORDINGLY, THE FEDERAL COURTS WERE INVOLVED IN ENFORCING LAWS PROHIBITING INTERNATIONAL SLAVE TRADE ON THE ONE HAND AND IN PROTECTING THE RIGHTS OF SLAVEHOLDERS ON THE OTHER. THIS PARADOX OF ROLES, ILLUSTRATED BY THREE NOTORIOUS CASES IN THE SECOND CIRCUIT, IS THE SUBJECT OF OUR EXHIBIT. THE SECOND CIRCUIT, OF COURSE, IS COMPRISED OF ALL THE FEDERAL COURTS IN NEW YORK, VERMONT AND CONNECTICUT. ONE OF THE CASES IS OF SPECIAL INTEREST TO US, BECAUSE IT AROSE RIGHT HERE IN OUR NORTHERN DISTRICT OF NEW YORK.

THE FIRST CASE ILLUSTRATED IN OUR DISPLAY IS <u>Gedney v.</u>

<u>L'Amistad</u>, and it involved the court proceedings resulting from the mutiny of fifty-three slaves aboard the Spanish cargo schooner Amistad. The vessel set sail from Havana for Puerto Principe, Cuba in 1839 with slaves newly arrived from West Africa. Although Spain had outlawed the importation of slaves to Cuba, recent arrivals from Africa could be classified as "Ladino" slaves by Bribery of the proper officials. "Ladinos" were slaves residing in Spanish territory prior to 1817 and those aboard the Amistad were falsely categorized as such.

AFTER A FEW DAYS AT SEA, THE AFRICANS REVOLTED, KILLED THE SHIP'S CAPTAIN AND COOK AND SET THE CREW ADRIFT IN A LIFE BOAT.

LED BY A WEST AFRICAN RICE FARMER NAMED CINQUE, THEY DIRECTED THE

TWO SPANISH SLAVE OWNERS ON BOARD TO SAIL THEM HOME TO AFRICA, BUT THEY WERE DECEIVED BY THE SPANIARDS, WHO SAILED INTO AMERICAN WATERS. THE AMISTAD WAS FOUND IN LONG ISLAND SOUND OFF MONTAUK POINT BY THE U.S. WARSHIP WASHINGTON COMMANDED BY LIEUTENANT GEDNEY. THE AFRICANS WERE ORDERED TO JAIL IN NEW HAVEN, CONNECTICUT BY U.S. DISTRICT COURT JUDGE JUDSON TO BE TRIED FOR MURDER AND PIRACY. NEW YORK AND CONNECTICUT ABOLITIONISTS FORMED A COMMITTEE TO DEFEND THE CAPTIVES, AND ROGER SHERMAN BALDWIN OF CONNECTICUT, A FUTURE GOVERNOR AND U.S. SENATOR OF THAT STATE, WAS CHOSEN TO LEAD THE DEFENSE. THE PIRACY-MURDER CHARGES WERE DISMISSED BY SUPREME COURT JUSTICE THOMPSON SITTING AS A CIRCUIT JUDGE IN HARTFORD DUE TO LACK OF JURISDICTION, SINCE THE ALLEGED CRIMES HAD TAKEN PLACE IN SPANISH TERRITORY. THERE REMAINED FOR DISPOSITION THE VARIOUS PROPERTY CLAIMS ARISING OUT OF THE INCIDENT.

LIEUTENANT GEDNEY CLAIMED THE AMISTAD, ITS CARGO AND THE AFRICANS AS SALVAGE. THE SPANISH SLAVE OWNERS CLAIMED THAT THEY WERE THE OWNERS OF THE SLAVES AND ENTITLED TO THEIR RETURN. THE UNITED STATES ATTORNEY PRESENTED THE CLAIMS OF THE SPAINISH GOVERNMENT TO THE SHIP, CARGO AND CAPTIVES. THESE VARIOUS CLAIMS WERE PRESENTED TO DISTRICT JUDGE JUDSON IN NEW HAVEN, AND HE GENERALLY ADOPTED THE ARGUMENTS ADVANCED BY ATTORNEY BALDWIN. FIRST, THE JUDGE ALLOWED GEDNEY'S SALVAGE CLAIM BUT HELD THAT THERE COULD BE NO SALVAGE AS TO THE AFRICANS, WHO COULD NOT BE

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SOLD IN CONNECTICUT. SECOND, HE HELD THAT THE AFRICANS WERE NOT SLAVES UNDER SPANISH LAW, SINCE THEIR CLASSIFICATION AS "LADINOS" WAS FALSE. THIRD, HE HELD THAT THE CONGRESSIONAL ACT OF 1819 PROHIBITING THE IMPORTATION OF SLAVES REQUIRED THE RETURN OF THE CAPTIVES TO AFRICA UNDER THE CARE OF THE PRESIDENT OF THE UNITED STATES.

The Van Buren Administration favored the position of the Spanish government, however, and pursued an appeal of the Judson decision to the Supreme Court. Mr. Baldwin was joined by John Quincy Adams, then a 73 year old ex-president, in arguing the case for the Africans. United States Attorney General Henry Gilpin supported the government's position before the Court. On March 9, 1841, the Supreme Court issued its opinion, Justice Joseph Story writing for the 6-1 majority. Judge Judson's decision was affirmed, except that the Africans were directed to be discharged immediately from the marshal's custody, whereupon Adams wrote from Washington, "In great haste and great joy," to Baldwin in New Haven: "The Captives are Free."

THE SECOND CASE PORTRAYED IN OUR EXHIBIT, <u>United States v.</u>

<u>Cobb</u>, arose in this District, and involved the application of the Fugitive Slave Act of 1850. The Act allowed a slave owner or his agent to detain and transport an alleged fugitive or runaway slave, and provided criminal penalties for those who impeded the process. In October of 1851, United States Marshal Allen seized

A MAN NAMED JERRY AT SYRACUSE. JERRY HAD ESCAPED FROM SLAVERY IN MISSOURI AND HAD FOUND HIS WAY TO SYRACUSE, WHERE HE WAS EMPLOYED IN A COOPER SHOP. THE ARREST WAS MADE PURSUANT TO A WARRANT ISSUED ON THE CLAIM OF JERRY'S SO-CALLED OWNER. SYRACUSE WAS A HOTBED OF ABOLITIONIST SENTIMENT, AND PLANS WERE MADE TO FREE THE FUGITIVE DURING A PRELIMINARY HEARING BEFORE THE UNITED STATES COMMISSIONER AT THE SYRACUSE JAILHOUSE. A LARGE CROWD WAS PRESENT DURING THE PROCEEDINGS, INCLUDING NUMEROUS ABOLITIONISTS WHO APPEARED WITH IRON BARS AND CLUBS AND CREATED SUFFICIENT CONFUSION TO ALLOW JERRY'S RESCUE AND EVENTUAL ESCAPE TO CANADA VIA THE "UNDERGROUND."

JUDGE ALFRED CONKLING OF THE NORTHERN DISTRICT, AT A PRELIMINARY EXAMINATION, HELD IRA COBB AND SEVEN OTHER RESCUERS TO BAIL PENDING GRAND JURY ACTION FOR THEIR PARTS IN JERRY'S ESCAPE. JUDGE CONKLING WAS A DISTINGUISHED AND SCHOLARLY JUDGE OF THIS COURT, AND I'VE MADE SOME STUDY OF HIS WORK. HIS SON, ROSCOE CONKLING, UNITED STATES SENATOR FROM NEW YORK AND AN IMPORTANT NATIONAL POLITICAL FIGURE, DECLINED APPOINTMENT TO THE SUPREME COURT. HIS GRANDSON, ALFRED CONKLING COXE, WAS ALSO A JUDGE OF THIS COURT AND LATER BECAME A CIRCUIT JUDGE. HIS GREAT GRANDSON, ALFRED CONKLING COXE, JR., WAS A UNITED STATES JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK. THE DECISION OF JUDGE CONKLING IN THE COBB CASE IS INSTRUCTIVE, ILLUSTRATING AS IT DOES THE DILEMMA THAT FEDERAL JUDGES FOUND THEMSELVES IN WITH RESPECT TO THE SLAVERY ISSUE:

THE LEAST REPREHENSIBLE MOTIVE BY WHICH THE AGGRESSORS CAN BE SUPPOSED TO HAVE BEEN ANIMATED, IS THE BELIEF ON THEIR PART THAT SLAVERY IS UNJUST AND IMMORAL; AND THAT THE LAWS BY WHICH IT IS UPHELD, MAY THEREFORE BE RIGHT-FULLY RESISTED BY FORCE. IT MUST BE THE HOPE OF ALL GOOD MEN THAT THE TIME MAY EVENTUALLY COME, WHEN INJUSTICE AND OPPRESSION IN EVERY FORM, INCLUDING HUMAN SLAVERY, IF SUCH BE ITS CHARACTER, WILL HAVE BEEN BANISHED FROM THE EARTH. BUT THESE WRONGS EXIST, AND ARE LIKELY TO ENDURE, IN OTHER FORMS BESIDES THAT OF SLAVERY; AND IF WE HAVE NOTHING BETTER THAN LAWLESS VIOLENCE TO RELY UPON FOR THEIR REMOVAL, THEY WILL NEVER CEASE. IT IS TO ADVANCING CIVILIZATION ALONE THAT WE CAN LOOK FOR THEIR GRADUAL EXTINCTION. WISE MEN UNDERSTAND THIS, AND SHAPE THEIR COURSE ACCORDINGLY. AND FANATICS ARE TOO BLIND TO SEE IT, OR TOO IMPATIENT TO HEED IT; AND IN THEIR HEADLONG ZEAL TO REDRESS PARTICULAR WRONGS, REAL OR FANCIED, REGARDLESS OF ALL OTHER CONSE-QUENCES, THEY COMMIT OTHER WRONGS MORE AGGRAVATED AND Such is the grave error into which these INTOLERABLE. DEFENDANTS HAVE FALLEN.

THE ORIGINAL EIGHT RESCUERS WERE INDICTED AND, LATER, ANOTHER FIVE WERE INDICTED, THE LATTER GROUP HAVING GIVEN BAIL TO APPEAR BEFORE THE COURT HERE AT ALBANY. JUDGE CONKLING LEFT THE BENCH IN 1852 WHEN PRESIDENT FILLMORE APPOINTED HIM MINISTER TO MEXICO. THE TRIAL OF THE RESCUER CASES FELL TO NATHAN K. HALL OF THIS DISTRICT, CONKLING'S SUCCESSOR. JUDGE HALL HAD RESIGNED HIS POSITION AS POSTMASTER GENERAL OF THE UNITED STATES TO ACCEPT THE APPOINTMENT TO THIS COURT BY PRESIDENT FILLMORE, HIS FORMER LAW PARTNER. I SUPPOSE HIS RELATIONSHIP WITH FILLMORE PLAYED SOME SMALL PART IN THE APPOINTMENT. AT ANY RATE, THE FIRST RESCUER CASE WAS TRIED BEFORE JUDGE HALL IN 1853. THE DEFENDANT IN THAT CASE, ENOCH REED, WAS CONVICTED BUT DIED BEFORE HIS APPEAL WAS HEARD. DEFENDANT W.S. SALMON WAS TRIED AND ACQUITTED AND THE JURY WAS UNABLE TO REACH A VERDICT IN THE TRIALS OF DEFENDANTS

COBB AND BRIGHAM. EVENTUALLY, THE REMAINING RESCUER CASES WERE DROPPED, SINCE IT DID NOT APPEAR LIKELY THAT CONVICTIONS COULD BE OBTAINED IN THIS DISTRICT.

THE THIRD AND FINAL CASE DEPICTED IN OUR EXHIBIT. UNITED STATES V. GORDON, CONCERNED A VIOLATION OF AN 1820 ACT PROHIBITING UNITED STATES CITIZENS AND VESSELS FROM FNGAGING IN THE SLAVE TRADE UNDER PENALTY OF DEATH. THE DEFENDANT, NATHANIAL GORDON, HAD BEEN IN THE SLAVE TRADE FOR TEN YEARS WHEN HE MADE HIS FINAL VOYAGE TO AFRICA IN 1861. SAILING UP THE CONGO RIVER TO SHARK'S POINT, HE TOOK 800 AFRICANS ABOARD FOR SHIPMENT TO SLAVE MARKETS IN CUBA. FIFTY MILES OUT AT SEA, HIS SHIP, THE ERIE, WAS OVERTAKEN BY THE U.S. WARSHIP MOHICAN. THE AFRICANS WERE FREED AND CAPTAIN GORDON WAS TAKEN TO NEW YORK, WHERE HE WAS TRIED BEFORE THE CIRCUIT COURT FOR FORCIBLY CONFINING AND DETAINING THE AFRICANS WITH INTENT TO MAKE THEM SLAVES. HIS DEFENSE, THAT HE HAD DIVESTED HIMSELF OF COMMAND OF THE VESSEL AND WAS MERELY A PASSENGER, WAS REJECTED BY THE JURY, WHICH CONVICTED HIM AFTER DELIBERATING FOR TWENTY MINUTES. PRESIDING AT THE TRIAL WERE CIRCUIT JUDGE SHIPMAN AND SUPREME COURT JUSTICE NELSON SITTING AT THE CIRCUIT. IN THOSE DAYS, IMPORTANT CRIMINAL TRIALS WERE CONDUCTED IN THIS MANNER. THE DEATH SENTENCE WAS IMPOSED ON NOVEMBER 30, 1861. A PETITION FOR COMMUTATION, SIGNED BY 11,000 PERSONS, WAS REJECTED BY PRESIDENT LINCOLN AFTER THE SUPREME COURT DENIED FURTHER APPEALS. INTERESTINGLY, THE

PETITION REFERRED TO THE PARADOX WHICH IS THE SUBJECT OF OUR EXHIBIT, THAT SLAVERY WITHIN THE UNITED STATES WAS ACCEPTABLE BUT THE INTERNATIONAL SLAVE TRADE WAS PROHIBITED BY AMERICAN LAW. EXECUTION BY HANGING WAS CARRIED OUT ON FEBRUARY 21, 1862, AND GORDON WAS THE FIRST AND LAST PERSON EXECUTED FOR ENGAGING IN THE ILLEGAL SLAVE TRADE.

THE GREATER PART OF MY HISTORICAL REMARKS HAVE BEEN TAKEN FROM THE EXCELLENT PAMPHLET PREPARED BY KATHLEEN J. MURRAY AND ADLAI S. HARDIN, JR. TO ACCOMPANY THE EXHIBIT.

I SINCERELY HOPE THAT THE MATERIALS DISPLAYED WILL PROVE INFORMATIVE AND INTERESTING TO MANY. I ESPECIALLY HOPE THAT THE SCHOOLS IN THIS AREA WILL SEE FIT TO TAKE ADVANTAGE OF THE EXHIBIT FOR EDUCATIONAL PURPOSES. THE CLERK'S OFFICE MAY BE CONTACTED TO ARRANGE FOR GROUP TOURS AND OUR HISTORICAL COMMITTEE WILL ENDEAVOR TO HAVE ITS MEMBERS AVAILABLE TO DISCUSS THE DISPLAY AND THE WORK OF OUR COURT.

WE ARE HAPPY TO DECLARE THAT "SLAVERY AND THE FEDERAL COURTS" IS OFFICIALLY OPEN.