

**THE TRIAL OF THE REV. JACOB GRUBER FOR  
INCITING SLAVES TO INSURRECTION AND  
REBELLION. FREDERICK COUNTY,  
MARYLAND, 1819.**

**THE NARRATIVE**

On August 16th, 1818, a camp meeting was held in Washington County, Maryland, under the auspices and management of the clergy and laity of the Methodist Episcopal Church. At the first Sunday evening service, a sermon was preached by the Rev. Jacob Gruber, a native of Pennsylvania, presiding elder of his District, from the text "Righteousness exalteth a nation, but sin is a reproach to any people" (Pro. xiv, 34). In it he laid great emphasis upon slavery which he called a national sin. It is, he said, a reproach to our nation. We boast that we live in a free country and pity other people who are under the rule of Emperors and Kings—yet we have slaves around us whose sweat and blood and tears call to Heaven for relief. We have Bible and Missionary Societies to send the Bible to the heathen, but we do not teach it to the heathen in our own kitchens. We sell human beings like cattle; if they escape from us we offer rewards for their captures. You say we use our slaves well: but are we sure that our successors will and that some day our children and children's children may not be killed by a slave insurrection. Thus he spoke to the three thousand or more whites in the congregation. To the three hundred or more blacks who were present, he said: Of all people in the world you ought to have religion for that only can give you happiness and peace. Some of you have good masters, some of you have cruel masters, and you are slaves to them, slaves to sin, and slaves to the devil. But if you repent, no matter how hard your sufferings are in this world, it will soon be over, and you will have crowns and kingdoms of glory while your wicked masters will be sent to hell and eternal damna-

tion. One man who heard the sermon declared that he had also stated that he would not be surprised if the slaves of some masters were to cut their throats in their beds.<sup>1</sup> Another that he said he would not be surprised if the blacks should poison their master's children, for masters had no right to punish negroes who were born free.<sup>2</sup>

At the March Term, 1819, the preacher was indicted by the grand jury of Washington County, Md., for unlawfully, wilfully and maliciously instigating and inciting negro slaves, the property of citizens of the State, to mutiny and rebellion; to resist the lawful authority of their masters and owners and to raise insurrection and rebellion in the State. Alleging that the citizens of Washington County were prejudiced against him, he obtained a change of venue to Frederick County. The trial began on March 10th at Fredericktown and ended in his acquittal.

The great interest in this trial lies in the personnel of the counsel employed in it; two of whom were leaders of the bar of the State, and nation, and one reached the highest judicial office in the land. Luther Martin was then seventy-one years of age, had been Attorney-General of Maryland for thirty years; a delegate from Maryland to the Constitutional Convention of 1787, and had been counsel for the defense on the Impeachment Trial of Judge Samuel Chase, and the Treason Trial of Aaron Burr, and in 1818 he again became Attorney-General of Maryland. His last appearance in any case was in *McCullough v. Maryland* before the Supreme Court of the United States in 1819.

But who was the lawyer who opened and closed the case for the prisoner and who threw into his defense all the power of a great advocate and a great jurist? Who was it that declared to the jury that in all that he had said in his sermon the Rev. Mr. Gruber was right; that he would use the same language here in the temple of justice and in the presence of the ministers of the law, that the prisoner did in his sermon to the slave owners and their slaves? Who was it

<sup>1</sup> Ingram, p. 80.

<sup>2</sup> Dr. Dorsey, p. 77.

in that County Court House on that day that denounced slavery as a blot on our national character, an evil imposed upon us by another nation while we were in a state of colonial vassalage; and asserted that every lover of freedom looked hopefully to the day when this stain would be removed? It was no less a person than Roger Brooke Taney, who thirty-seven years later was, as Chief Justice of the United States, to bring upon himself the criticism and the abuse of more than half a continent for his decision in the celebrated Dred Scott Case, that a negro was not a "citizen" within the Constitution of the United States. To-day the heat and passion of the old war days having gone, the correctness of the law as Taney laid it down is being acknowledged even in the Court over which he presided.<sup>3</sup> And does not this trial which has been forgotten for nearly a century clearly show that in delivering his celebrated judgment, Chief Justice Taney was speaking as a jurist expounding the law, and not as a partisan who sought to fix his views of slavery upon the nation?

THE TRIAL<sup>4</sup>

*In the County Court of Frederick County, Maryland, March, 1819.*

HON. JOHN BUCHANAN,<sup>5</sup> *Chief Judge.*

HON. ABRAHAM SHRIVER,	}	<i>Associate Judges.</i>
HON. THOMAS BUCHANAN, <sup>6</sup>		

<sup>3</sup> "The Dred Scott Case in the Light of Later Events," Morris M. Cohn, 46 Am. Law Rev. 548.

<sup>4</sup> *Bibliography.* \* "Trial of the Reverend Jacob Gruber, Minister in the Methodist Episcopal Church at the March Term, 1819, in the Frederick County Court, for a misdemeanor. By David Martin, Minister of the Gospel. Fredericktown, Md. Published by David Martin, George Kolb, Printer, 1819." This is the only published account of this trial.

<sup>5</sup> BUCHANAN, John (1772-1844). Born in Maryland. After practicing law for a few years was appointed to the Supreme Court of Maryland and was Chief Justice of the Court of Appeals for thirty-seven years.

<sup>6</sup> BUCHANAN, Thomas, a brother of Chief Justice John Buchanan and associated with him on the bench for many years.

The Reverend Jacob Gruber had been indicted by the Grand Jury of Washington County, Maryland, for inciting negro slaves to mutiny and rebellion; for instigating them to resist their lawful owners and break the peace of the state and for endeavoring to stir up insurrection and rebellion in the state.<sup>7</sup>

<sup>7</sup> State of Maryland, Washington county, to-wit:

The jurors for the State of Maryland, for the body of Washington county, upon their oath present, That Jacob Gruber, late of the said county, clerk, being a person of an evil, seditious, and turbulent disposition, and maliciously intending and endeavoring to disturb the tranquillity, good order, and government of the State of Maryland, and to endanger the persons and property of a great number of the quiet and peaceable citizens of the said State, on the sixteenth day of August, in the year of our Lord one thousand eight hundred and eighteen, at the county aforesaid, unlawfully, wickedly, and maliciously, intended to instigate and incite, divers negro slaves, the property of divers citizens of the said State, to mutiny and rebellion, for the disturbance of the peace of the said State, and to the great terror and peril of the peaceable citizens thereof. And that the said Jacob Gruber, in prosecution of his said wicked intention and purpose, and for the affecting, and accomplishment thereof, on the said sixteenth day of August, with force and arms, at the county aforesaid, unlawfully, wickedly, maliciously and advisedly, did endeavor to stir up, provoke, instigate, and incite, divers negro slaves, whose names to the jurors aforesaid, are as yet unknown, the property of divers citizens of the said State, and inhabiting in the county aforesaid, with force and arms, unlawfully, seditiously and wickedly, to commit acts of mutiny and rebellion, in the said State, in contempt and in open violation of the laws, good order, and government of this State, to the evil and pernicious example of all others, in like case offending, and against the peace, government and dignity of the State.

And the jurors aforesaid, upon their oath, do further present, That the said Jacob Gruber, being such person as aforesaid, and unlawfully, maliciously and wickedly, designing, intending and endeavoring, again to disturb the peace, tranquillity, good order and government of the said State, and further to endanger the persons and property of the quiet and peaceable citizens of the said State and to incite a great number of other negro slaves, the property of divers citizens of the State of Maryland, to disobedience, insubordination and rebellion, to and against their masters and to break the peace of the said State upon their said masters, to the great peril, annoyance and disturbance, of the quiet and peaceable citizens of the said State, afterwards, to-wit, on the day and year aforesaid, with force and arms, at Washington county, aforesaid, unlawfully, wickedly, maliciously and advisedly, did endeavor to stir up, provoke, instigate and incite, a great number of the said late mentioned negro slaves, whose names to the jurors aforesaid, are as yet unknown, the property of divers citizens of the said State and inhabiting in

He pleaded not guilty, and on his application based on the ground that he could not get a fair trial in Washington County, the venue was changed to Frederick County where the trial took place.

*Luther Martin*,<sup>8</sup> Attorney-General, and *Franklin Anderson*, District Attorney, for the State.

the said county, aforesaid, with force and arms, unlawfully, seditiously and wickedly, to resist the lawful authority of their said respective masters and lawful owners, whose names to the jurors aforesaid, as yet, unknown, and to break the peace of the said State upon their said respective masters and lawful owners, to the great damage of the said masters, in contempt and in open violation of the laws, good order and government of this State, to the evil and pernicious example of all others, in like case offending, and against the peace, government and dignity of the State.

And the jurors aforesaid, upon their oath aforesaid, do further present, That the said Jacob Gruber, being such person as aforesaid and maliciously and wickedly, designing, intending and endeavoring, again to disturb the peace, tranquility, good order and government of the said state, and further to endanger the persons and property of the quiet and peaceable citizens of the State of Maryland, afterwards, to-wit, on the day and year aforesaid, at Washington county, aforesaid, unlawfully, wickedly and maliciously, intended and devised to stir up, provoke, instigate and incite, divers other slaves, actually to raise insurrection and rebellion in this State, for the disturbance of the peace of the said State, and to the great terror, peril and disturbance of the quiet and peaceable citizens thereof, and that the said Jacob Gruber, in prosecution of his said wicked intentions and purpose, and for the effecting and accomplishing thereof, on the said sixteenth day of August, in the year aforesaid, with force and arms, at the county aforesaid, unlawfully, wickedly and maliciously, did endeavor to stir up, provoke, instigate and incite a great number of the said last mentioned slaves, whose names to the jurors aforesaid, are as yet unknown, inhabiting in the county aforesaid, actually to raise insurrection and rebellion in this State, in contempt and in open violation of the laws, good order and government of the said State, to the evil and pernicious example of all others, in like case offending, and against the peace, government and dignity of the State.

<sup>8</sup> MARTIN, Luther (1744-1826). Born in New Brunswick, N. J. and was graduated from Princeton in 1770. Attorney General of Maryland, 1778. Delegate to Continental Congress, 1784-1785. Member of Convention that framed Federal Constitution but opposed its adoption. Counsel for Aaron Burr and Samuel Chase in their celebrated trials. Judge Maryland Court of Oyer and Terminer, 1814. Attorney General again in 1818. Shortly after this he was stricken with paralysis, and his mind, already weakened by long indulgence in alcoholic stimulants, became

*Roger B. Taney*,<sup>9</sup> *Mr. Pigman* and *Mr. Martin*<sup>10</sup> for the Prisoner.

*Mr. Anderson*, in opening the case, told the jury that *Mr. Gruber's* offence was committed in the course of a sermon preached by him.<sup>11</sup> It is well known that slaves are property

almost a total blank. His vast and ever ready learning was obliterated and gone forever. The golden fruits of his professional labors, which had been cast upon him with unstinted hand, had been scattered with the same prodigality. With a heart ever open to an appeal for help, he gave recklessly to the deserving and unworthy alike. The State of Maryland, not forgetting his services and greatness in the past, and pitying his wretchedness in the present, in 1822 passed a law imposing a tax on every practicing Attorney of five dollars annually to be paid to trustees for the use of Luther Martin so long as he should live. Aaron Burr, hearing of his friend's calamity took him to his house in New York, and provided for his wants and cared for him until his death, which occurred on the evening of July 10th, 1826, and in the eighty-second year of his life. "Luther Martin as a Lawyer and a Lover," Robert F. Brent, Transactions Maryland State Bar Association, 1899. Another of his biographers speaking of the State tax for his benefit says, "But one lawyer throughout the state is on record as ever having objected to paying this remarkable tax and he was induced to withdraw his objections to its constitutionality before the case reached the Appellate Court." 2 Great American Lawyers (Lewis), 42.

<sup>9</sup> TANEY, Roger Brooke (1777-1864), born in Maryland, admitted to the bar and began practice in Frederick, Maryland, until 1823 when he removed to Baltimore. Soon after was appointed Attorney General of Maryland. Became Attorney General of the United States in 1831 and Secretary of the Treasury in 1833 and Chief Justice of the United States in 1836. Thus says one of his biographers did Taney acquit before a jury of the vicinage the man who came among them uttering incendiary words in the presence of slaves, who in most instances had their mistresses and masters at their mercy in case of a servile insurrection. 2 Great American Lawyers (Lewis), 90.

<sup>10</sup> This *Mr. Martin* was a young lawyer and this was his first speech in court. He may have been a relative of the famous Attorney General.

<sup>11</sup> The following are his notes of the sermon.

Proverbs XIV 34. Righteousness exalteth a nation, but sin is a reproach to any people.

I. What kind of righteousness exalts a nation or a person.

1st. Right principles, true sound doctrine, sentimental righteousness and leading truths. The fall of man, original depravity, redemption by Christ through His blood, quickened by the spirit, repentance, faith, obedience, holiness, rewards and punishments after the resurrection. These truths believed is what makes the head right,

according to our laws, and that masters are entitled to protection, and any attempt to incite slaves to insubordination and resistance to the lawful commands of their masters ought to be punished. But in the prosecution of our inquiry on this

or distinguishes a nation or person from the ignorant, superstitious and infidel, or heathen.

2d. A right spirit. Experimental righteousness. The spirit of the Lord shall come upon thee—a spirit of grace, of peace, of adoption, of love, of liberty: a right spirit, not of fear, but of power and of a sound mind—more excellent than the spirit of this world. This makes the heart right—the inside clean—the nation or person a Christian. If any man has not the spirit of Christ he is none of his. Ye are not in the flesh if so be that the spirit of God dwell in you.

3d. A right conduct. Practical righteousness. This makes the life right—without which all our sentiments, notions, experience and professions of righteousness will profit us little in a dying hour or at the bar of God. According to these scriptures, in every nation he that feareth God and worketh righteousness, is accepted with him. He that doeth righteousness is righteous, even as He is righteous. If ye know that He is righteous, ye know that everyone that doeth righteousness is born of him. The righteous shall eat the fruit of their doings. Be thou faithful unto death, and I will give thee a crown of life. They that have done good shall arise to the resurrection of life. The Lord will give unto everyone as his works shall be.

In these three particulars are comprised, all I think necessary to say about national and personal righteousness. Whoever lacks in either of these particulars is not scripturally, experimentally and practically righteous.

II. Sin is a reproach to any people, nation, or person.

Sin is the transgression of the law. The way of transgressors is hard. He that committeth sin is the servant of sin. He that committeth sin is of the devil. Sin is a reproach to any person, no matter what his rank is. If they are law makers, it is a reproach to them to break the laws they make at a great expense. Rulers—magistrates who are to execute the laws, and ought to be a terror to evil-doers; it is a reproach to them to be sinners. What! a drunken magistrate administer solemn oaths to others and be a profane swearer; shame on him, even if he was a Judge. Sin is a reproach to the rich; they have many advantages and ought to be thankful and religious good stewards, so as to be able to give a good account of their stewardship. A reproach to the poor; they have but little in this world, and ought to lay up treasure in heaven and be rich in faith. A reproach to parents and mothers; they ought to set a good example in their families—they and their house should serve the Lord. Sin is a reproach to the aged; they are on the brink of the grave, and ought to be ready to die. A reproach to the young; they ought to remember their creator, and seek the Lord early—not contract evil habits and lay a foundation for misery and destruction. Sin is a great reproach to professors of religion. What! name the

occasion, gentlemen, we must not forget that liberty of opinion and speech is the privilege of every citizen; and if Mr. Gruber had no criminal intent in his sermon, he has committed no offence. It is your duty and your province to judge of the intent from the facts that will be disclosed.

name of Christ and not depart from iniquity; profess in words that they know God but in works deny him; plead for sin and advocate the cause of Satan. The Lord says, shew my people their sins. All the righteousness or religion that some have is contained in their Prayer Book, in a form or ceremony—their devotion carried on by machines or mechanically. The organ sings praise, and if a machine could be invented to pray with, it would be an accommodation; it would save the labor and trouble of reading prayers.

But there are what might be called national sins which are a reproach.

1st. The sin of infidelity. Denying revelation. Christ and religion. The power of godliness.

2nd. The sin of intemperance. Tipling too common, which leads to drunkenness. If the free and common use of spirituous liquors is encouraged and continued, we may calculate on a nation of drunkards. Notice many of our young men or boys; they smoke and drink, sport, revel and gamble, get drunk and run fast to excess or riot. It would be an honor to them to learn to be sober.

3d. The sin of profaneness. Because of swearing the land mourns. A reproach to profane the name of the Lord—the sabbaths and ordinances of the Lord and his church. Can much dependence be put in the oath of a person who swears profanely in his common conversation oaths to the amount of dozens and scores in a day? Is such a being a friend to his country, while he breaks the law of God and men, or an honest man before he goes and pays the lawful fine for every profane oath?

4th. And last, National Sin, I shall mention is slavery and oppression. This in particular, is a reproach to our nation. We pity other nations who are under the yoke of Emperors and Kings, who tyrannize over, and make slaves of their subjects. We are happily delivered from such bondage; we live in a free country; we hold self-evident truths, that all men are created equal, and have unalienable rights, such as life, liberty and the pursuit of happiness. But are there no slaves in our country? does not sweat, and blood, and tears, say there are? The voice of thy brother's blood crieth. Is it not a reproach to a man to hold articles of liberty and independence in one hand and a bloody whip in the other, while a negro stands and trembles before him, with his back cut and bleeding? There is a laudable zeal manifested in our country to form Bible and Missionary Societies to send the Scriptures and the gospel to heathen nations. Would it not be well for some to be consistent? instruct the heathens at home in their kitchens, and let them hear the gospel likewise? What would heathen nations at a distance think, if they were told that persons who gave money liberally to send them the Bible and



## WITNESSES FOR THE STATE

*Dr. Frederick Dorsey.* Was at the Camp-meeting, and heard the sermon. Mr. Gruber spoke of the tyranny of masters, and gave a dialogue of what was to pass

in hell between masters and slaves upon hot grid-irons. Drew a comparison between Pennsylvania and Maryland. And said that the people in the the gospel did not read, believe, or obey it themselves, nor teach their families to read that book; nor allow them time to hear the gospel of their salvation preached?

There is some difference even in this country. We Pennsylvanians think strange, and it seems curious to read the public prints from some States and find—For sale, a plantation, a house and lot, horses, cows, sheep and hogs—also, a number of negroes; men, women and children—some very valuable ones—also a pew in such and such church.—For sale, for life, a likely young negro, who is an excellent waiter, sold for no fault—or else for want of employment. (These are sold for cash—for four, five, six, seven or eight hundred dollars a head; soul and body together—ranked with horses, etc.) Look further and see—fifty dollars reward—one hundred dollars reward—two hundred dollars reward. What for? has an apprentice run away from his master? no—perhaps a reward for him would be six cents. A man that ran off has, probably, gone to see his wife, or child, or relations who have been sold and torn from him; or, to enjoy the blessings of a free country, and to get clear of tyranny. In this inhuman traffic and cruel trade the most tender ties are torn asunder, the nearest connections broken. That which God has joined together let not man put asunder. This solemn injunction is not regarded. Will not God be avenged on such a nation as this?

But some say, we use our slaves well; better than they could use themselves if they were free. Granted. But what assurance have you, or what security have they that your children, or those you will them to will use them as you do. May they not tyrannize over them after you are dead and gone, and may they not (the slaves thus abused) rise up and kill your children, their oppressors, and be hung for it, and all go to destruction together? the Lord have mercy on their souls. Such alarming and dreadful consequences may attend and follow this reproachful sin in our land and nation.

Is there not some chosen curse,  
Some secret thunder in the stores of heaven,  
Red with uncommon wrath, to blast the wretch  
That traffics in the blood of souls.—Or,  
Makes his fortune from the blood of souls.

To the Negroes.

Of all people in the world you ought to have religion. You have most need of it in order to enjoy some happiness or peace. Sin is a reproach to you. There is no peace to the wicked. Some of you have good masters; you ought to attend to religious duties; never be absent from family prayer when it is in your power to attend;

former state were surprised to see in the Maryland newspapers, advertisements of negroes for sale, with stock and lands. Negroes sold for life, without fault, none need apply without cash, the price of a soul,—two hundred dollars reward—one hundred dollars reward—fifty dollars reward, for a negro run away. A man gone to see his wife, or wife gone to see her husband. Fear of punishment on their return, perhaps, keep them from home. He said he should not be surprised if they were to poison your children, and all go to damnation together; to which there was a general response of Amen! Amen! He said it was true some slaves had good masters, but what security have fathers that children will use them well? May not the slaves you leave as property, rise against your children? What security have you that your children will not tyrannize over them, and the slaves poison your children? Masters had no right to punish. Negroes were free, they were born free. He quoted the Declaration of Independence, that all men are equal, and entitled to life, lib-

erty, and the pursuit of happiness. He said, the husband had no right to punish his wife, neither has a master any right to punish his slave. I was disgusted and went off.

*Mr. Pigman.* What part of the discourse was addressed to the negroes? A considerable part of it.

What was the number of whites at the meeting? About three thousand whites, and from three to five hundred blacks.

What was the manner of Mr. Grubber? He preached with energy and zeal.

What was the text of Mr. Gruber? I do not recollect the text, but he preached the necessity of repentance to the blacks as well as the whites.

*David G. Yost.* Was at the meeting and heard the sermon. He said he was opposed to slavery as a man, and much more as a Christian. It was a reproach to the people of America to boast of their liberty while they held thousands in bondage. That there was a great inconsistency in holding the Declaration of Independence in one hand and a bloody whip in the other, and the blood streaming from a negro's back,

discharge your duty and it may make your situation more agreeable, even here, and certainly hereafter. Some of you have cruel masters; are slaves to them, slaves to sin, and slaves to the Devil, and if you die without religion you will be slaves in hell forever; miserable, wretched, poor and lost to all eternity. But if you repent and get converted; be made free from sin; serve the Lord faithfully unto death (however hard your situation may be in this world), your sufferings will soon be over; and you may have crowns and kingdoms in glory, where the wicked cease from troubling; where every tear is dry,

And not a wave of trouble rolls  
Across the peaceful breast,

be happy in heaven forever; while wicked masters are turned into hell and damned forever.

literally cut to pieces. He spoke of advertisements in the Maryland papers, mixing negroes for sale, with stock, land, etc., and offering a reward for men, who, perhaps, from inhuman treatment had gone to see wife and children. He then addressed the blacks, and exhorted them to emancipate themselves from the services of the devil, and warned them if they and their masters lived and died in sin they would all go to hell together. Then he addressed the whites. You say you use them well. Granted. But how do you know your children, to whom you leave them, will use them well. They may tyrannize over them, and the slaves may rise up and poison, or cut the throats, of your children. In his address to the negroes he particularly exhorted them to get religion and seek the pardon of God for their sins, and be happy.

*Dr. Hammond.* Heard the sermon. He spoke in part of it of advertisements in the newspapers, in which men were offered for sale with cattle. Negroes were offered for sale without any fault. The cruelty of some masters were such, that he should not be surprised if the slaves would enter their bed-rooms in the dead of night, and poison them, or cut their throats. He seemed to speak in a great passion. One could hear him half a mile distinctly. He said, negroes were sometimes whipt for trifling faults; that they could not serve God and man. The part of his sermon addressed to the black occupied ten or fifteen minutes.

*Mr. Pigman.* Do you remember that part of scripture where

our Saviour told the Jews, and others who heard him, that they could not serve "God and Mammon"? I do not remember any such scripture.

*Mr. Claggett.* I was at the meeting. Mr. Gruber said, it was very inconsistent for people in this land, of boasting liberty, to hold the Declaration of Independence in one hand, and a whip, stained with human blood, in the other. That it was a common thing to see human flesh offered for sale in Maryland, with cattle and other stock. Horrid it was, he said, to the people of Pennsylvania, to hear of these things. He said, he should not be surprised if these negroes poisoned, or cut the throats, of the children of their masters, and all go to destruction together. There were about four or five thousand persons present, and out of that number about four or five hundred blacks. Did not hear the address to the blacks. I left the ground before that.

*Daniel Schnebly.* I got displeased with him early in his sermon, and left the ground; and returned again, and heard him in addressing the whites, say, he should not be surprised if they (the negroes) rose in the night and killed their masters, and entered their bed-rooms and poisoned their children. There was from five to six thousand people present, and out of them about from three to five hundred negroes. He preached with a good deal of warmth.

*Dr. Finley.* Heard Mr. Gruber preach the sermon. The general scope was to entreat the congregation to obtain religion. He preached with zeal and vehemence; but no more so on

that occasion than usual. I have heard him often, and he delivered his sermon in his usual manner. He said under these cruelties slaves might be faithful to one generation, but not to their descendants; that it would not be surprising, if the children to whom they were left, treating them with cruelty, should cause rebellion, and end in mutual strife, the negroes should cut their throats, or kill them; be hung for it, and all go to destruction together. He said, some slaves were treated as if they had no souls! Though they were black they still had human feelings, and many of them possessed keen sensibility. Those who tyrannized over the negroes might be in hell, while the negro thus used, if faithful, might be in happiness. It was degrading to humanity, to see human souls mixed with horses, cows, and stock, and offered at a public

sale to the highest bidder; that it was inconsistent with the republican principles of this nation to hold the declaration of independence in one hand, while the bloody scourge was brandished over the trembling slave with the other.

*Mr. Ingram.* Heard the sermon and remember he said, that the slaves of some masters might enter their bed-rooms and cut their masters' throats. Did not pay must attention to his sermon. Don't remember the text.

*Mr. Hogmire.* Mr. Gruber said he should not be surprised, if slaves were to cut their masters' throats and poison their children.

*Mr. Rensch.* Do not remember the text. I got so mad with Mr. Gruber for his severity on other sects of Christians that I do not remember much about the sermon.

### THE DEFENSE

*Mr. Taney.* The statement made by the District Attorney, informs the jury of the interesting principles involved in the trial now pending before you. It is, indeed, an important case, in which the community, as well as the accused, has a deep interest. The prosecution is without precedent in the judicial proceedings of Maryland, and as the jury are the judges of the law, as well as the fact, it becomes my duty, not only to state the evidence we are about to offer, but to show the grounds on which we mean to rest the defence.

I need not tell you, that by the liberal and happy institutions of this state, the rights of conscience and the freedom of speech, are fully protected. No man can be prosecuted for preaching the articles of his religious creed; unless, indeed, his doctrine is immoral, and calculated to disturb the peace and order of society. And subjects of national policy may,

at all times, be freely and fully discussed in the pulpit, or elsewhere, without limitation or restraint. Therefore, the Reverend gentleman, whose cause I am now advocating, cannot be liable to prosecution in any form of proceeding, for the sermon mentioned by the District Attorney, unless his doctrines were immoral, and calculated to disturb the peace and order of society. The sermon, in itself, could in no other way be an offence against the laws; if his doctrines were not immoral, if the principles he maintained were not contrary to the peace and good order of society, he had an undoubted right to preach them, and to clothe them in such language, and to enforce them by such facts and arguments, as to him seemed proper. It would be nothing to the purpose to say that he offended, or that he alarmed some, or all of his hearers. Their feelings, or their fears, would not alter the character of his doctrine, or take from him a right secured to him by the constitution and laws of the state.

But, in this case, he is not accused of preaching immoral, or dangerous doctrine. That is not the charge contained in the indictment. The preaching of such a sermon is not laid as the offence. He is accused of an attempt to excite insubordination and insurrection among our slaves: and the intention of the preacher is the essence of the crime. On this indictment, no matter what doctrines he preached; no matter what language he used, yet his doctrines, or his language could not amount to the crime now charged against him. They would be evidence, I admit, to show his intention; but they would be nothing more than evidence, and could not constitute the offence itself. The intent of the accused is the great object of your enquiry. The charge is a grave and serious one. It is necessary, in order to support the prosecution, that the wicked intention, charged in the indictment, should be made out by proof. The guilty design is the crime imputed to him. You must be satisfied, before you can say he is guilty, that such was his intent; such the object he wished to accomplish; and that such were the pur-

poses for which his sermon was preached. For it is upon this sermon alone that this prosecution is founded.

It is true that the words used by him are evidence of his intention. But they are not conclusive evidence: nor are they the only evidence, from which the intent is to be gathered. His language is a circumstance from which you may infer his design. It is nothing more. And there are a variety of other circumstances equally entitled to weight, and equally proper for the consideration of the jury. For, when it is alleged, on the part of the prosecution, that a clergyman of a Christian society, while professing to be engaged in the high and solemn duties of religion, was, in truth, seeking to produce insubordination and insurrection among the slaves, and a detached part of his sermon, is relied upon as the proof of his guilt, the party accused, has a right to refer you, in proof of his innocence, to the general scope and object of his sermon: to the occasion on which it was preached: to the character of the congregation to whom it was addressed: to the opinions known to be held by the society to which he belongs: and above all, to the history of his own life, which, in this instance, would, of itself, be abundantly sufficient, to repel such a charge, bottomed on such evidence. Upon all these circumstances Mr. Gruber relies for his defence; and now I proceed more particularly to state them, as you will by and by hear them in proof.

You have already been told, that Mr. Gruber is a minister of the Methodist Episcopal church. And it is not necessary to tell you, that the religious society to which he belongs, is nearly as numerous as any other society of Christians in this state; and the equal of any other, in general order and decorum of their behaviour, in their moral deportment, and in their habits of obedience to the laws. It was, at a very early period of his life, that Mr. Gruber became a member of this society, and took upon himself, the duties of a minister of the gospel. In this vocation, he has faithfully labored, for more than twenty years, and he now fills a post of high rank, and great confidence, in his church; the reward of his fervent

piety and unwearied zeal. We shall also prove to you by a most respectable witness, a minister of the same church, whose duty it has often been, according to the discipline of that society, to examine into the conduct and character of the accused, that during the whole course of his ministry, the Reverend gentleman who is now on his trial, has sustained a character of spotless integrity.

It is well known that the gradual and peaceable abolition of slavery in these states is one of the objects which the Methodist society has steadily in view. No slave-holder is allowed to be a minister of that church. Their preachers are accustomed, in their sermons, to speak of the injustice and oppression of slavery. The opinion of Mr. Gruber on this subject, nobody could doubt. And if any slave-holder believed it dangerous to himself, his family, or the community, to suffer his slaves to learn that all slavery is unjust and oppressive; and persuade himself, that they would not of themselves, be able to make the discovery: it was in his power to prevent them from attending the assemblies, where such doctrines were likely to be preached. Mr. Gruber did not go to the slaves: they came to him. They could not have come, if their masters had chosen to prevent them.

In August, 1818, a Camp-meeting of the Methodist society was held in Washington county. At this meeting, it was the duty of Mr. Gruber to attend. He did attend, and from his official station in the society, the general superintendence, and direction of the meeting, was in his hands. On one of the days of the meeting, when the usual hour of evening preaching had arrived, the gentleman who had been depended upon to fill that duty, was prevented by indisposition. It was the duty of Mr. Gruber to provide for this unexpected emergency. He applied to several of his brethren, and requested them to address the congregation. But it so happened, that from different causes, not now material to be stated, he was unsuccessful in all his applications; and as nobody else could be found to supply the place of the sick brother, Mr. Gruber was compelled to do it himself. He

undertook the task without preparation, without time for reflection, and upon the sudden and unexpected call of the moment. I state these facts, so much in detail, because this sermon is the sole foundation of the charge against him. The language used on that occasion is the only fact relied upon to prove him guilty of the wicked intention of raising an insurrection among the slaves and converting this peaceful and flourishing state into a horrible scene of rapine and murder.

At the time this sermon was preached there were present about three thousand persons, of whom only about four hundred were people of color, as they are now generally called. These were separated from the whites, according to the custom on such occasions, and placed together behind the stand, from which the preacher addressed the congregation. Many of the most respectable gentlemen of Washington county, and many of the principal slave-holders were there, when the sermon in question was delivered. Yet it is at this meeting, thus constituted, that he is accused of conspiring against the peace of this state. It is, in his public address, to this assembly, that he is said to have developed his profligate designs. If he did mean to stir up the slaves to insurrection, it must, at least, be admitted, that he at the same time put the masters on their guard.

The address of Mr. Gruber occupied rather more than one hour. His subject was national sin; and after enumerating and rebuking some offences which, he supposed, people of this country to be but too prone to commit, he, in the conclusion of his discourse, spoke about fifteen minutes and no more, on slavery, and the treatment of slaves. It is not alleged, that he said anything in the preceding part of his sermon, calculated, in any degree, to support the prosecution. During all that time, he made no allusions to the condition of master or slave. And in the latter part of his discourse, when he did speak of them, and used the language on which this prosecution is founded, he addressed himself particularly to the masters. His appeal to his hearers, on this subject, was



directed exclusively to the whites. The impression was intended to be made on them. And when the language used by him, shall be detailed to you by the witnesses, you will find, that he could not have designed, in that part of his discourse, to influence the conduct of the slaves, but was obviously, and clearly, seeking to reform the hearts of the masters.

There may, and probably will be, a difference among the witnesses, as to the words used on this occasion, by the Reverend preacher. There will always be this difference, where there are many hearers. For some will be negligent, while others are attentive: some hear only detailed parts: others hear the whole: some are roused to attention, only when the angry passions are inflamed by an expected attack on some favorite opinion; and others, listen to the whole discourse, in the spirit of soberness and humility, for the purpose of receiving and profiting by the instruction. And in this case, a difference is more especially to be looked for, because the sermon produced a good deal of excitement, and much warm conversation among different persons, even on the grounds: so that the remarks of irritated individuals became intimately blended in the mind with the language of the preacher, and make it difficult, after the lapse of some months, for those who had listened carelessly, to separate the one from the other. But we shall be able to fix, beyond doubt, the language actually used by him. For we shall produce a most respectable witness, who listened attentively to the whole discourse, who was near the preacher during the whole time, and who, on the day afterwards, while it was yet fresh in his mind, wrote down the heads of the discourse, and wrote out, in full, what may be termed the offensive part of it. His statement, too, will be corroborated by the testimony of a multitude of other witnesses, concurring with him in all the material parts. We shall, therefore, confidently rely on it, as containing truly and accurately the words delivered. And from such a sermon, as the witnesses will detail, preached by such a man, on such an occasion, and under such circum-

stances, without any other act of his life, to aid the prosecution, I must be allowed to say, that no intelligent mind, free from the influence of passion and prejudice, can infer the guilty design charged in this indictment.

The learned District Attorney has said, that the language of Mr. Gruber was injudicious: that it was not calculated to do good: that it would necessarily irritate and offend the masters, and make the slaves more dissatisfied with their unhappy condition. And it may, in the progress of this trial, be argued on the part of the prosecution, that his principles on the subject of slavery were wrong; that the assertions of his opinions, to a congregation mixed, like the one to which he was speaking, was impolitic and dangerous, and likely to produce insubordination and disturbance among the slaves. Now, if all this could be truly said of this memorable sermon; if the Reverend preacher merited all these reproaches, yet, if you should believe that his motives were pure, if you think him innocent of any design to produce this mischief, he would, still, be entitled to a verdict of acquittal. For he is not now on trial, for preaching doctrines calculated to disturb the peace and order of society. That is not the offence charged in this indictment; and you are well aware, that a man indicted for one offence, cannot, on his trial, on that indictment, be convicted of another and a different offence. And if the learned Attorney for the state, shall be able to satisfy you that the opinions of Mr. Gruber on slavery, and the treatment of slaves, are unsound: that his arguments were injudicious and impolitic: that his language was inflammatory, and calculated to produce evil: still he will not have advanced one step towards the accomplishment of his object, until he can prove to you, that these opinions were uttered, these arguments were used, and this language employed, with the criminal intention, and for the wicked purpose laid in this indictment. I might, therefore, safely rest the defence on this ground, and yield to the Attorney for the state all the advantage he can derive from placing my client, in this respect, in the wrong. For the circumstances I have

before stated, will, in my humble judgment, put the integrity of his motives beyond all question. And whatever may be thought, or said, of the intemperance of his zeal, nobody, who listens to the proof, will be able to doubt the sincerity of his heart.

But the Reverend gentleman merits a defence on very different principles. The counsel, to whom he has confided his cause, cannot content themselves with a cold and reluctant acquittal, and abandon Mr. Gruber, without defence, to all the obloquy and reproach, which his enemies have industriously, and most unjustly heaped upon him. We cannot consent to buy his safety by yielding to passion, prejudice, and avarice, the control of future discussions, on this great and important question. He must not surrender up the civil and religious rights, secured to him in common with others, by the constitution of this most favoured nation. Mr. Gruber feels, that it is due to his own character; to the station he fills; to the respectable society of Christians in which he is a minister of the gospel, not only to defend himself from this prosecution, but also to avow, and to vindicate here, the principles he maintained in his sermon. There is no law that forbids us to speak of slavery as we think of it. Any man has a right to publish his opinions on that subject whenever he pleases. It is a subject of national concern, and may at all times be freely discussed. Mr. Gruber did quote the language of our great act of national independence, and insisted on the principles contained in that venerated instrument. He did rebuke those masters, who, in the exercise of power, are deaf to the calls of humanity; and he warned them of the evils they might bring upon themselves. He did speak with abhorrence of those reptiles, who live by trading in human flesh, and enrich themselves by tearing the husband from the wife—the infant from the bosom of the mother: and this I am instructed was the head and front of his offending. Shall I content myself, with saying he had a right to say this? that there is no law to punish him? So far is he from being the object of punishment in any form of proceed-

ing, that we are prepared to maintain the same principles, and to use, if necessary, the same language here in the temple of justice, and in the presence of those who are the ministers of the law. A hard necessity, indeed, compels us to endure the evil of slavery, for a time. It was imposed upon us by another nation, while we were yet in a state of colonial vassalage. It cannot be easily, or suddenly removed. Yet while it continues, it is a blot on our national character, and every real lover of freedom, confidently hopes that it will be effectually, though it must be gradually, wiped away; and earnestly looks for the means, by which this necessary object may be best obtained. And until it shall be accomplished: until the time shall come when we can point without a blush, to the language held in the declaration of independence, every friend of humanity will seek to lighten the galling chain of slavery, and better, to the utmost of his power, the wretched condition of the slave. Such was Mr. Gruber's object in that part of his sermon, of which I am now speaking. Those who have complained of him, and reproached him, will not find it easy to answer him: unless complaints, reproaches, and persecution shall be considered an answer.

I have now done with stating the testimony we are about to offer, and marking out the grounds on which our defence will be taken. But there is one other topic, on which it may be proper to remark, before I conclude the opening of the case.

The sermon in question, was preached in Washington county, and this indictment was found by the Grand Jury for that county. The cause has been removed to Frederick, upon the application of the accused. This circumstance, sometimes creates suspicions unfavorable to the character and standing of the party who applies for the removal. If he has been long an inhabitant of the county in which he is indicted, there may be some ground for these suspicions: but even then, they cannot be allowed, in the least degree, to affect the verdict. In this case, however, Mr. Gruber was as much a stranger in Washington, as he is in Frederick. He

never resided in that county, and therefore, has not shunned the decision of the men who knew him. He has removed his cause from one body of strangers, to be decided, indeed, by another body of men, who are equally unacquainted with him. His motive for doing so, I will briefly explain to you.

Mr. Gruber, as I have already told you, was a stranger in Washington, and consequently incapable of deciding how far, a fair and impartial trial, could be there expected. He, of course, submitted himself on this point, to the decision of his counsel, and formed his own opinions upon the advice and information derived from them. I am by no means prepared to say, that if he had gone to trial in Washington, his cause would not have been patiently heard, and impartially decided, by a jury of that county. But it was well known that great pains had been taken to inflame the public mind against him. The Grand Jury of that county had found this indictment to be true: and on that jury were men of high standing and great influence in the county. Many of the members of that body, I know personally, and respect highly; they are incapable, I am sure, of wilfully doing wrong. Yet they are like the rest of us, but men! frail men! and liable to be influenced by the impulse of passion or prejudice without being aware of it. Knowing, as I did, all the circumstances of this case, and being firmly convinced that there was no just cause for instituting this prosecution, the finding of this indictment, by a body of men so respectable as the Grand Jury, was of itself sufficient evidence to my mind, that the liberty and reputation of Mr. Gruber, ought not to be hazarded on a trial there. I so advised him, in the strongest terms; and if blame is to rest upon anyone, for the removal of the cause, I acknowledge that to me, and not to Mr. Gruber, it ought to be imputed. Yet, I cannot think, that the exercise of a constitutional right can be matter of censure against the client or his counsel: nor can it be a reproach to anyone, that he is willing to abide the verdict of a jury of Frederick county.

*Rev. Mr. Sneathen.* I heard Mr. Gruber's sermon. He first prayed for the safety, conversion and happiness of the whole assembly. Upon the point of slavery, he gave the good and bad masters their meat in due season. Kept up the distinction between good and bad masters. He admitted, that many masters used their slaves well, but then, he said, what security have they that their children will use them well? It is possible that their children may be tyrants,—the slaves may rise and kill their children. When he spoke of killing, it exclusively related to the next generation. He endeavored, to convince the good master that slaves were dangerous property to leave to children; that tyranny in the children might produce rebellion in the slaves, and mutual destruction might ensue. Mr. Gruber preached that day by accident. He did not appoint the meeting; and before he began, he labored very much with one of his brethren in the ministry, to preach in his place. He possesses a good general character; is very zealous and devout in the ministry. He is next in office to the Bishop, and of an unimpeachable moral character. In his address, to the blacks, he enforced on them repentance; exhorted them to religion, to obedience, and patience in the service of their masters. He told them, without religion they were slaves to their own lusts, slaves to their masters, and if they died in their sins they would be damned forever. When he adverted to the Declaration of Independence, he spoke of it as a national thing, and not to slave holders particularly,

and said, it had been justly thrown upon this nation as a reproach, to hold the Declaration of Independence in one hand, and the bloody whip in the other.

*THE COURT.* How did you like the sermon? From prudent considerations I would not have preached in the same way, because, from his very frank manner persons might misrepresent him. My taste also differed from his, I should have advised a different manner and composition; but nothing escaped him that could induce me to believe for a moment, that he had a criminal intent. When Mr. Gruber spoke of the danger of mutual destruction between the children and slaves in the next generation, he offered up a prayer for them all; "the Lord have mercy on them."

*Rev. Jeremiah Mason.* Was at the Camp-meeting and heard the sermon. Righteousness was the first head of the discourse. Sin is a reproach to any people, was the next head. He dwelt considerably on the sin of infidelity, and with great labor on the sin of oppression, under which he considered, he said, the whole of involuntary negro slavery. He contended that involuntary negro slavery was a violation of the moral and natural law, and a great abuse of Christianity; that it was in violation of the sentiments expressed by the American sages, in the Declaration of Independence; that it was reproachful to this nation to hold that sacred instrument in one hand, and a rod stained with blood in the other. He spoke of the cruelty of advertising and selling human beings, mixed with cattle.

He said, it was usual to find in the advertisements on this subject, the owners stating to the public, that they (the negroes) were sold without fault. In that part of his address directed to the negroes, he was very severe on them, and told them, unless they repented and obtained conversion, they would be damned forever. He recommended to them obedience and entire and patient resignation to their condition. I being a Justice of the Peace, and hearing an accusation was to be stated against Mr. Gruber, I made immediate notes, after the delivery of the sermon of its principal heads. When he spoke of the danger of killing, he referred to the posterity of the present generation of masters. He said, in the mutual strife that might ensue between the negroes and the children of the present masters, there might be mutual death, and all be sent to destruction together. Then he made a pause, and said, the Lord have mercy on them.

THE COURT. Have you ever said, that you did not approve of the matter and manner of the sermon? I have said, from the temper of the congregation, I was fearful the sermon might give offence to some persons present, but I never intimated or thought there was anything criminal in it.

*Rev. Jonathan Forrest.* Heard the sermon. He spoke considerably on the beauty of righteousness, and the horror of sin in a national point of view. In his prayer, previous to preaching, he offered a fervent petition at a throne of grace, for the happiness, conversion, peace and quiet of the whole congregation.

He discussed negro slavery as a national sin, as being contrary to the natural and moral law, contrary to the Christian religion, and expressly against that command of God, which directs us to do to all men, as we would they should do to us. He said, slaves were dangerous property for fathers to leave to their children. Children might tyrannize over them, mutual destruction might ensue, and all go to destruction together. When he spoke of the danger of killing, it was in reference to the next generation of men. In that part of the address directed to the negroes he exhorted them with great zeal to get religion, to seek pardon of God, to obey their masters and mistresses, to let their light shine before men, and perhaps, it might be a means of their getting their freedom, through some kind turn of Providence. He told the slaves, if they lived and died in their sins they would be damned forever. I was near Mr. Gruber the whole time he was preaching. Am confident he did not in any part of his sermon say, the negroes present were free born.

*H. G. O'Neal.* Heard the sermon. In the general scope of his sermon, he preached repentance towards God and faith in a Saviour. I do not remember his saying anything about poison. When he spoke of killing he referred to the next generation of men. He exhorted them to be obedient and submissive to their masters, and begged those who had pious masters to join them in devotion. There was about five thousand white persons present and perhaps from two to three hundred blacks.

*Mr. Long.* Heard the sermon. Remember Mr. Gruber said Pennsylvanians thought it strange that human beings were sold in Maryland at auction, with cattle and beasts. He said negroes were dangerous property for fathers to leave to their children, that children might prove to be tyrants, negroes might rebel, mutual destruction take place, and all go to destruction together.

THE COURT. Did he tell the negroes they were a degraded people? No.—He advised them to be obedient. He preached a mighty good sermon. It was the truth from the scriptures.

*Rev. Lawrence Evehart.* He said that it would be awful to account for holding slaves in the day of judgment. There was then a general response of Amen! Amen! after his address.

*Rev. Samuel L. Davis.* Heard the sermon. He was particularly severe on those engaged in the slave trade. He made use of a quotation to this effect,

Is there not some chosen curse,  
Some secret thunder in the stores  
of heaven,  
Red with uncommon wrath, to  
blast the wretch  
That makes his fortune from  
the blood of souls.

The address on this sin was principally directed to cruel masters, and traffickers in human flesh. After preaching to the whites he addressed the blacks, warned them faithfully of their own sins, preached to them the terrors of the law, exhorted them to obedience to their masters, resignation to their state. I considered the address

to the slaves a complete antidote for anything that had gone before.

THE COURT. What do you mean by an antidote? Was there poison to be expelled? I suppose many masters present would be offended at the plain manner in which the preacher delivered the greatest truths; and I thought their wrath would be turned away when the accused warned the slaves so faithfully of their own sins, and exhorted them to obedience to their masters. That is what I mean by antidote. Did not think there was anything criminal in the sermon. Mr. Gruber said, many persons would contribute their money to support Bible societies, to carry the scriptures to heathens in foreign countries, who neglected to teach religion to the heathens in their own kitchens.

THE COURT. Remember you must state the truth. Sirs, I am on my oath, that is warning enough for me.

*Mr. Yo.* Heard the sermon. He endeavored to prove that slaves were dangerous property to leave to children. He said, slavery was horrid to him as a man and a Christian; it was a violation of the moral law, the law of Christianity, and contrary to the sentiments of the American sages, as expressed in the Declaration of Independence. He said, it was monstrous to see a people holding a scroll of liberty in one hand, and a bloody whip in the other.

*Jacob Bowlus.* Heard the sermon. He preached with great animation and zeal, and endeavored to convince the whole congregation, of the great necessity of repentance, of



piety and love of God. What he said about the danger of killing, or poisoning, referred to the next generation.

*John Bowlus.* Heard the sermon. He was very severe upon bad masters, and all persons concerned in that sort of commerce called the slave trade. He said, there was an awful responsibility resting on them for the day of judgment. He enforced Christian duties on the masters and slaves. He applauded the good master and the good slave. He said, good masters make good slaves, and good slaves make good masters.

*Mr. Brazier, Mr. Hunt, Mr. Bealer, Mr. Blake, Mr. Middlekauff, Mr. White, and Mr. Reynolds,* were also examined. All of them gave similar evidence to that of the previous witnesses, and heard Mr. Gruber deliver the sermon in question.

*Rev. Frederick Stier.* I know Mr. Gruber preached by mere accident. He called on me to preach with very pressing and anxious solicitation several times. I refused. He preached on that occasion with great reluctance.

*Rev. Geo. Roszle.* Have

known Mr. Gruber for nine years. He holds an office second in rank to the Bishop. He possesses a character unblemished. He is pious, zealous, and very laborious in the ministry. Have been one of a committee in the annual conference for many years, for the annual examination of the characters of our preachers, and Mr. Gruber's has been before me every year, in that way, for several years past. Nothing that could lead to immorality has ever been imputed to him in his ministerial character.

*Rev. Abner Neal.* Have been acquainted with Mr. Gruber for many years, but was more particularly acquainted with him in the year 1814, when he was stationed by the Church in Baltimore, where I reside; and while the British were at North Point, threatening Baltimore. Mr. Gruber had under his charge nearly two thousand negroes, and kept them under the very best discipline. Have heard him frequently preach to them; and he warned them faithfully of their duty to their masters, and patient submission to their condition.

*Mr. Anderson* addressed the jury for a few minutes. He said, he felt the peace and good order of the state as much at heart as any man, and would be as willing as any man, to see a person guilty of crimes, brought to condign punishment, but he said, he never could consent, contrary to his conscience, and the best light of his own judgment, to use any effort to convict any man of any offence charged against him, when he thought, from the evidence, there was no crime committed. He said, he should address the jury no further on the subject, except to state to them, that he did not wish his own convictions, or opinions, to have any weight with them. He

should leave them free to pass their own unbiassed judgment on the case before them, which, he hoped they would do, with an eye to the public good.

The *Attorney General* closed the argument on the part of the state.

*Mr. Martin.* I appear before you as one of the counsel for the accused; and if the subject upon which we deliberate involved no other interest than that connected with the right of property, I should be well pleased, after the very just and candid prosecution, to spare the time of the Court, and submit the cause of my client, without comment or remark, to the deliberation and decision of the jury.

But in a trial, which wears an aspect different from, and more alarming than any other, known in the history of the Court: when a citizen, eminent for piety and Christianity, is arraigned, for doing nothing but what benevolence, piety and Christianity required; when the feelings and principles of a vastly numerous church, have been, through the accusation of a member, sensibly wounded; and, when the right of sentiment and of speech is doubted and attacked, silence on our part would be criminal. As for myself, though young and unexperienced, shrinking from the gaze of public scrutiny, and trembling under consciousness of incapacity, I cannot, under those disadvantages, forbear at least the exertion, of defending a client so injured, a cause so just, and principles so important to every American, as to be the very soul of his national independence.

It is, however, a consideration of pleasure to know, that much time will be saved, and much trouble in this investigation unexpectedly relieved: and I am happy to say, relieved by the firm and highly honourable part the state's advocate has acted. Highly honourable! for, however meritorious it may be, actively to pursue and strenuously to prosecute the man, who would meditate, to unhinge the government, and inundate with blood, the land; it is surely equally meritorious, fearlessly to avow him innocent, whose innocence has been proved. The District Attorney stands upon the high ground

of protecting, not abusing, the law—to shield from violation, not pervert it to oppression—ready to exert his power against the wretch who wilfully profanes it, and ready to shelter under the mantle of authority, the prisoner who is wrongfully accused;—whether such accusation arises from the zeal of the misguided, the prejudice of the misinformed, or the uncontradicted information a Grand Jury gleans from the examination of *ex parte* witnesses.

Gentlemen, you are empaneled to determine a case of no ordinary kind. You are called upon to discharge a trust, the highest that can be discharged by enlightened men, endowed with the powers of reason, and empowered with right of decision. Patriots who have suffered for the liberties of our country, look to your verdict with an agonising care; the Methodist Church bleeds at every pore, for the fate of a minister transferred from the pulpit to the prison box: posterity to succeed, may have reason either to bless or curse the result of this day. The busy crowd that throngs the court, though disposed to immolate at the shrine of opinion the man who differs, and condemn him, because they condemn his sentiments, will learn to affirm your acquittal. When that film, which now obscures the vision, alike of the humane and the wise, shall have fallen; when those fumes which float from the heated prejudices of the time, shall have passed away, they will learn that the blow leveled at the traverser must fall upon themselves; that the freeman who condemns a man for uttering the dictates of his heart, commits suicide upon his liberties: and by sacrificing this reverend gentleman, they sacrifice those noble attributes of their constitution, the right of free sentiment and the right of free discussion.

Who is the accused? What has he spoken? How were his sentiments dangerous? and with what intention did he speak those sentiments? These, gentlemen, are matters for your consideration, and while, in pursuing them, I hope duly to regard the duty to my client, I shall not forget that the Court, the jury, and the Counsel, are already much fatigued with the investigation of this subject.

Who is the accused? He is a gentleman of the clerical ministry, and after laboring with zeal and fidelity many years in the cause of religion, has been appointed Presiding Elder of the District. Nursed in the cradle of the Church, and confirmed in its tenets, he has "grown with its growth, and strengthened with its strength." Aloof from those cares which incite the ambition, deprave the passions, and multiply the misfortunes of the temporal world, his life has been devoted to the service of his God, and his time to the instruction of his fellows. Unconfined to any particular situation, he has travelled from circuit to circuit, shedding in his course, the light of the gospel, and disseminating the principles of morals, philanthropy and religion. The duties of his office carried him to the place where the supposed crime was committed, for which supposed crime, he has been called from the altar of grace, to answer charges preferred by his country.

What has he spoken? At a camp-meeting held last August, in Washington county, the traverser, according to the will of the ministry, and in opposition to his own inclination, preached a sermon from Proverbs, "Righteousness exalted a nation but sin is a reproach to any people." From that text his deductions were many, and after discanting upon the different divisions, addressed the congregation upon the subject of slavery. He spoke of it, as a "national sin," and condemned the practice, as being contrary to natural law, national policy, and the principles of humanity and religion.

Thus, gentlemen, a religious discourse, embracing the principle of slavery, has given rise to this criminal prosecution. The indictment accuses the traverser of an attempt to excite "rebellion"; and is it necessary to ask, whether a minister can be thus criminated, for advancing to his own congregation, sentiments upon a subject, so often the topic of general remark, and so often the theme of public reprobation? The right of slavery is a question of abstract morals, of natural law, and human policy; a subject upon which the judgment ponders and the intellect suspends: discussed in the councils of the nation, it has called forth the efforts of the benevolent

and learned; and the matter of that memorable sermon which now arraigns this reverend gentleman, has been long since proclaimed by elevated statesmen. We will convince you, that sentiments upon slavery, stronger in matter and bolder in expression than any portion of the traverser's discourse, have rolled from the lips and flowed from the pen of the most distinguished Americans. Men, high in office, eminent in science, fair in character, and exalted in the confidence of their fellow citizens, have arrayed themselves as champions of emancipation, and condemned a system they conceived unwise and unnatural; dangerous to the morals and strength of the people, poisoning the springs of social felicity, and repugnant to the principles of free constitution.

What says Mr. Jefferson? In his notes upon Virginia, he thus writes: "There must, doubtless, be an unhappy influence on the manners of our people, produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degraded submission on the other." Again, "With what execration should the statesman be loaded, who, permitting one-half of the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies; destroys the morals of the one part and the *amor patriæ* of the other. For, if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labor for another; in which he must lock up the faculties of his nature, contribute as far as depends on his individual exertions to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him." Continuing, he asks, "Can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that their liberties are the gift of God? That they are not to be violated but with his wrath? I tremble for the honor of my country, when I reflect that God is just; that his justice cannot sleep forever; that con-

sidering number, nature and means only a revolution in the wheel of fortune, and exchange of situation is among possible events; that it may become probable by supernatural influence! the Almighty has no attribute which can take side with us in such a contest.”

Such gentlemen, are the remarks of Mr. Jefferson: and I read them for the purpose of proving, that the subject has been, before this sermon, examined with great animation, and without any suspicion of crime. That philosopher and statesman called the attention of his state to an evil, corroding, as he thought, every day, the morals, inflaming the passions, weakening the energies and endangering, perhaps, the liberties of a free and manly people. These sentiments were free and unconcealed, circulated in Virginia, so numerous in slaves, and open to general observation, private discussion, or public scrutiny.

Yet is Mr. Jefferson infamous? Has he been branded with the epithet of hypocrite and felon? Has he been subjected to the ceremony of a criminal prosecution, and threatened with the chains and calamities of disgraceful imprisonment? No! since the publication of his notes, he has been elected to the presidential chair; directed for eight years the affairs of the nation, and now reposes, unaccused and unsuspected of anything like treason, in the lap of literature and science.

But, gentlemen, Mr. Jefferson is not the only citizen who has freely spoken upon this subject, and who ranks high in the councils of his country. The remarks of Mr. Talmadge upon the floor of Congress, at its last session, on the question of the Missouri bill, were much, in substance, as those preached by the traverser. Discussing the policy of admitting slavery into Missouri, he says, “You boast of the freedom of your constitution and your laws; you have proclaimed in your declaration of rights that all men are created equal; that they are endowed with certain unalienable rights; among these, life, liberty, and the pursuit of happiness; and yet you have slaves in your country.” In another part he continues, “This is a subject, (alluding to slavery) upon which I have

great feeling, for the honour of my country. In a former debate upon the Illinois territory, I mentioned, that our enemies had drawn a picture of our country, as holding in one hand our declaration of rights, and with the other brandishing a whip over our affrighted slaves."

Thus you learn, that arguments upon the evils of slavery, not less powerful than those of the traverser, have been rung by a President of the United States, and a Representative in Congress, in the ears of the whole nation. They have been exalted, not disgraced; they have received the benedictions, not the curses of their country: and I ask by what principles of fairness, can you accord honor to the one, and infamy to the other? They are argued from the right of free discussion: the same right is delegated to the traverser. The golden rule of dealing alike to all, is just, and the same franchise of speech and of conscience, that supported Mr. Jefferson, Mr. Talmadge, and others, when bearing their weapons in the cause of freedom, justifies Mr. Gruber.

As an American citizen he was authorized to discuss the policy of a system, interwoven with the well-being of his government: as a man, moved by the feelings of benevolence, and glowing with enthusiasm of philanthropy, he was privileged in condemning a practice, he thought inconsistent with both: as a minister of the gospel, directed by the laws of his church, and instigated by conscience and belief, he was bound to tender his advice. Had he not, the sin of "leaving undone those things he ought to do," would have recoiled upon him; he would have broken a much more sacred law, than he is said to have violated; he would have sinned against a much higher tribunal (however exalted by learning and virtue), than I have the honor to address: he would have sinned against that God, before whom you, and he, and we must appear.

Gentlemen, before a man can be subject to the sanction of law, law must be proved to exist. He cannot violate that which is not in being. Has any law been adduced to you to-day? Have the prosecution exhibited any statute of the

state, as broken and abused? None has, none can be offered.

It has been remarked, that the laws of Maryland allow slavery. Granted. But it does not command it. The distinction is evident. Did the law positively command, then any argument in opposition, might be criminal. Where it merely permits, it becomes a subject of private opinion, policy and conscience; and any citizen has the privilege, by all the abilities of his mind, to remove that opinion or alter that belief. Besides, the traverser addressed his own congregation, confined his remarks to the pale of his Church, and surely if any can be authorized, it is the pastor who teaches the doctrines of his Church, to those who compose it. The Quakers are principled against bearing arms, and it is unnecessary for me to tell this well-informed jury, that the right of advocating those principles, in their houses of worship, never was denied them. There the Quaker opposes what, in fact, is declared by law; and he draws his right from that freedom of opinion, and prerogative of speech, every man living under the sun of America, has exercised, since the memorable period of seventy-six.

Gentlemen, having endeavoured to establish that the traverser, thus far, has neither violated law nor reason, let us dissect the sermon, and before we proceed to the intention, inquire how his sentiments were dangerous; and whether, upon fair construction, they can be thought calculated to excite either "rebellion, disobedience, or insurrection." You learn from the testimony that the sermon consisted of two distinct parts—one addressed to the white congregation, and the other to the slaves. And so different from an attempt to create insubordination, we will prove that the clear and ostensive purpose was, first, by discussing the principles of slavery (which we have already considered) to effect universal emancipation; secondly, by exposing the cruelty of selling and torturing slaves, to ameliorate and soften the discipline of masters; and thirdly, by instilling the policy and religion of obeying those entitled to govern, to fasten upon the slaves good conduct and obedience.



The internal slave trade of this country formed a considerable part of his discourse; and he displayed in the severest terms (as the witnesses deposed), the sin and wickedness of such atrocious commerce. As to the particular expressions the testimony differs, but in substance is the same; and where is the crime? Is there any man on that jury, or in this court, who would not respond to such sentiments, who would not raise his voice and power in suppressing a traffic opposite to the laws of God, and repugnant to the rights of man? Gentlemen of the jury, interest, policy, necessity, may compel us to retain an evil which seems to be entailed. It is not for me to say, until the efforts of philanthropy shall establish for these people a suitable receptacle, how far emancipation would be prudent. But nothing can justify so flagrant and cruel an abuse of it. No motive can authorize a trader that separates the husband from the wife, the parent from the child, and the relation from the friend; that tears asunder all the ties of social connection and breaks apart all the ligaments of natural union. Steeping yet deeper in misery this unfortunate population, and forcing from their embrace the last relic of human happiness, it "would draw iron tears down Pluto's cheek."

The African slave trade has engaged the attention and attracted the notice of almost every part of Christendom. Your own government have taken laudable and effective measures to suppress it. So proud is England of her exertions that she contends for the right of example; and Napoleon of France, amidst his mad career of war and carnage, when every call of mercy seemed drowned in the din of battle and every fibre of humanity eradicated by the power of ambition, forbade the slave trade. And is that more to be deprecated than this? The same cruelties are practised, the same ties are broken, the same agents employed. Traffickers in blood and panders of avarice, are engaged in both; and the vultures who hover over the coast of Africa, and the vultures that crowd from the sugar farms of Amer-

ica, are equally destructive; alike, they feed upon the vitals and fatten upon the miseries of an unfortunate and degraded people.

Gentlemen, I forbear to press or continue the subject. We have proved, I hope, that the traverser has not in this violated the law. In this country, enlightened as we are, by rays of Christianity, and illumined with light of liberty, no law can be produced to credit a practice, unwise, inhuman, and unjust.

I will next call your attention to a passage, in which he exhibits the inconsistency of our theory and practice. "Is it not a reproach to a man to hold in one hand the Declaration of Independence, and with the other brandish a whip over the bleeding slave?" This description, though hideous, is true. The same was drawn by Mr. Talmadge, and with the same foreigners have reproached us. The picture of American independence, though glowing with the tints of liberty and virtue, cannot but be darkened and discolored by such cruelty and oppression. The traverser did not apply the remark generally, but made it conditional; he did not say that such practices existed; yet if they did exist, they were inconsistent. He threw his sentiments to the congregation; "qui capit, ille facit;" and the man who so far misuses power which chance has given, well merits the lash of invective. Does any attempt appear to cause "rebellion or insurrection." The object was to do no more than expose those cruelties, which, when practised, degrade the man and stigmatize the nation.

This concluded his address to the whites, and as the alleged attempt was to infect the slaves with rebellious principles, observations to them become more interesting, because more important. Several witnesses on the part of the prosecution, and all for the accused, testify that the whole tenor of that discourse went to impress upon their minds the value of religion. "Of all people in the world you ought to have religion," he says, "for when converted, you will disregard the hardships of your life." It is said he spoke of poison

and thereby impliedly recommended the use of it to the slave. In that sentence, where he remarks, "that although you (addressing the whites) use them well, there is no security, but what your children will tyrannize over them, the slaves abused, rise up and kill or poison your children and all be hung and go to destruction together." Admitting this, can any man, without perverting common sense and common language, see an attempt to induce the use of poison? Does he not stamp such conduct with the dreadful doom of death and destruction? With equal propriety you might say, to encourage was to describe futurity; and to instigate murder, it would only be necessary to relate the appalling ceremony of criminal prosecutions.

In another passage, "Some of you (addressing the slaves) have good masters; you ought to attend to religion, and discharge your duty to your masters; that it may make your time better here, and hereafter." "Some of you have cruel masters—you are slaves to them, slaves to sin, and if you die without religion, you will be slaves to the devil." What then does he declare that religion to consist in? Rebellion? No—for that, he has affirmed, is repugnant to religion. Disobedience? Mr. Sneathen tells you, upon oath, that he fully discharged the doctrines of his Church, and those doctrines command the slave to obedience. Insurrection? Certainly not, for then he threatens them with the dreadful reversion of future woe. A witness thinks that he said, "If you die slaves to your masters, you will be damned." The witness from ineligible situation must be mistaken; it is too absurd to be believed. Could the traverser say that a man should be punished for an evil he could not avert; and suffer for that which was his misfortune, not his fault? It is contradicted by every witness on the part of the accused, who, we may suppose, from situation and attention, better understood and more correctly remembered the expressions of the sermon.

We have now, gentlemen, examined each passage of the sermon, and contend that it has been viewed through a false

and mistaken medium; that the observations of the traverser were not, in themselves, calculated to inspire "rebellion or disobedience," and therefore hope that the intelligent jury to whom he appeals will wipe that charge from the indictment. But if I should be too sanguine in this hope, should we fail to convince you that his sentiments were useful, not dangerous; much more is necessary to be established—the intention is the life and essence of every crime;—and before you can convict the accused upon the charge of high misdemeanor, an intention to commit the different offences in the indictment must be proved wicked, designed and felonous.

Here let us reflect upon the testimony. In all cases of high capital nature, every man is presumed innocent until proved guilty. Such is the benignity of our laws; such the language of Justice Buller, and such is the voice of all English authorities. The case at bar is an accusation of high criminal character, and it is much stronger to prove by conduct than presume from inference. Where then is the evidence to establish such guilt? Can it be found in the testimony of any witness? Can a single fact or circumstance be adduced, which even savors of such intention?

All the gentlemen of the Methodist clergy state that the traverser strongly objected to preaching on the day named in the indictment, that he expressed every wish to decline, and used every means to avoid the service; and did not consent, until his duty, as Presiding Elder, compelled him to perform what others refused. The congregation of whites he addressed, was four times more numerous than the slaves. The witness from Baltimore, Mr. Neal, informs you what his conduct was in the year 1814. Stationed by his Church in Baltimore, he presided over his congregation during the memorable battle of North Point; and at that anxious moment, when every eye watched the destiny and every heart beat for the danger of our gallant troops, the traverser held in harmless subjection a body of fifteen hundred men. And does this look like an attempt to bring ruin upon the country; to whet the sword of civil war, or light the fires of

desperate rebellion? Can you suppose premeditation to preach on that day, when he so often refused the invitation of the ministry? Would he have by declaiming before the masters, strong in number and power, provoked the very sword of justice; and would he have failed at a former period in the commotion of Baltimore, when all its nerves were braced against foreign attack, to strike a dreadful, and perhaps, a fatal blow? No!—it is inconsistent with common sense to think it; and however the policy of his doctrines may be questioned, none, unless they have drunk to the dregs the cup of prejudice or folly, can doubt the purity of his heart. His object was to effect universal emancipation; his intention to teach the law of religion, and to pour into the afflictions of an ill-fated people the comforts and consolations of the Gospel.

Gentlemen of the jury, this trial is new in America: it is novel in the jurisprudence of our country. You must, for examples, unfold the blood-stained page of the fifteenth century. Go back to that season of religious fury, recur to that black and disgraceful period of intemperate opinion, when bigoted belief, was supported by the gibbet and the stake, and the very temples of justice “smoked with bloody execution.”

I pretend not to say that this prosecution has originated from such influence; the fair characters of the gentlemen who compose the Grand Jury (though personally unknown to me) defy the suspicion; but it matters not from whom or from what. You view the case with all its lights and solemnly decide upon the principles. Shall this nation, so long gloried in, as the home of the oppressed, the retreat of the persecuted, the asylum of those who, in the dreadful massacre of individual privilege, have flown from their “altars and their gods,” be at this day reduced to the disgraceful level of infuriated despotism? I trust not. The streams of jurisprudence, drawn from the foundations of liberty and virtue, will continue to play through the land, free and unpolluted. But it is unnecessary to invoke such sentiments in the bosom of this impartial tribunal. The firmness, the intelligence

and integrity of juries, must ever prove a safeguard and barrier against the encroachments of prejudice. The traverser has been introduced to you, with the imposing name of a Grand Jury—a host of testimony has rallied round, and ventured to support it. Yet, gentlemen, you have seen, not the ingenuous examination of the learned District Attorney, not all the exertions of professional ability, have been enabled to extract one fact or elicit one circumstance to uphold an indictment baseless and unfounded.

Sir, I have done; not, however, without offering my thanks to the honourable Court for the indulgent attention they have pleased to extend; on my part undeserved, and except in my gratitude, unrequited. I have trespassed perhaps too long upon your time; if so, my apology must be sought in the deep interest and importance of the case.

In defending the honor and liberty of a gentleman whose life through a series of twenty years has passed unspotted and unreproached: correct, I am justified in saying, not merely beyond censure; but irreproachable until this day, beyond suspicion: dedicated to the holiest offices of religion, and employed in relieving those miseries and softening those sorrows which should have awakened the sympathies of a colder heart.

Confiding in your virtue, the traverser awaits the verdict with calmness and security. If acquitted, glorying in the principles of his country, he will return to his duties with zeal and faithfulness; if convicted, supported by the consciousness of innocence he will bear whatever punishment the law may inflict, with the resignation of a Christian and the firmness of a man.

### THE VERDICT

There was no charge given to the jury by the Court, the jury immediately retired and returned in a few minutes with a verdict of NOT GUILTY.

THE TRIAL OF GEORGE BOWEN FOR THE MUR-  
DER OF JONATHAN JEWETT, MASSA-  
CHUSETTS, 1816.

THE NARRATIVE

A negro named Jonathan Jewett had been convicted and sentenced to be hanged for the murder of his father. While awaiting execution in a Massachusetts jail, Bowen, a fellow prisoner, was constantly advising him to cheat the gallows by killing himself. Once he was overheard saying to the negro that he was a fool to let the Sheriff do it; that he could die but one death.<sup>1</sup> Other witnesses heard him urging the same thing, saying that he would rather hang himself twice than be hanged once.<sup>2</sup> Jewett did not seem to take to the idea at first, but on the morning set for his legal hanging he was found dead in his cell, hanging by a rope to the gratings of the window. When he heard the news Bowen showed his pleasure, exclaiming that he was as glad as if he had a hundred dollars; that the Sheriff and his assistant had lost their fees and he "had saved the county a slick two hundred dollars."<sup>3</sup> The State, however, charged him with murdering Jewett and at the trial the Chief Justice told the jury that if they found that he had advised Jewett to commit suicide and Jewett had followed his advice they should convict him, as he would be guilty of murder. The jury did not do so; for they doubted whether the advice given by Bowen was the procuring cause of Jewett's suicide.<sup>4</sup>

<sup>1</sup> Partridge, p. 111.

<sup>2</sup> Clap, p. 109; Mattoon, p. 111.

<sup>3</sup> Whitehall, p. 110.

<sup>4</sup> Sixty years later the law as laid down in this case was applied to a curious case in the same State. Lucy Mink was in love with Charley Ricker, but the course of true love ~~not~~ running smoothly for some reason, Charley told her one evening that he intended to leave

*John W. Moncrief*

AMERICAN  
STATE TRIALS

1



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*WITH NOTES AND ANNOTATIONS*

JOHN D. LAWSON, LL.D.

EDITOR

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