

A

# LEGAL ARGUMENT

BEFORE THE

SUPREME COURT OF THE STATE OF NEW JERSEY,

At the May Term, 1845, at Trenton,

FOR THE DELIVERANCE OF

FOUR THOUSAND PERSONS FROM BONDAGE.

BY ALVAN STEWART, Esq.,

COUNSELLOR AT LAW.

NEW YORK:

FINCH & WEED, 118 NASSAU STREET.

1845.

naries, unread, undebated, unprinted, and unconsidered, they were laid upon the table. This being esteemed too great a privilege for humanity, during three years, these petitions, by a rule of the House of Representatives, were forbidden a reception by the House. The abolitionists, for endeavoring to fulfil the paramount law of the land, the 10th Article of the treaty, were defamed in Congress and out, their names cast out as fanatical and incendiary, they were mobbed by the countenance of men in high places, their churches destroyed, their halls burnt, and their people imprisoned and murdered! If slavery not only forbids and restrains a nation from performing its most solemn treaties, but violates them, and thus endangers the peace, prosperity, and happiness of the whole people, can it be doubted that it contravenes the 1st Article of your Constitution, which assures us that man has the right of "acquiring, possessing, and protecting property, and of pursuing, and of obtaining *safety and happiness.*"

Can *safety, property* and happiness be maintained by men or nations who violate faith, who are truce breakers? Is not that *slavery* which hazards the peace of a Nation by refusing obedience to the highest law of individual and national preservation, something that is contrary to the great law of nature? Every branch of our government—legislative, judicial or Executive—should have lent every encouragement and aid in their power to the removal of this cancer, battenning with its roots in the jugulars of the Republic. But instead of Presidential and gubernatorial messages urging Congress and the State Legislatures, under this standing paramount treaty-law, to do all in their power within their respective jurisdictions to abolish slavery, slavery has mounted the highest places of power, and has rescinded and annulled the treaty, and compelled Presidents and Governors by messages and inaugurals to forewarn the Legislative Assemblies and the people to violate this treaty, and turn their entire power and legislative action against those who had petitioned for the abolition of slavery. Is not this high treason against the State and man's best interests? Has not slavery caused these high dignitaries to commit official perjury? And is not such a terrible institution hostile to man, his safety and happiness as a man and as a citizen, and is it not within the inhibition of the first section of your Constitution, and does it not violate that freedom and independence conferred upon him by the law of nature, and does it not stand between you and the enjoyment of the first article?

What is that law of nature, by which all men are made free and independent? Allow me to define it as I understand it, said Mr. S. The law of nature is that great Omnipotent law of God, ever in full force amidst the busy hum of thousands in your emporium, or in the solitudes of the wilderness, on the sea, or on the land; it follows man down into the mines of the earth, it ascends with him to the Chimborazo's top; it has no latitude, no longitude, no length, no breadth; it is truth, and is as earnest in its pleadings, amidst the inhospitalities of polar cold, as in the boundless prodigalities of the burning tropics; it is the everlasting justice and mercy of the Eternal; it is the great imprint of God upon man, which can never be counterfeited, erased, or repealed; it is so immutable that it never changes, *man cannot* repeal it; it is a part of each human being's inheritance, which without crime he can never spend or squander; it abides with him, though unhonored, under all circumstances of bereavement, and *guarantees* man's right to life, liberty and the pursuit of happiness as inalienable.

The law of nature is taken up and recognized by the good people of New Jersey, in the most solemn form as a rule of action, in her organic law. This first section declares that amongst man's unalienable rights

are life, liberty, and the right of acquiring property. What, can a slave have safety, or acquire property? he who is nothing but a chattel, a piece of property himself, can he acquire safety? No; of all the innumerable murders committed by white men and women upon the slaves of the south (and there is no day goes by in which there is not more than one murder in each slave State, on an average), not a single white person has yet been executed for the murder of the colored man. The white is frequently hung in the slave States for stealing slaves, but not for killing them. Oh, sum of all human villainies, let the curse of God rest upon it, let every wind of Heaven be charged with its destruction, every rising sun be its destroyer, the rolling seasons its executioner!!

Said Mr. S., slavery is the exact converse of every proposition contained in the first article of your new Constitution.

Slavery throws down every human right in the market to the highest bidder. If slavery or semi-slavery, in the shape of children of slaves in this State continuing to be slaves, males until twenty-five, and females until twenty-one years of age, and this operation is to pass under the name of being born free, and persons forty-one years old and upwards to be retained as slaves for life, and slaveholders are to stand asserting their wicked power, then the first great section of your Constitution is converted into a vapid and senseless abstraction. Shall your Constitution be withered by the power of slavery? Shall this Constitution stand gilt with the gold of high pretension, while within it is full of ravening and dead men's bones? Shall this slave institution continue to exist in hostility to so plain a provision? This frightful institution claims to exist by the apology of some since the 2d of last September, even since this Constitution went into operation, without a platform on which to place its accursed feet. Said Mr. S., the best foundation I can see for slavery in this State, at this time, and the length of time it should continue, should be the amount of time it would take the people of this State to recover from their astonishment at its inexpressible impudence.

The institution of slavery is the converse proposition of the Ten Commandments, the essence of injustice and meanness in its most compact form; and it would seem that no nation not struck down by a mortal paralysis, would wait a moment before rising and striking down the monster, the first instant they discovered his seven heads and ten horns emerging from the forlorn regions of "Eldes Hell."

Said Mr. S., which shall stand—the great written, organic law of liberty, or the unwritten and inexpressible villainy of slavery? Which shall stand—the natural God-inherited rights of life, liberty, property, safety and happiness for each human being in New Jersey, or that of an institution which subverts every object for which a good Constitution was ever made?

A Constitution *ex vi termini* imports a covenant made by the whole people, with each person, and each person with the whole people, to protect and defend their God-inherited rights of life, liberty, property and safety from violence and invasion. A Constitution is made for the defence of human rights and not for the destruction; a Constitution is the highest evidence of man's weakness; and to combine society's strength, for the defence of each individual. How is it possible that a Constitution, whether of this State, or of the United States, which were created on purpose for the protection of life, liberty, property and safety, can exist and be entitled to the name, without overthrowing every institution villainy or stratagem created or made, intending to cheat man out of life, liberty, property, safety and happiness?

The men who framed the old State Constitution of New Jersey in the

New Jersey  
Constitution