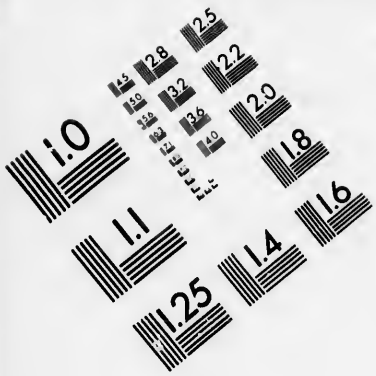

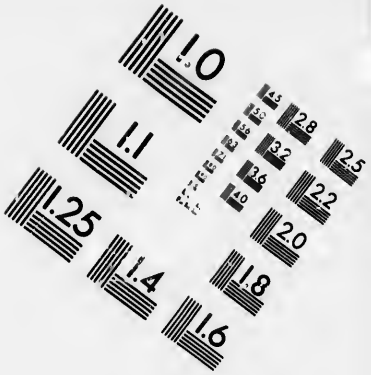

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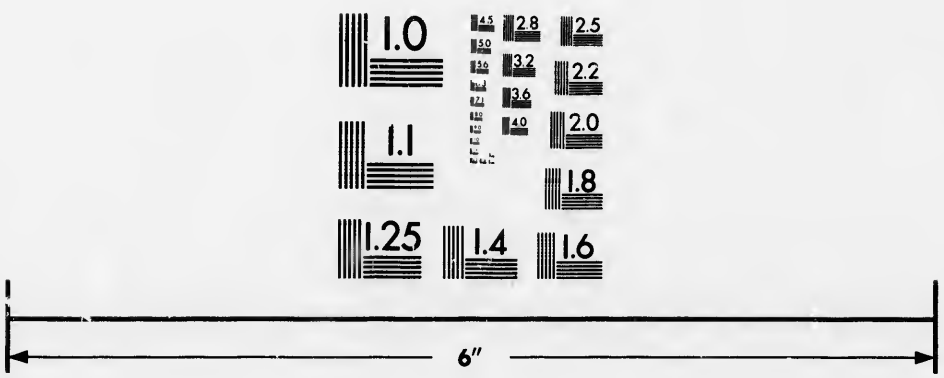

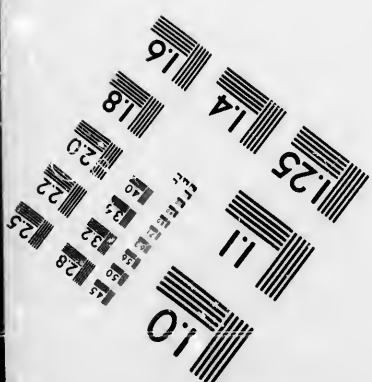

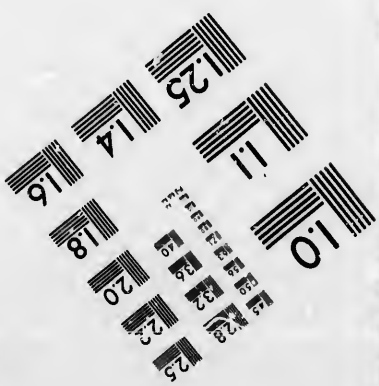

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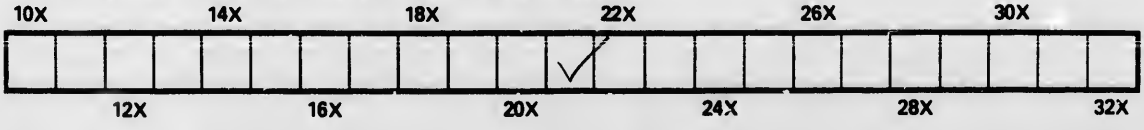

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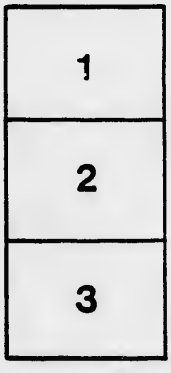

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CAN ENGLAND PROTECT FUGITIVE SLAVES?

From the Christian Reformer for February, 1861.

Ten years ago we denounced the contemptible meanness and heartless cruelty of the Northern United States, in consenting to the enactment of the Fugitive Slave Bill. We prided ourselves on our superior virtue, and thanked God that we had washed our hands of all complicity with slavery. When fugitives have narrated their escape from bondage, we have felt an honourable exultation as they described their intense joy on touching British soil and breathing the air which cannot enter the lungs of a slave. When the British abolitionist crosses from the States into Canada, he loves his own land with an affection he was scarce conscious of before, when he feels that he is no longer on the "slaveholders' hunting-ground." Within the last month we have been taught that our sincerity may be put to the test,—that we, like the Northern United States, may be entrapped by the ambiguous requirements of mutual engagements and the desire to preserve peace with powerful neighbours. The fugitives from slavery have hitherto dwelt securely in Canada. They are not afraid to settle even on the frontier, within sight of the land of their oppressors. Sometimes, indeed, by craft or violence, they have been robbed of their liberty,—just as craft or violence might spoil their white neighbours of property or life; but over each equally was extended the protection of law.

For the first time within our knowledge, English law has been now made to serve the purposes of American lawlessness. The whole has been done in so specious a manner, that, had not public attention been stimulated and awakened, we should not have known that a slave was to be returned to his oppressors; we should only have been informed—if, indeed, the case of so obscure a man had reached us—that a murderer was being given up to a lawful tribunal in the United States. If the judgment in the case of Anderson is confirmed, we shall not indeed have Missourians claiming negroes from us as fugitives from service; but they will come, as professed ministers of justice, seeking fugitives from crime; and their victims will not be reduced merely to slavery, but will be made a terror to all who thought of copying their example, by the cruelest tortures which slaveholders can

devise. No fugitive is safe. Those who have inflicted the greatest wrongs on negroes will not scruple at perjury. It will be as much a business to hunt negroes in Canada with perjurers, as to hunt them "down South" with blood-hounds. No trial before a Canadian jury is required. The slave-catcher has only to persuade a Canadian magistrate that the case is sufficiently strong to justify the trial of the accused before an American court, and the governor's warrant will be obtained to hand over the defenceless man to that tribunal which has declared that the coloured man has "no rights which a white man is bound to respect."

We extract a brief narrative of the case from the Toronto correspondence (Nov. 26, 1860) of the *New York Tribune:*

"On the 28th September, 1859 (1853), Seneca T. P. Diggs, of Howard co., Missouri, when returning home to dinner, saw walking across his plantation a strange negro, whom he hailed. In reply to a series of questions addressed to him by Diggs, the negro told a story to the following effect:

"He said his name was William Anderson, and that he was the slave of one Macdonald, who resided about thirty miles from Diggs's plantation. To this Macdonald he had been sold in 1833 by a Mr. Perkins, whose estate was but a short distance from Mr. Diggs's abode, and he was soon on his way thither for the purpose either of getting Perkins to buy him from Macdonald, or to exchange him for some other man. He had two reasons for desiring this; he had been much ill-treated by Macdonald, and he had a wife, slave to a man named Brown, whose estate adjoined that of Perkins. It is said that, according to the State law of Missouri, any negro found more than twenty miles from his master's plantation without a pass may be arrested and taken back; the person so taking him back becoming entitled thereby to a reward of five dollars and a mileage of ten cents. After hearing Anderson's account, Diggs asked him for his pass. The poor fellow replied that he had none. 'Then,' said the humane slaveholder, 'I cannot allow you to go further till I hear from your master. Come with me, and I will give you some dinner.' The pair walked toward the house for some distance, when the negro broke and ran. Diggs immediately called out to three 'black boys' who were near, 'Catch that runaway, and I'll give you the reward.' Away the three started in pursuit. Anderson ran in a circle, and was chased for near an hour by them. Diggs after a while was joined by his son, a lad of fifteen (eight), and upon a signal from one of the black boys they crossed the circle, and met the runaway just as he was nearing a fence. Over this fence the planter leaped, brandishing in his hand a large stick. Anderson waved a large dirk-knife; before him stood the enraged planter, twenty yards behind him were hastening on his three pursuers, armed with stout clubs. There was not a moment to be lost. The planter commanded the breathless, panting negro to surrender; the negro said he would kill any one who touched him. Insolent language to fall from the lips of a slave! So thought the planter as he broke his stick over the fugitive's head. But the fugitive was as good as his word; he dealt a true blow, he plunged his knife into Mr. D.'s heart. It was now the planter's turn to fly; he endeavoured again to get over the fence, and was assisted in his attempt by Anderson, who stabbed him

again and tumbled him into the ditch. In less than forty-eight hours there was an end to Mr. Diggs. He lived long enough to make a full confession, and then departed for a land where he will inevitably be convinced of certain facts concerning 'niggors' which he was fond of denying in his lifetime.

"Anderson succeeded in making good his escape to Canada, and took up his abode in the county of Brant. He lived a quiet and industrious life, and, being joined by his wife, felt himself truly a freeman. But some few months ago, the blood-hounds of the Missouri law found him out, and made a demand for his rendition under the Ashburton Treaty for the crime of murder. He was arrested and brought before the magistrates. The evidence adduced was in substance as I have given it above."

It seems that the magistrates, though they committed Anderson, thought it desirable to ask the opinion of the Attorney-General. After a delay of two months, he referred the case to the Judges; and Anderson was brought up to the Court of Queen's Bench by a writ of habeas corpus, and, in December last, three Judges read their respective decisions. Chief Justice Robinson, with whom Justice Burns concurred, refused the application for Anderson's discharge. After reviewing the facts of the case, he said:

"The point which has been argued before us, and the only point, is what construction and effect it is proper to give to those words in the Treaty and in our statute, 22 Vic. ch. viii. sec. 1 (Consolidated Statutes of Canada), which, when read together, in effect provide that a person charged with committing within any of the United States of America any of the offences mentioned in the Treaty,—that is to say, murder or assault with intent to commit murder, piracy, arson, robbery or forgery, 'and charged upon such evidence of criminality as, according to the *law of the place* where the fugitive or person so charged *shall be found*, would justify his apprehension and commitment for trial, if the crime or offence had there been committed,'—may be apprehended upon complaint made under oath, in order that he may be brought before the judge or justice of the peace who has caused him to be apprehended, to the end that the evidence of his criminality may be heard and considered; 'and that if, on such hearing, the evidence be deemed sufficient by law to sustain the charge according to the laws of this province, he shall certify the same, together with a copy of all the testimony taken before him, to the governor of the province, in order that a warrant may issue upon the requisition of the proper authorities in the United States, or of any such States, for the surrender of the person charged, according to the stipulation of the Treaty.' It will be observed that in one part of the Treaty, as recited in the statute, the evidence of criminality is required to be such 'as would justify the apprehension of the party and his commitment for trial, if the offence had been committed in the country where he is found;' while in another part the evidence is required to 'be such as shall be deemed sufficient to sustain the charge.' Nothing can turn, I think, upon this variation of expression; but we must look upon the same thing as intended by both; for in the Treaty, as in the commencement of the statute, it is declared to have been agreed by the two powers

that offenders charged with certain offences, flying from one country into the territories of the other, should be delivered up to justice—'provided, however, that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive so charged shall be found, would justify his apprehension and commitment for trial, if the crime had been there committed.' This shews that nothing more can be meant by the other form of expression than this, since, by the Treaty, evidence sufficient to commit the party for trial is all that is required to warrant his being given up."

The Chief Justice then examined the prisoner's plea—that it is necessary not only to have such proof of the killing as would be satisfactory to a Canadian tribunal, but also proof that the act committed would be murder according to Canadian law. It does not appear to us that he deals with this plea consistently. He allows that it might be reasonable to hold, to some extent, that the law of the two countries should be found to correspond:

"For example—if it were the law of Missouri that every intentional killing by a slave of his master, however sudden, should be held to be murder without regard to any circumstances of provocation or of any necessity of self-defence against mortal or cruel injury, I do not consider that a fugitive slave, who, according to the evidence, could not be found guilty of murder, without applying such a principle to the case, could legally be surrendered by the Treaty. But I could not go the length of holding, that because a man could not in the nature of the case be killed in this province while he was pursuing a slave—because there are not and by law cannot be any slaves here—therefore a slave who has fled from a slave State into this province cannot be given up to justice, because he murdered a man in that State who was at the time attempting to arrest him under the authority of law, in order to take him before a magistrate with a view to his being sent back to his master."

We have not seen the speech of Anderson's counsel; but Sir J. B. Robinson seems to us to misstate his plea. It is *not*—It is impossible in Canada that a slave should kill his pursuer, because there are no slaves here; and therefore we can accept no evidence that a slave killed his pursuer in Missouri. The plea is this—The killing of Diggs by Anderson is not in the circumstances a crime according to Canadian law, for he was acting in justifiable self-defence. This plea the Chief Justice would allow, if Anderson were defending himself "against mortal or cruel injury," whatever might be the law of Missouri on the subject; but he does not allow it when Anderson was acting in defence of that liberty which is dearer than life, because the law of Missouri authorized Diggs to apprehend him. He declares it murder to kill Diggs, because he was acting under the authority of the law,—without any reference to the fact that such a law is absolutely opposed to our own; whilst it would *not* have been murder had Diggs, acting under the Missouri law, attempted to do Anderson mortal or cruel injury. But the two cases seem to us nearly identical. Diggs was doing him the

"cruelest injury" in trying to rob him of freedom. He was armed with a stick: he had already struck Anderson, who might justly consider his life in danger. By Southern law, any negro who strikes a white person may be killed. If Anderson had returned Diggs' blow, Diggs would have had, in Missouri, a legal right to murder him; and even if Anderson had attempted no resistance, Diggs could have killed him with impunity. Englishmen think that death is better than slavery; Southerners hold that a fugitive's death is better than his liberty. According to his own showing, therefore, the Chief Justice should have released Anderson; but the person of Diggs seems to him inviolate, because he was an amateur constable, and might be only aiming to take Anderson before a magistrate: the intolerable injustice, worse than death to one of English feelings, which that magistrate would commit, is not a matter with which Sir J. B. Robinson cares to concern himself. He is consoled with the idea that the final decision does not rest with that court.

"If he shall be surrendered, and if he shall be tried for that offence (murder), it will be for the jury" (in the U.S.) "to dispose of the case under the direction of a Judge. There may then appear sufficient reasons to warrant the jury in taking a favourable view of the case, and to lead them to think it probable that the prisoner advanced towards the deceased and stabbed him under an apprehension that it was necessary, not merely to facilitate his own escape, but to save his life or to avert threatened violence at the moment. But the case, in my judgment, is not one in which the Justices at Brantford would have been warranted in assuming the functions of a jury, and intercepting a trial for the graver offence."

We thought that a prisoner was to be held innocent till proved to be guilty. Here it seems that he is to have no benefit in Canada from any doubt as to his criminality. Any favourable view of his case is to be left to a slaveholding jury acting under the direction of an American Judge! But the Chief Justice is not without his suspicions of the ultimate issue:

"We may be told that there is no assurance that the prisoner, being a slave, will be tried, fairly and without prejudice, in the foreign country; but no court or magistrate can refuse to give effect to an Act of Parliament by acting on such an assumption; nor can we be influenced by the consideration (a very painful one in all such cases) that the prisoner, even if he shall be wholly acquitted of the offence imputed to him, must still remain a slave in a foreign country."

It is a refreshment to read the judgment of Mr. Justice M'Lean. He first shews that, irrespective of the question of slavery, the prisoner ought not to be given up. The history of the case, as he relates it, warns us what irregularities will be perpetrated, if the rendition of accused fugitives is left to the local magistrates. It seems that one Gunning, of Detroit, U.S., laid an information and complaint of murder against Anderson last April; but no evidence appears respecting any warrant

issued. On the 28th of September, one Baker, paid by the county of Howard, Missouri, obtained a warrant; but this Baker had only hearsay evidence to adduce; and B. F. Diggs, son of the man who was killed, could not swear that Anderson was the man who killed him. Moreover, Anderson was not committed in the mode required when the prisoner awaits a surrender under the Treaty. For these reasons he held that the prisoner was entitled to be discharged from custody.

Though we might have been glad, for Anderson's sake, had he been discharged on these grounds, yet it is obvious that this would have afforded no security in subsequent cases. The true reasons why he should be discharged are given in the conclusion of the judgment:

"The law of England, or rather of the British Empire, not only does not recognize slavery within the dominions of the Crown, but imposes upon any British subject who shall have become the owner of slaves in a foreign State the severest penalties, and declares that all persons engaged in carrying on the slave-trade, when captured at sea, shall be liable to be treated as pirates. The prisoner Anderson, as appears by the statement of Baker, who came to this province to identify him, has felt the horrors of such treatment. He was brought up to manhood by one Moses Burton, and married a slave on a neighbouring property by whom he had one child. His master, for his own purposes, disregarding the relation which had been formed, sold and transferred him to a person at a distance, to whose will he was forced to submit. The laws of Missouri, enacted by their white oppressors, while they perpetuate slavery, confer no rights on the slaves, unless it be the bare protection of their lives. Can it, then, be a matter of surprise that the prisoner should endeavour to escape from so degrading a position; or rather would it not be a cause of surprise if the attempt were not made? Diggs, though he could have had no other interest in it but that which binds slaveholders for their common interest to prevent the escape of their slaves, interfered to prevent the prisoner getting beyond the bounds of his bondage; and with his slaves pursued and hunted him with a spirit and determination which might well drive him to desperation; and when, at length, the prisoner appeared within reach of capture, he, with a stick in his hand, crossed over a fence and advanced to intercept and seize him. The prisoner was anxious to escape, and in order to do so made every effort to avoid his pursuers. Diggs, as their leader, on the contrary, was most anxious to overtake and come in contact with the prisoner, for the unholy purpose of riveting his chains more securely. Could it be expected from any man indulging the desire to be free which nature has implanted in his breast, that he should quietly submit to be returned to bondage and stripes if by any effort of his strength, or any means within his reach, he could emancipate himself? Such an expectation, it appears to me, would be most unreasonable; and I must say that, in my judgment, the prisoner was justified in using any necessary degree of force to prevent what to him must inevitably have proved a most fearful evil. He was committing no crime in endeavouring to escape and to better his own condition; and the fact of his being a slave cannot, in my humble judgment, make that a crime which would not be

so if he were a white man. If, in this country, any number of persons were to pursue a coloured man with an avowed determination to return him into slavery, it cannot, I think, be doubted that the man pursued would be justified in using, in the same circumstances as the prisoner, the same means of relieving himself from so dreadful a result. Can, then, or must, the law of slavery in Missouri be recognized by us to such an extent as to make it murder in Missouri, while it is justifiable in this province to do precisely the same act? I confess that I feel it too repugnant to every sense of religion and every feeling of justice, to recognize a rule, designated as a law, passed by the strong for enslaving and tyrannizing over the weak—a law which would not be tolerated a moment if those who are reduced to the condition of slaves and deprived of all human rights were possessed of white instead of black or dark complexions. The Declaration of Independence of the present United States proclaimed to the world that all men are born equal and possessed of certain inalienable rights, amongst which are life, liberty, and the pursuit of happiness; but the first of these is the only one accorded to the unfortunate slaves; the others of these inalienable rights are denied, because the white population have found themselves strong enough to deprive the blacks of them. A love of liberty is inherent in the human breast, whatever may be the complexion of the skin. 'Its taste is grateful, and ever will be so, till nature herself shall change;' and in administering the laws of a British province, I never can feel bound to recognize as law any enactment which can convert into chattels a very large number of the human race. I think that on every ground the prisoner is entitled to be discharged."

"There was a cheer and stamping of feet," says the *Toronto Globe*, "when he concluded,—a rare occurrence in that court; but the occasion was a great one, and Judge M'Lean's earnest words drew forth the deepest feelings of his hearers."

After the unfavourable judgment of Judge Burns, the prisoner's counsel gave notice that it was his intention to move the case to the "Court of Error and Appeal." When all was over, the police were ordered to shoulder their muskets to prevent a rescue; and in a cab, guarded on each side by bristling bayonets, Anderson was taken back to the gaol. Lest the crowd should attempt violence, a company of Royal Canadian Rifles was under arms in the vicinity. On the following Wednesday (Dec. 19), a crowded meeting was held under the presidency of the Mayor, at which it was enthusiastically resolved to take steps to prevent Anderson being sent back into slavery. The right of appeal has been allowed, and if the higher court confirms the opinion of the Chief Justice, the case may yet be carried before the Privy Council at Westminster.

We are glad to find that the English press is alive to the importance of this decision. Even the *Times*, which is accustomed to listen to the pro-slavery sentiments of the commercial party in the States, feels that such tidings "is apt to make an Englishman's face flush, and to call forth an exclamation." "All human sympathies are tumultuously in favour of the slave,

but it appears that human laws are as directly in favour of giving him up to the certain fate of being burnt alive." The *Times* justifies the majority in their declaration of the law, and continues as follows:

"But are we therefore to surrender this man to the cruel fate which awaits him in the neighbouring State? The suggestion is preposterous. That we who look with scorn upon the little state of Saxony for delivering up a Hungarian nobleman who had trusted to her hospitality, should, in our strength and our grandeur, deliver up a wretched slave who had run for our soil as to the ark of freedom, may be argued as a logical necessity, but is an obvious impossibility as a fact. How it will be, we do not pretend to foretell. How the logical necessity will be shown to be a practical impossibility, we are by no means prepared to explain; but very confident we are that this negro is at this moment as safe in the prison of Toronto from ever being sent before a Missouri jury of slaveholders, as he would be if he were in the wilds of Central Africa. Meanwhile, as we gather from the report, there is no immediate hurry, or any danger of any steps being taken to carry out the judgment. From the decision of the Queen's Bench, there is, it appears, by the Canadian law, an appeal to the bench of Judges; and thence, again, there is an appeal, as we understand, to the Privy Council in England. Although we may fear that upon the broad question of law the decision of English lawyers must concur with that of the Queen's Bench of Canada, and although the ingenuity of counsel and of anxious judges may fail to discover any technical objection which may vitiate the proceedings, yet time will be afforded for the intervention of diplomacy, within the province of which a difficulty of this character specially falls. It is not because we have heedlessly gone into an engagement which involves an unsuspected obligation to burn an innocent man that we are therefore to burn him. It is not because we have blindly and unknowingly bound ourselves systematically to outrage all the common laws of God and humanity that we are therefore now, as a matter of course, to do the first act and to take the first step by the same means as the Romans used to adopt when they desired to commit themselves to some nefarious enterprize—by the sacrifice of a slave."

As we have the support of one out of the three Judges, we are not presumptuous in denying that there *is* any "logical necessity," on "the broad question of law," that Anderson should be given up. It is clear that the Treaty does not require rendition in the case of any act as to the criminality of which either nation has a peculiar opinion, but for crimes which all civilized nations acknowledge to be crimes. High treason is, in the eye of our law, as grave an offence as murder; but what is treason in one country may be admired and approved by its neighbours. Treason, therefore, is not mentioned in the Treaty. Nothing is more unpardonable in the eyes of a Southerner than an offence against "the peculiar institution;" but such offences are usually merits in the eyes of Englishmen, and the Treaty therefore ignores them. If the Treaty is to be interpreted by the public declarations of those who ratified it, we are confirmed

in our views by the speech of Lord Aberdeen, June 30, 1843, in moving the Extradition of Offenders' Bill in the House of Lords:

"He did not anticipate that any inconvenience could arise from the carrying out of this Treaty, except what referred to the case of fugitive slaves; and this was no doubt a subject that would require the utmost caution on the part of those who would have to administer the law, arising from the new relations between the two countries. Some supposed that a fugitive slave might be given up under this Treaty. This he must say was a most unfounded notion. Not only was a fugitive slave guilty of no crime in endeavouring to escape from a state of bondage, but he was entitled to the sympathy and encouragement of all those who were animated by Christian feelings. But then it had been said, a slave running away might be accused of theft, on the ground that the very clothes he wore were not his own, but the property of his master. This, however, in his (the Earl of Aberdeen's) judgment, could never be construed into a theft. Nay, more; if a slave took a horse with him, or seized upon a boat, or, in short, appropriated to his use anything that was necessary to his flight, such an act could never be held to establish an *animus furandi*."

If we remember aright, American lawyers have taken a corresponding view. An attempt was made to obtain the persons of deserters on the plea that they were thieves, having run off with their uniforms, the property of Her Majesty! The answer was, that they were not thieves, but deserters,—that as the taking the clothes they wore was a necessary part of the act of desertion, which was not specified in the Treaty, it could not be made a criminal offence.

The law thus expounded obviously applies to the case in point. Murder and robbery are in the same category. If what would otherwise have been robbery becomes only an innocent appropriation of property when essential to the fugitive's escape, what would otherwise have been murder becomes only justifiable homicide when equally essential. If there is no felonious intent in the one case, neither can there be in another.

The point which seems to have impressed the Chief Justice is, that Diggs had a legal right to apprehend Anderson and take him before a magistrate. If we acknowledge this right, we must also acknowledge that Anderson was wrong in not yielding himself up without any further attempt to escape, however peaceful. If, however, he was right in ignoring the abominable law which made him a slave, he was equally right in ignoring the part of the same law which made Diggs a slave-catcher.

The Chief Justice states that he must not be influenced by the consideration that, as the prisoner will be deemed a slave in the United States, he may not receive a fair trial there, and if he is acquitted will still be detained as a slave. These considerations appear to us to confirm what we have already stated, viz. that

Anderson's case is not one of those contemplated in the Treaty. That Treaty was made as with a civilized power, not as with barbarians. If it was the law of one of the Canadas that in all criminal cases in which a woman was concerned against a man, the testimony of no women could be received in her favour against that of a man, we are quite certain that the Americans would never have intended by a treaty to give up women who had fled to them for refuge, to be tried in a manner so obviously unjust: nor could we have intended to give up negroes, to be tried in a court where the testimony of negroes is not admitted against that of white persons. It is not requisite for the execution of the Treaty that punishments inflicted should be the same in each country; but it is requisite that they should be such as are utterly abhorrent and detestable to neither nation. As the punishments inflicted on slaves are of a horrid and savage nature—are exceptional punishments—the case of slaves must be regarded as exceptional to the Treaty. Moreover, it is essential to the execution of the Treaty, that Americans who are charged with offences in Canada should, if acquitted there, be allowed to return home, and that a similar safeguard should be ensured to English subjects. If, then, there are any British subjects who are exceptions to this rule, and who, if they were acquitted, would be kept from returning to the British dominions and would be reduced to slavery, which they dread like imprisonment or even death, they are excepted from extradition under a Treaty which was designed to promote the ends of justice.

Since we entirely ignore all laws relating to slavery, by pronouncing the fugitive free the moment he is within our dominions, whatever the legal obligations which held him in his native land,—since we go further and actually make it an offence for a British subject to hold slaves, though in a land where slavery is allowed,—since care was taken in the Treaty to avoid violating the national conscience, by requiring that the evidence of criminality must be such as to justify the apprehension of the accused had the alleged offence been committed in Canada,—it appears as clear to us as to Judge M'Lean that Anderson has shewn no evidence of murderous intent which could justify his committal by a Canadian Judge.

We are disposed to go further. In this case Anderson acted like a hero and commands our sympathies; but there might be other cases in which fugitives may be charged with robberies, arsons and even murders, which were not committed in self-defence. We deny, however, that slaves are persons contemplated in the Treaty. We cannot recognize wrongs where there are no rights. A slave would not have the benefit of any treaty made by America with England; he ought not therefore to be the subject of any injury from it. If he is ignored in one case, he must be in the other. "Slaves," says South Carolina (Civil Code,

art. 35*) "shall be deemed, sold, taken, reputed and adjudged in law, to be chattels personal in the hands of their owners and possessors, and their executors, administrators and assigns, to all intents, constructions and purposes whatsoever." Chattels are not responsible agents. "Property has its duties as well as its rights;" but when a man is turned to property, he has no rights and therefore no duties. His conscience may tell him that he has duties; but then his conscience also tells him that he has rights. Judge Ruffin declared, "We cannot allow the right of the master to be brought into discussion in the courts of justice; .... the power of the master must be absolute, to render the submission of the slave perfect."† "A king," when regarded as above law, "can do no wrong;" only his servants are responsible. A slave, as beneath law, can do no wrong; we deem his masters responsible. They make it a crime to give him full instruction as to right and wrong; they command him, when it suits their avarice or revenge, to commit adultery or to perpetrate cruel violence on his fellow-slaves; they daily set him an example of robbery—every day's extorted service is a renewal of the crime of man-stealing; and it is as absurd for a slaveholder to demand from us a slave, to punish him for the crimes committed in slavery, as it would be for a pirate to sue a victim who had escaped for his violent conduct on board his ship. We do not recommend slaves to commit those acts of vengeance which would make the lives of their masters intolerable; but this is because *we* do *not* hold slaves as chattels, but as men, many of them as fellow-christians. We wish them therefore to be better than we usually are ourselves—to "do good, hoping for nothing again"—to "recompense no man evil for evil." At the same time, we repeat that we cannot, as Englishmen, regard chattels as under any legal obligation to the law which adjudges them such; nor can we recognize them as criminals for any offences with which they may be charged by their enemies, who hold them in compulsory bondage.

When the slave touches English soil, he is, for the first time, a man. He assumes all a man's duties and rights. He will be responsible for what he does as a man. But with regard to the past, there is an act of oblivion. We are no more concerned with what he has done as a chattel, than we are with the aberrations of a lunatic now recovered. We are not so much concerned: lunacy may return in spite of our care, but whilst the fugitive remains among us he can never be a chattel. It may be thought that, if we concede this, our dominions may be overrun with lawless and dangerous fugitives. Experience declares the contrary. There are about 60,000 persons of colour in Canada, mostly fugitives and their families. There are few perhaps of these fugitives against whom some charge of robbery

* Key to Uncle Tom's Cabin, chapter ii. † Ibid.

might not be trumped up by their old owners; but they are not robbers now. Perfect adaptation to slavery is no proof of adaptation for freedom; outbreaks in slavery do not imply outbreaks in freedom. A few years ago, a "Commissioner" from the New York Tribune visited Canada to learn the condition of the fugitives. He was told that the gaol at Toronto was full of them: on inquiry he ascertained that there were only three persons of colour there; and whilst the coloured population at Toronto was 1500 or 1600, there were only 76 arrests among them, out of 5346 arrests, in the course of the year,—the amount of crime being twice as great among the whites in proportion to the population. The loyalty of the coloured race is unquestioned; none have a deeper interest in maintaining British dominion. We have been told that, in the last rebellion, peculiar confidence was reposed in the coloured troops for this reason.

If the majority of the Judges should be against us, what is to be done? Let us once more listen to Lord Aberdeen:

"Another point must be borne in mind, namely, that if at any time a fugitive slave should be demanded under this Treaty, the demand could not be made by any slave State, but by the central Government at Washington, and this would in itself be a considerable security against any improper application. Another security would be found in the reference which would be made to the Home Government by the governors of colonies in case of any difficulty arising, when the Home Government would of course be assisted by the best legal advice that could be obtained. But the great security was that, by an express stipulation in the Treaty, it was agreed that the article by which the two Governments bound themselves to a mutual surrender of criminals should continue in force only till one or other of the two Governments signified its intention to terminate it; so that whenever inconvenience arose, either Government was at liberty to put an end to that part of the Treaty, without being under the necessity of giving any notice beforehand."

We find no security in the fact that the demand must be made from Washington, as long as Washington is a slave city and the Government there under slaveholding influence. This is one proof, among many, of the importance to ourselves that the United States Government should fully sympathize with our own on questions of human freedom. We cannot yet venture to predict what will be its character under the new Presidency. It is a provision of more importance that our own Government is likely to be consulted. The recent manifestation of public feeling is some guarantee against national dishonour. We have not that confidence which we desire in the Canadian magistracy. The conduct of Mr. Matthews, the committing magistrate, is reported to have been most disgraceful; he even put Anderson in irons. The fact that, in the frontier districts, coloured children are compelled to go to separate schools, proves that the vicious public sentiment of the United States is infectious. In Europe, however, the rights of the coloured race are respected; so far,

at least, that the rendition of a fugitive would be an intolerable disgrace. We do not rely greatly on the "best legal advice." It was not legal advice, but the strong expression of public sentiment, that elicited from the hesitating Lord Mansfield the judgment which asserts the true honour of England. Our newspapers have done their duty; we must do ours. Through private representations to the Secretary for the Colonies, through memorials, and through our Representatives in Parliament, we must, should it prove necessary, make our convictions clearly felt. This case could scarcely have occurred at a fitter time. It will, we trust, enable our Minister at Washington to shew, in the present divided state of feeling in the States, that England sympathizes with those who consider the stability of a nation to consist not in slavery, but in freedom and justice. Should the last alternative be necessary, the termination of that part of the Treaty, we consider it a far less evil that our criminals should be suffered to live at large in the United States, and either reform or from renewed crime there fall within the grasp of the laws, than that our peaceful coloured fellow-subjects in Canada should have no security for their lives and freedom. But we venture to say that this step will not be necessary. When the law of South Carolina required the sheriff to seize coloured persons arriving in her ports even from British ships, imprison them, and in some cases sell them, our Government remonstrated, but were told at Washington that South Carolina could not be dictated to, and that if we insisted on it the Treaty must terminate. For the sake of peace, and thinking it the best way to attain the end in view, our Ministry humbled itself to wait South Carolina's pleasure, so far to alter the law that our seamen are safe so long as they keep in their ships! We believe that the United States Government will be equally peaceable, equally willing that the Treaty should continue, if our Minister assures it that the right of sanctuary to the oppressed is as essential to us as the right to tyrannize can be to South Carolina; and that under no circumstances, and on no pretext whatever, will the people of England consent to deliver up those who have fled to them out of slavery.

R. L. C.

POSTSCRIPT.

Since writing the above, Mr. Chamerovzow, the Secretary of the British and Foreign Anti-slavery Society, has applied at the Court of Queen's Bench for a writ of *habeas corpus*, commanding the Governor of Canada and others to bring up the body of Anderson, on the ground of his illegal detention and the danger to his life. The Judges somewhat hesitated, lest they should be thought to interfere with colonial independence; but as there appeared to be no legal bar to their power, they felt that precedent required them to comply. In ordinary cases, we should feel jealous of anything that might look like intermeddling with

the Canadian courts; but this case depends on the construction to be put upon a Treaty; and it is well that it should be tried where evidence is most accessible of the meaning of the framers of that Treaty. In addition to the speech of Lord Aberdeen which we have quoted, the Hon. G. Denman has drawn the attention of the *Times* to the statements of the Attorney-General at that time, of Lord Palmerston and Lord Macaulay, in the House of Commons, which entirely confirm Anderson's plea. Perhaps it would have been safer had the case of fugitives been directly referred to in the Treaty; but at that time the Fugitive Slave Bill had not been passed, and our Ministry might be excused if they deemed that, as regards the United States, *freedom* was *national*, in accordance with their Declaration of Independence, and slavery only a sectional and *peculiar* institution. If, instead of being a seceding State, South Carolina was now paramount at Washington, we might expect some difficulty from what is the only course left to British justice and honour; as South Carolinians have loudly complained of the loss of their "property" on British territory, and have even demanded that the President should interfere to prevent it!

C. Green, Printer, Hackney.