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A Charge Delivered to the Grand Jury of the Circuit Court of the United States, at its First Session in Portland for the Judicial District of Maine

Joseph Story

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A

CHARGE

DELIVERED TO THE GRAND JURY OF THE

Circuit Court of the United States,

AT ITS FIRST SESSION IN PORTLAND.

FOR THE

JUDICIAL DISTRICT OF MAINE,

MAY 8, 1820,

AND PUBLISHED AT THE UNANIMOUS REQUEST OF THE GRAND JURY
AND OF THE BAR.

~~~~~  
BY THE HON. JOSEPH STORY.  
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PORTLAND:
PRINTED BY A. SHIRLEY.

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1820.

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CHARGE.

GENTLEMEN OF THE GRAND JURY,

ON this the first occasion, that I have had the pleasure of meeting you, permit me to congratulate you on the favorable auspices under which we are assembled.—Our country enjoys a state of profound peace, under the guidance of wise and moderate councils—and though our foreign commerce is considerably abridged, both in its enterprise and prosperity, and our domestic intercourse is thus sensibly diminished; yet we have abundant reason to rejoice, as well in our exemption from the calamities which have visited and oppressed many other nations, as in our own positive good fortune.—Our agriculture yields us the most abundant products, cheapening thereby the fruits of the earth to the poor and necessitous; our really useful manufactures are increasing with a slow but solid growth; and our industry and sound morals are maturing a hardy population, which is spreading with unexampled rapidity into the wilderness, and making our forests resound with the cheering sounds of the axe and the hammer.—In addition to these substantial comforts, we are indulged by a kind providence with the blessings of civil, political, and religious liberty—blessings of inestimable value, without which life loses half its charms, property all its security, and patriotism itself sinks back from a virtue into a gross and venal prejudice.

The circumstances, under which I address you at the present moment are perhaps without a parallel in the annals of the other quarters of the world. This District has just been admitted into the union as a free, sovereign and independent state, possessing in common with all the others an equality of national rights and honors, and protected by an excellent constitution framed, by its own deliberations, upon principles of justice and equity.

And in what manner has this been accomplished? Not by the course, in which the division of empires has been usually sought and obtained—by civil dissension and warfare—by successful resistance wading through the blood of friends and foes to its purpose—or by the terror of the sword, whose brightness has been stained by the sacrifice of innocence, or rusted by the tears of suffering and conquered virtue. Unhappily for mankind a change of government has rarely taken place without involving

evils of the most serious nature. It has been but the triumph of tyranny in the overthrow of the liberties of the people ; or the sudden reaction of popular resentment, indignant at wrongs and stimulated to criminal excesses.

Here a different scene—a scene of peace and good order has been presented. The separation has been the result of cool deliberation and cautious examination of the interests of both parties. It has been conducted in a spirit of mutual conciliation and friendship, with an anxious desire to promote the real happiness and prosperity of the people. It has been emphatically and by no fanciful analogy, like the separation of a parent from his child, when the latter has attained maturity of years and experience. And like that separation, I trust it will only lay more surely the foundation of a mutual respect, sustained by the sense of independence, and chastened by grateful recollections of the past and an earnest solicitude for the solid glory of the future.

At this new starting point of your political existence, it cannot be disguised that much of your future character and prosperity will depend upon the wisdom and moderation of your public councils. The great system of your government is to be put into operation, and your laws remoulded and adapted to your own peculiar circumstances. May I venture to suggest that a liberal and comprehensive policy in respect to your public institutions and judicial establishments, cannot fail to produce the happiest effects, by creating confidence at home and distinction abroad. Let your laws be framed for the permanent welfare of all the people, for the security of private rights and private property, and for the promotion of good education and learning and religion. No system that aims *merely* at temporary, or party, or local objects, or that bends the great interests of the whole to the partial benefit of the few, ever was or ever can be salutary. Such a system is not only unworthy of a free and enlightened people ; but brings disgrace and ruin wherever it is established—It is the harbinger of faction and discontent, and leads to animosities, from which the people can derive nothing, but bad laws, bad morals, and bad government.

May I venture also to add that nothing can be of more consequence to yourselves and to our common country, than that you should cherish an habitual devotion to the constitution and government of the United States. I look upon that constitution as the great security of all our most valuable political and civil rights—It is the only effectual barrier against foreign conquests and domestic feuds, against the inroads of military ambition, and the more subtle, though not less dangerous designs of civic dema-

gogues.—It will always be the determined though concealed purpose of the latter to undermine the foundations of the national government by stirring up jealousies of its legitimate powers; and under an affected devotion to popular rights to take advantage of temporary prejudices, and thereby gradually withdraw the affections of the people from those principles, which the wisdom of our fathers has consecrated as the keystones of the union. —I know not indeed how it is possible better to express the opinion, which every sound patriot and statesman ought to entertain on this subject, than in the language of that farewell address, which the great and good WASHINGTON has left as his last benediction to his country.

“The unity of Governments, which constitutes you one people is also dear to you. It is justly so, for it is a main pillar in the edifice of your independence, the support of your tranquillity at home, your peace abroad—of your safety, of your prosperity, of that very liberty, which you so highly prize. But it is easy to foresee that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth. As this is the point of your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual and immovable attachment to it, accustoming yourselves to think and speak of it as of the Palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion, that it can in any event be abandoned.

“For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of Americans, which belongs to you in your national capacity must always exalt the just pride of patriotism more than any appellation from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils, and joint efforts, of common dangers sufferings and success.”

Such is the language, now speaking as it were from the grave, of him, who was first in war, first in peace, and first in the hearts of his countrymen.

Having premised these remarks, which are drawn from me by a sense of duty and a sincere regard to the welfare of your rising State, and which I trust will be received in the spirit of candor, in which they have been delivered, permit me now to call your attention to the subjects which more immediately belong to your cognizance as a Grand Jury of the United States.

You are impanelled to make due inquiry and presentment of all crimes which have been committed against the United States within the Judicial District of Maine. The oath of office, which has been administered to you, contains a general outline of the duty required of you—You are to inquire with diligence, and to make true and faithful presentments, unaffected by any motives, but those, which should influence conscientious and rational minds. You are to inquire without fear, favour, affection or hope of reward on the one side; and without the prejudices arising from hatred, envy or malice on the other. I am sure that I need hardly press upon your attention the solemnity, dignity and importance of your office. You are selected to guard the public peace and to maintain the public laws; to accuse the guilty and to protect the innocent. What higher objects can engage the attention of men, looking to the great interests of society? What nobler ends can be proposed, than those, which administer to the tranquillity and happiness of our friends and fellow-citizens? What can be more acceptable to God, or more conformable to the dictates of religion, than the promotion of justice, the succour of virtue and the relief of the injured and oppressed?—Nor can any one, who seriously reflects upon the invaluable blessings of a free government, hesitate to give all his aid to the due and regular administration of public justice. It is utterly impossible that real liberty can long remain among a people sunk in vice and indifferent to crimes. The forms and shadows of its institutions may remain to deceive the idle spectator; but that spirit, which can alone quicken into life the principles of freedom, is gone forever. The history of other nations is full of melancholy instruction on this subject. The mockery and parade of the symbols of liberty long survived the desolation of their rights. It was the amusement of their tyrants to trick out the republic in its ancient and venerable and tattered habiliments, when all its virtue and its glory and its patriotism, had passed through the last offensive stages of mortality and dissolved into dust in its ruined sepulchres. The temples of religion indeed remained in their majesty; but instead of that charity, which believeth all things, hopeth all things and endureth all things, the sullen spirit of persecution inhabited there. The Halls of legislation resounded with the voices of eloquence and learning; but they were em-

ployed to justify laws written in blood, or to wring from an afflicted and humbled people the last relics of their liberty. The Courts of Justice too entertained within their walls the grave controversies of poor and suffering suitors ; but corruption deposited its deadly poison upon their ermine, and bought the patrimony of orphans and widows with bribes, and left them to perish at the very doors of the sanctuary. These are no idle pictures of the fancy. They are written on the records of many a nation once ennobled by its freedom and enlightened policy ; and now existing only the sad monuments of its wretchedness.

Nor let us indulge the vain hope that we shall escape a like fate, if we neglect to preserve those institutions in their purity, which sustain the great interests of society. If we grow indifferent to the progress of vice ; if we silently wink at violations of the laws ; if we habitually follow the current of public opinion without pausing to consider its directions ; if we cherish a sullen irreverent disregard of the constitution of government, under which we live, or resign ourselves to factious discontent under the exercise of its legitimate powers ; the time is not far distant when we shall be separated into rival states, engaged in furious contests for paltry objects, and ultimately become the prey of some unprincipled chieftain, who will first arrive at power by flattering popular prejudices, and then secure his bad eminence by the destruction of the liberties of his country.

May this melancholy epoch never have an existence in our history ! Much indeed may be done under the indulgence of a benign providence to avert such evils, if all our good citizens will unite to enforce the laws, to cherish an habitual obedience to their precepts and to inculcate a reverence for the administration of public justice. And you, gentlemen of the Grand Jury, in particular, to whom is entrusted the high responsibility of watching over the public rights and suppressing public offences, you may do much to perpetuate our liberties by an honest, zealous and resolute discharge of your duty.

The practice of the Court has ordinarily been to lay before you an enumeration in detail of all the crimes of which you are to take cognizance. But on the present occasion I shall feel myself better employed by dwelling somewhat at length on certain offences of a graver cast, which are unhappily but too common in our age, and require the severe animadversion of all good men, from their manifest tendency to foster the foulest passions and the most unnatural cruelties. As to other crimes, as I am not aware that any of them require your very particular examination, I shall leave them to your general consideration ; and if you shall have occasion for more exact information, the learned

counsel for the United States and the Court, will most cheerfully aid your inquiries.

And first, gentlemen, let me call your attention to the crime of Piracy.—This offence has in former times crimsoned the ocean with much innocent blood, and in its present alarming progress threatens the most serious mischiefs to our peaceful commerce. It cannot be disguised that at the present times there are hordes of needy adventurers prowling upon the ocean, who under the specious pretext of being in the service of the Patriot Governments of South America, commit the foulest outrages. Being united together by no common tie but the love of plunder, they assume from time to time the flag of any nation which may best favor their immediate projects, and depredate, with indiscriminate ferocity, upon the commerce of the neutral world, regardless of the principles of law and the dictates of justice.—It often too happens, as might well be expected in such wicked associations, that after their lawless designs are consummated, they quarrel among themselves about the division of their spoils, and their quarrels end in involving themselves in the blood of their comrades.—Persons of this description are in the most general sense of the term, pirates or freebooters, and are aptly denominated the enemies of the human race, and as such become amenable to the tribunals of all civilized nations for their crimes, and by the laws of all, as I believe, are punished with Death.

While therefore we may properly indulge towards the South Americans a reasonable sympathy in their struggle for civil and religious liberty, and while we respect with the most guarded caution, the rights of the regular commissioned ships of their governments, (as by law we are bound to do) we should take care that our feelings are not wasted upon men, who falsely assume the protection of their flag, and that our judgments are not misled by framing apologies for depredations, from which virtue and patriotism turn with disgust.

Piracy, according to the common law, consists in committing those acts of depredation and robbery at sea, which if committed upon land would amount to felony there—and it is piracy not only when a man robs without any commission at all, but when having a commission he fraudulently or with a thievish intent despoils those with whom he is not warranted to fight or meddle, that is, such as are at peace with the prince or state from which he derives his commission. Piracy at sea is indeed the same crime as robbery on land at the common law—And robbery is the felonious taking away of goods or money from the person or presence of another against his will by *force* or *violence* or by *putting him in fear*. It includes therefore the crime of theft and

something more, viz. the taking with force or violence from a person, or in his presence, or putting him in fear.—There must be either violence or putting in fear to constitute the crime ; but both need not concur.—Such is the definition of piracy at the common law ; and it does not differ in any essential respect from that adopted in the law of Nations ; for in this law piracy consists in unlawful and fraudulent depredations with force upon the property of another at sea without authority from any prince or state. The essence of the offence is the fraudulent subduction or theft of property, with violence, from the persons in whose custody it lawfully is.—The act must be done in the language of the law “ *animo furandi*,” that is, with the intent to commit a theft ; and it is not committed by a mere excess of lawful authority, unless combined with the intent of fraudulent gain. And indeed Mr. Sergeant Hawkins has given an exact description of the offence according to the sense of the law of nations, when he declares a pirate to be “ one who to enrich himself, either by surprize or open force, sets upon merchants or others trading by sea to spoil them of their goods and treasure.”

By a recent statute of the United States, in order more effectually to suppress this odious offence, it is enacted that if any person shall, on the high seas, commit the crime of piracy, as defined by the law of nations and be afterwards found in the United States, he shall on conviction, suffer death.—This statute is manifestly designed to apply to all cases, whether the crime be perpetrated on board of an American ship or a foreign ship, and whether the offender be a foreigner or citizen.

But there are other acts, which the laws of the United States have declared piracy—which are punishable as such only when committed on board of American ships, or by persons who are justly amenable to our criminal jurisdiction. For no nation can have any right by its own legislation to bind the subjects of foreign governments as to offences which fall within the exclusive cognizance of such government.

The acts to which I have alluded, I will now proceed to enumerate.

1. The first is the perpetration of murder, robbery, or any other offence on the high seas, which if committed on land would by the laws of the United States be punishable with death.

The crime of robbery here referred to, is that crime as defined by the common law, which we have already considered.

Murder consists in the unlawful killing of any reasonable creature in being, under the peace of the government, with malice aforethought. It is this malice which essentially distinguishes murder from every other kind of homicide, and it may be express,

as when the crime is perpetrated with a sedate and deliberate mind and formed design, or it may be *implied*, as when the fact is attended with such circumstances as are the ordinary symptoms of a wicked, depraved, and malignant spirit. It matters not how sudden the transaction may have been, nor whether there was a particular malevolence or spite to the deceased or not: it is sufficient if there be either deliberate malice or circumstances of cruelty and depravity, carrying in them "the plain indications of a heart regardless of social duty and fatally bent on mischief."

In all charges of murder the fact of killing being first proved, all the circumstances of accident, necessity, or infirmity which may justify or excuse it, are to be satisfactorily proved by the prisoner at his trial, unless they arise out of the evidence produced against him; for the law presumes the fact to be founded in malice, until the contrary appears.

2. A second declared piracy by our Laws, is the piratically and feloniously running away with any ship or vessel or any goods or merchandise to the value of fifty dollars, or the voluntarily yielding up any ship or vessel to any pirate.

To constitute the offence within this clause the crime must be committed by the *Captain* or a mariner of the ship, and with a piratical and felonious intent; that is, with an intent fraudulently to convert the property to their own use, in violation of their trust, and against the will of the owner—and where the piratical act is the taking of goods or merchandise, the taking must be on board a ship or vessel.

3. A third act of piracy by our laws is the laying of violent hands by any seaman upon his commander, thereby to hinder and prevent his fighting in defence of his ship or the goods committed to his trust.

It must be understood as a restriction upon the generality of this clause, that the fighting of the commander would be lawful; for if it would be unlawful, as in defiance of public authority, in resistance of the right of search, or of a justifiable seizure, so far from the seamen's being guilty of a crime, they would be doing no more than their duty and could incur no blame whatever.

4. A fourth act of piracy by our laws is the making of a revolt by a mariner on board of the ship to which he belongs.

It is not easy to enumerate all the various circumstances, which constitute a "revolt," a word, which in this clause is used in the sense of mutiny or rebellion—a mere act of disobedience to the lawful commands of the officers of the ship by the crew does not of itself constitute a revolt. But if there be a general combination of the crew to resist the lawful commands of their officers to usurp their authority on board of the ship; and any

overt acts are done by the crew in pursuance of such design; such as the confinement of their officers, or depriving them of the control and management of the ship, these and the like acts seem properly to constitute a revolt.

5. A fifth and last act of piracy by our laws is when any citizen commits any piracy or robbery aforesaid, or any act of hostility against the U. States, or any citizens thereof, upon the high seas, under color of any commission or authority from any foreign prince or state, or on pretence of authority from any person.

From this clause it is apparent how deeply involved in guilt are those of our citizens who enlist themselves in the armed ships of foreign states, and commit hostilities upon their countrymen, or plunder their property, since the law declares that they shall be "adjudged and taken to be pirates, felons, and robbers," and shall on conviction suffer death.

And I may add that all accessaries before the fact to any of the piracies before mentioned, are liable to the same capital punishment; and accessaries after the fact are visited with exemplary penalties.

Another class, and of kindred offences, to which, Gentlemen, I beg to call your particular attention, is that which respects our relations with foreign states.—It has at all times been the wise determination of our government to endeavor, amidst the contests of belligerent nations, to preserve its own peace by a strict and impartial neutrality. This course, so just and reasonable in itself, and founded in the soundest, and I may add the noblest policy, is so intimately connected with our best interest in a moral, commercial, and political view, that our laws have most anxiously provided for the due observance of all our neutral duties. And yet, I know not how it has happened, but so the fact is, that many of our citizens have been deluded by the glare of a false and hollow patriotism, deliberately to violate these laws, and to engage in enterprizes not only unjust but in many instances accompanied with the most shocking barbarities. What authority have we to become the general champions of the violated rights of the human race, and to march in a general crusade for the defence of the liberties of mankind, where every footstep must be traced in the mingled blood of the oppressor and the oppressed.—With what justice can we complain of the wrongs of other nations, if we assume the character of neutrality, and yet violate all its most sacred obligations? If we present that monstrous anomaly in the history of the world, of a nation at peace, and its citizens at war? Let not our honor be sullied by the just accusation that we want the virtue to enforce our

laws, or are guilty of a mean hypocrisy in suffering a collusive evasion of them. Let it be the pride of our country to preserve an honest fame, without reproach; and to claim from foreign nations an observance of our own rights, only when the claim can be enforced with clean hands and pure hearts. If motives like these, so elevated and so honorable, cannot bind us to our duty, as I confidently trust they always will, let us at least take counsel of our fears and our interests, and learn the wholesome lesson, that as good faith is the only sure foundation of national prosperity, so the breach of it will be visited sooner or later with national degradation and ruin.—And gentlemen, I entreat you, as guardians of the laws, to endeavour by your own presentments as well as by your counsels to bring to punishment all persons, who violate our neutrality, however specious their pretext may be; and thus to do your part to arrest those calamities which war, even in its mildest shape, never fails to inflict upon its innocent sufferers.

Our laws have expressly prohibited our citizens from accepting and exercising *within our jurisdiction* a commission to serve any foreign state, colony or people in war by land or by sea against any other state, colony or people. They have also prohibited any person whatever *within our jurisdiction*, from enlisting or entering himself, or hiring or retaining another person to enlist or enter himself or to go beyond our jurisdiction, with intent to be enlisted or entered in the service of any foreign state, colony or people as a soldier or as a mariner or marine in any armed ship. They have also prohibited any person whatsoever *within our jurisdiction*, from fitting out and arming or attempting to fit out and arm, or procuring to be fitted out and armed, or being knowingly concerned in the furnishing, fitting out, or arming of any ship, with intent that such ship shall be employed in the service of any foreign prince or state, colony or people, to cruise or commit hostilities against the subjects or property of any foreign state, colony or people, with whom we are at peace; and from issuing or delivering a commission for any such ship, to the intent that she shall be employed as above mentioned. They have further prohibited *our citizens without our jurisdiction*, from fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly aiding or being concerned in the furnishing, fitting out or arming any private ship of war or privateer with intent that such ship shall be employed to cruise or commit hostilities *upon our citizens or their property*; or from taking command of, or entering on board of any such, for the intent aforesaid; or from purchasing any interest in any such ship with a view to share in the profits thereof.

They have also prohibited *any person whatsoever within our jurisdiction*, from increasing or augmenting, or procuring to be increased or augmented, or being knowingly concerned in increasing or augmenting the force of any ship of war or cruiser in the service of any foreign state, colony or people at war with any foreign state, colony or people, by adding to the number of her guns or by changing those on board for guns of a larger calibre, or by the addition of any equipment solely applicable to war. And lastly, our laws have prohibited *any person whatsoever within our jurisdiction*, from beginning or setting on foot, or providing or preparing the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign state, colony or people, with whom we are at peace.

Such are the prohibitions of our laws, enforced with suitable penalties, against violations of our neutrality, and so extensive are their reach, that if our good citizens will aid the officers of the government in a vigilant discharge of their duties, and grand juries will act with the firmness befitting their office, there is little doubt that we shall be able effectually to suppress unlawful enterprises and combinations and to restore the brightness of our national reputation, over which the impunity of recent outrages has somewhat contributed to cast a temporary shade. *Nor ought* it to be forgotten that by a faithful performance of our duty in suppressing these offences we shall contribute in a very great degree to preserve the good habits and sound morals of our seamen—a class of men of inestimable importance to our commerce, and the bulwark of our naval glory. When once they become contaminated by participating in unlawful plunder, the property of our merchants, as experience has but too fully proved, can no longer be safely confided to their care, so true is it, that the first step in vice costs us most, and we thence slip easily downward into the gulph of infamy and crime. He, who is in the pursuit of guilty plunder, by violations of the laws, soon ceases to discriminate between friends and foes; and silences the voice of his conscience by an appeal to the cravings of avarice, stimulated by a self created necessity.

And in the next place, gentlemen, let me call your attention to that most detestable traffic, the *Slave Trade*.

The existence of Slavery under any shape is so repugnant to the natural rights of man and the dictates of justice, that it seems difficult to find for it any adequate justification. It undoubtedly had its origin in times of barbarism, and was the ordinary lot of those who were conquered in war. It was supposed that the conqueror had a right to take the life of his captive, and by consequence might well bind him to perpetual servitude. But the

position itself on which this supposed right is founded, is not true. No man has a right to kill his enemy except in cases of absolute necessity; and this absolute necessity ceases to exist even in the estimation of the conqueror himself, when he has spared the life of his prisoner. And even, if in such case it were possible to contend for the right of slavery, as to the prisoner himself, it is impossible that it can justly extend to his innocent offspring through the whole line of descent. I forbear however, to touch on this delicate topic, not because it is not worthy of the most deliberate attention of all of us; but it does not properly fall within my province on the present occasion. It is to be lamented indeed, that slavery exists in any part of our country; but it should be considered that it is not an evil introduced in the present age. It has been entailed upon a part of our country by their ancestors; and to provide a safe and just remedy for its gradual abolition, is undoubtedly as much the design of many of the present owners of slaves, as of those philanthropists who have labored with so much zeal and benevolence to effect their emancipation.—It is indeed one of the many blessings, which we have derived from christianity, that it prepared the way for a gradual abolition of slavery, so that at the close of the twelfth century it was greatly diminished in the west of Europe; and it is one of the stains on the human character, that the revival of letters and of commerce brought with it an unnatural lust of gain, and with it the plunder and slavery of the wretched Africans.

To our country belongs the honour, as a nation, of having set the first example of prohibiting the further progress of this inhuman traffic. The constitution of the United States, having granted to Congress the power to regulate foreign commerce, imposed a restriction for a limited period, upon its right of prohibiting the migration or importation of slaves. Notwithstanding this, Congress, with a promptitude, which does honor to their humanity and wisdom, proceeded in 1794, to pass a law to prohibit the traffic of slaves by our citizens in all cases not within the reach of the constitutional restriction; and thus cut off the whole traffic *between foreign ports*. In the year 1800 an additional law was passed to enforce the former enactments; and in the year 1807, (the epoch, when the constitutional restriction was to cease, beginning with the ensuing year) a general prohibition of the traffic as well in our domestic as foreign trade, was proudly incorporated into our statute book. About the same period the British Government after the most severe opposition from slave dealers and their West Indian friends, achieved a similar measure and enacted a general prohibition of the trade as

well to foreign ports as to their colonies. This act was indeed the triumph of virtue, of reason and of humanity over the hard-heartedness of avarice; and while it was adorned by the brilliant talents of Pitt, Fox, Romilly and Wilberforce, let us never forget that its success was principally owing to the modest but persevering labors of the Quakers, and above all to the resolute patience and noble philanthropy of a man immortalized by his virtues, the intrepid Thomas Clarkson.

It is a most cheering circumstance that the examples of the United States and Great Britain in thus abolishing the Slave Trade, have, through the strenuous exertions of the latter, been generally approved throughout the continent of Europe. The government of Great Britain has indeed employed the most indefatigable and persevering diligence to accomplish this desirable object; and treaties have been made by her with all the principal foreign powers, providing for a total abolition of the trade within a very short period. May America not be behind her in this glorious work; but by a generous competition in virtuous deeds restore the degraded African to his natural rights, and strike his manacles from the bloody hands of his oppressors.

By our laws it is made an offence for any person to import or bring, in any manner whatsoever, into the United States, or its territories from any foreign country, any negro, mulatto, or person of color with intent to hold, sell, or dispose of him as a slave, or to be held to service or labor.

It is also made an offence for any citizen or other person as master, owner, or factor, to build, fit, equip, load or otherwise prepare any vessel in any of our ports, or to cause any vessel to sail from any port whatsoever for the purpose of procuring any negro, mulatto, or person of color from any foreign country to be transported to any port or place whatsoever, to be held, sold or disposed of, as a slave, or to be held to service or labor. It is also made an offence for any citizen or other person resident within our jurisdiction to take on board, receive or transport in any vessel from the Coast of Africa or any other foreign country, or from sea, any negro, mulatto or person of color not an inhabitant of, or held to service in the United States, for the purpose of holding, selling or disposing of such person as a slave, or to be held to service or labor.—It is also made an offence for any person within our jurisdiction to hold, purchase, sell or otherwise dispose of any negro, mulatto, or person of color for a slave, or to be held to service or labor, who shall have been imported into the United States in violation of our laws—and in general the prohibitions in these cases extend to all persons who shall abet or aid in these illegal designs.—These offences are visited

as well with severe pecuniary and personal penalties, as with the forfeiture of the vessels and their equipments, which have been employed in the furtherance of these illegal projects; and in general a moiety of the pecuniary penalties and forfeitures is given to any person who shall inform against the offenders and prosecute them to conviction. The President of the United States is also authorised to employ our armed vessels and revenue cutters to cruise on the seas for the purpose of arresting all vessels and persons engaged in this traffic in violation of our laws; and bounties, as well as a moiety of the captured property, are given to the captors to stimulate them in the discharge of their duty.

Under such circumstances it might well be supposed that the Slave Trade would in practice be extinguished; that virtuous men would by their abhorrence stay its polluted march, and wicked men would be overawed by its potent punishments. But unfortunately the case is far otherwise. We have but too many melancholy proofs from unquestioned sources, that it is still carried on with all the implacable ferocity and insatiable rapacity of former times. Avarice has grown more subtle in its evasions; and watches and seizes its prey with an appetite quickened rather than suppressed by its guilty vigils. American citizens are steeped up to their very mouths (I scarcely use too bold a figure) in this stream of iniquity. They throng to the Coasts of Africa under the stained flags of Spain and Portugal, sometimes selling abroad "their cargoes of despair," and sometimes bringing them into some of our southern ports, and there under the forms of the law defeating the purposes of the law itself, and legalizing their inhuman but profitable adventures. I wish I could say that New England and New Englandmen were free from this deep pollution. But there is reason to believe, that they who drive a loathsome traffic, "and buy the muscles and the bones of men," are to be found here also. It is to be hoped the number is small; but our cheeks may well burn with shame while a solitary case is permitted to go unpunished.

And, Gentlemen, how can we justify ourselves or apologize for an indifference to this subject? Our constitutions of government have declared that all men are born free and equal, and have certain unalienable rights, among which are the right of enjoying their lives, liberties and property, and of seeking and obtaining their own safety and happiness. May not the miserable African ask "Am I not a man and a brother?" We boast of our noble struggle against the encroachments of tyranny, but do we forget that it assumed the mildest form in which authority ever assailed the rights of its subjects; and yet that there are men among

us who think it no wrong to condemn the shivering negro to perpetual slavery?

We believe in the Christian religion. It commands us to have good will to all men; to love our neighbours as ourselves, and to do unto all men as we would they should do unto us. It declares our accountability to the Supreme God for all our actions, and holds out to us a state of future rewards and punishments as the sanction by which our conduct is to be regulated. And yet there are men calling themselves Christians who degrade the negro by ignorance to a level with the brutes, and deprive him of all the consolations of religion. He alone of all the rational creation, they seem to think, is to be at once accountable for his actions, and yet his actions are not to be at his own disposal; but his mind, his body, and his feelings are to be sold to perpetual bondage.—To me it appears perfectly clear that the slave trade is equally repugnant to the dictates of reason and religion and is an offence equally against the laws of God and man.—Yet, strange to tell, one of the pretences upon which the modern slavery of the Africans was justified, was the “duty of converting the heathen.”

I have called this an *inhuman* traffic, and, gentlemen, with a view to enlist your sympathies as well as your judgments in its suppression, permit me to pass from these cold generalities to some of those details, which are the ordinary attendants upon this trade. Here indeed there is no room for the play of imagination. The records of the British Parliament present us a body of evidence on this subject, taken with the most scrupulous care while the subject of the abolition was before it; taken too from persons who had been engaged in, or eye witnesses of the trade; taken too, year after year in the presence of those whose interests or passions were most strenuously engaged to oppose it. That it was not contradicted or disapproved, can only be accounted for upon the ground, that it was the truth and nothing but the truth. What, therefore, I shall briefly state to you on this subject, will be drawn principally from those records; and I am free to confess that great as was my detestation of the trade, I had no conception until I recently read an abstract of this evidence, of the vast extent of misery and cruelty occasioned by its ravages. And if, gentlemen, this detail shall awaken your minds to the absolute necessity of constant vigilance in the enforcement of the laws on this subject, we may hope that public opinion following these laws, will very soon extirpate the trade among our citizens.

The number of slaves taken from Africa in 1768 amounted to one hundred and four thousand; and though the numbers some-

what fluctuated in different years afterwards, yet it is in the highest degree probable that the average, until the abolition, was not much below 100,000 a year. England alone in the year 1786, employed 130 ships, and carried off about 42,000 slaves.

The unhappy slaves have been divided into seven classes. The most considerable and that which contains at least *half* of the whole number transported, consists of *kidnapped people*.—This mode of procuring them includes every species of treachery and knavery. Husbands are stolen from their wives, children from their parents, and bosom friends from each other. So generally prevalent are these robberies, that it is a first principle of the natives not to go unarmed while a slave ship is on the coast, for fear of being stolen. The second class of slaves, and that not *inconsiderable*, consists of those, whose villages have been depopulated for obtaining them. The parties employed in these predatory expeditions go out at night, set fire to the villages, which they find, and carry off the wretched inhabitants, thus suddenly thrown into their power, as slaves. The practice is indeed so common, that the remains of deserted and burnt villages are every where to be seen on the coast.

The third class of slaves consists of such persons as are said to have been convicted of crimes, and are sold on this account for the benefit of their kings; and it is not uncommon to impute crimes to them falsely, and to bring on mock trials for the purpose of bringing them within the reach of the royal traders.

The fourth class includes prisoners of war captured sometimes in ordinary wars, and sometimes in wars originated for the very purposes of slavery.

The fifth class comprehends those who are slaves by birth; and some traders on the coast make a practice of breeding from their own slaves, for the purpose of selling them, like cattle, when they are arrived at a suitable age.—The sixth class comprehends such as have sacrificed their liberty to the spirit of gaming; and the seventh and last class, of those who being in debt are seized according to the laws of the country, and sold to their creditors. The two last classes are very *inconsiderable*—and scarcely deserve mention.

Having lost their liberty in one of the ways already mentioned, the slaves are conveyed to the banks of the rivers or sea coast. Some belong to the neighborhood; others have lived in distant parts; and others are brought a thousand miles from their homes. Those who come from a distance march in droves or caufes, as they are called.—They are secured from rising or running away by pieces of wood which attach the necks of two and two together—or by other pieces, which are fastened by

staples to their arms.—They are made to carry their own water and provisions ; and are watched and followed by drivers, who by force, compel the weak to keep up with the strong.

They are sold immediately upon their arrival on the rivers or coasts, either to land-factors, at *depots* for that purpose, or directly to the ships engaged in the trade.—They are then carried in boats to the various ships whose captains have purchased them. The men are immediately confined two and two together either by the neck, leg, or arm, with fetters of solid iron.—They are then put into their apartments, the men occupying the fore part, the women the after part, and the boys the middle of the vessel. The tops of these apartments are grated for the admission of light and air ; and the slaves are stowed like any other lumber, occupying only an allotted portion of room.—Many of them, while the ships are waiting for their full lading in sight of their native shore, manifest great appearance of distress and oppression ; and some instances have occurred where they have sought relief by suicide, and others where they have been afflicted with delirium and madness.—In the day time, if the weather be fine they are brought upon deck for air.—They are placed in a long row of two and two together, on each side of the ship, a long chain is then made to pass through the shackles of each pair, and by this means each row is secured to the deck. In this state they eat their miserable meals, consisting of horse-beans, rice, and yams, with a little pepper and palm oil.—After their meals, it is a custom to make them jump for exercise as high as their fetters will allow them ; and if they refuse they are whipped until they comply. This the slave merchants call dancing, and it would seem literally to be the dance of death.

When the number of slaves is completed, the ships begin what is called the middle passage, to transport the slaves to the colonies.—The height of the apartments in the ships is different according to the size of the vessel, and is from six feet to three feet, so that it is impossible to stand erect in most of the vessels, and in some scarcely to sit down in the same posture. If the vessel be full, their situation is truly deplorable. In the best regulated ships, a grown person is allowed but sixteen inches in width, thirty-two inches in height, and five feet eleven inches in length, or to use the expressive language of a witness, not to so much room as a man has in his coffin.—They are indeed so crowded below that it is almost impossible to walk through the groupes without treading on some of them ; and if they are reluctant to get into their places they are compelled by the lash of a whip.—And here their situation becomes wretched beyond description. The space between decks, where they are confined,

often becomes so hot that persons who have visited them there have found their shirts so wetted with perspiration that water might be wrung from them; and the steam from their confined bodies comes up through the gratings like a furnace.—The bad effects of such confinement and want of air are soon visible in the weakness and faintness which overcomes the unhappy victims. Some go down apparently well at night and are found dead in the morning. Some faint below and die from suffocation before they can be brought upon deck.—As the slaves, whether well or ill, always lie upon bare planks, the motion of the ship rubs the flesh from the prominent parts of their body, and leaves their bones almost bare.—The pestilential breath of so many in so confined a state, renders them also very sickly, and the vicissitudes of heat and cold generate a flux—when this is the case (which happens frequently) the whole place becomes covered with blood and mucus like a slaughter house; and as the slaves are fettered and wedged close together, the utmost disorder arises from endeavours to relieve themselves in the necessities of nature; and the disorder is still further increased by the healthy being not unfrequently chained to the diseased, the dying, and the dead!!! When the scuttles in the ship's sides are shut in bad weather, the gratings are not sufficient for airing the room; and the slaves are then seen drawing their breath with all that anxious and laborious effort for life, which we observe in animals subjected to experiments in foul air or in an exhausted receiver of an air pump.—Many of them expire in this situation crying out in their native tongue “we are dying.”—During the time that elapses from the slaves being put on board on the African coast to their sale in the colonies about one fourth part, or twenty-five thousand per annum are destroyed—a mortality which may be easily credited after the preceding statement.

At length the ship arrives at her destined port, and the unhappy Africans who have survived the voyage are prepared for sale. Some are consigned to Brokers who sell them for the ships at private sale. With this view they are examined by the planters, who want them for their farms, and in the selection of them, friends and relations are parted without any hesitation; and when they part with mutual embraces they are severed by a lash. Others are sold at public auction and become the property of the highest bidder.—Others are sold by what is denominated a “scramble.” In this case the main and quarter decks of the ship are darkened by sails hung over them at a convenient height. The slaves are then brought out of the hold and made to stand in the darkened area. The purchasers who are furnished with long ropes, rush at a given signal within the awning, and endeavor to encircle as many of them as they can.

Nothing can exceed the terror which the wretched Africans exhibit on these occasions. A universal shriek is immediately heard—all is consternation and dismay—the men tremble—the women cling together in each other's arms—some of them faint away and others are known to expire.

About 20,000 or one fifth part of those who are annually imported die during the "seasoning," which seasoning is said to expire when the two first years of servitude are completed. So that of the whole number about one half perish within two years from their first captivity. I forbear to trace the subsequent scenes of their miserable lives worn out in toils, from which they can receive no profit, and oppressed with wrongs from which they can hope for no relief.

The scenes which I have described are almost literally copied from the most authentic and unquestionable narratives published under the highest authority. They present a picture of human wretchedness and human depravity, which the boldest imagination would hardly have dared to pourtray, and from which (one should think) the most abandoned profligate would shrink with horror. Let it be considered that this wretchedness does not arise from the awful visitations of providence in the shape of plagues, famines or earthquakes, the natural scourges of mankind; but is inflicted by man on man from the accursed love of gold.—May we not justly dread the displeasure of that Almighty being, who is the common father of us all, if we do not by all means within our power endeavor to suppress such infamous cruelties. If we cannot like the good Samaritan bind up the wounds and soothe the miseries of the friendless Africans, let us not like the Levite pass with sullen indifference on the other side.—What sight can be more acceptable in the eyes of heaven than that of good men struggling in the cause of oppressed humanity? What consolation can be more sweet in a dying hour, than the recollection that at least one human being may have been saved from sacrifice by our vigilance in enforcing the laws?

I make no apology, Gentlemen, for having detained you so long upon this interesting subject. In vain shall we expend our wealth in missions abroad for the promotion of christianity; in vain shall we rear at home magnificent temples to the service of the most High; if we tolerate this traffic, our charity is but a name, and our religion little more than a faint and delusive shadow.





