

ANOTHER SLAVE CATCHING OUTRAGE!!

Reported for The Tribune

NEWCASTLE, April 16, 1954

Before SAMUEL GUTHRIE, Esq., U. S. Commissioner.

*In the matter of Ned Davis, an alleged fugitive Slave,
claimed by William A. Dean of Macon, Ga.*

The hearing of this case was adjourned from the 13th inst. to allow time for the attendance of witnesses and counsel. The agent of the claimant appeared with G. B. Rodney, Esq., as his counsel. At the former hearing the following evidence had been submitted to the Commissioner on the part of the claimant: 1. A power of attorney from W. A. Dean to J. B. Cumming to institute proceedings to reclaim the fugitive. 2. A certified copy of the proceedings of the Orphan's Court of Harford County, Maryland.

In the matter of the State of Maryland *vs.* negro Ned Davis, prosecuted for a violation of the act of Assembly of 1839.

In the Orphan's Court of Harford County, August term, 1851, ordered by the Court, this 14th day of October, in the year (1751) eighteen hundred and fifty-one, that the said negro Ned Davis having been feuted guilty of the violation of said act of Assembly, be, and he is hereby adjudged, to pay a fine of twenty dollars and costs of his arrest, and all other costs which have been incurred by his violation of the said act of Assembly.

In testimony that the above is true transcript from the record of proceedings of the Orphan's Court of Harford County, in the office of the Register of Wills of said county I have hereto subscribed my name and affixed the seal of the Orphan's Court of Harford County, this tenth day of April, in the year of our Lord one thousand eight hundred and fifty-four.

C. W. BELLINGSLA,
Register of Wills.

3 A bill of sale from the Sheriff of Harford County to Dr. John G Archer of Louisiana, and the indorsements thereon marked A, B and C.

State of Maryland, Harford County, ss.—I, Robert McTan, Sheriff of Harford County, do hereby certify that whereas negro Ned Davis was found guilty by the Orphan Court of Harford County, a violation of the Act of Assen by of the State of Maryland, passed 1839, chapter 38, and the said negro having refused to pay the fine and costs as in the said law directed, I did, having first given the notice prescribed by the said law, expose the said negro at public sale at the Court House door in Bal Alir, and Dr John O. Archer of Louisiana being the highest bidder, became the purchaser of said negro, and I did sell this tenth day of November

Given under my hand and seal this tenth day of November, eighteen hundred and fifty-one.

ROBERT MCGAN, Sheriff.

Maryland. — I hereby certify that Robert McGan, Esq., who has given and signs the above and foregoing certificate, was at the time of so doing Acting Sheriff of Harford County, duly elected, commissioned and qualified.

In testimony whereof I have hereunto set my hand and affix the
 seal of the Circuit Court of Harford County this 6th day of January
 A. D. 1852. A. L. GASRETT, Clerk.

A. C. - For value received as the agent of Dr. John G. Archer, but deriving authority from his brother Stevenson Archer, I hereby sell, assign, transfer and set over to B. M. Campbell all of the sale of Dr. John G. Archer's right title and claim to within named negro Ned Davis. (For John G. Archer.) JOHN N. DENNING.

Baltimore, May 13, 1851.
B.—Mr. Campbell will please deliver to Mr. Denning the negro
men placed under his charge by me. STEVENSON ARCHER,
Nov. 27, 1851. Attorney for John G. Archer

A - Baltimore, June 7, 1852 - Received of Wm. A. Dean \$300 for the within negro, Ned Davis, sold agreeably to the order of the Court.
B. M. CAMPBELL.

Deposition of John B. McFadden, who being duly sworn, deposed and says: I live in Harford County, Md.; I know the boy here in present; I was present at the time he was sold by the Sheriff of Harford County; I bought him at that sale for Mr. Archer; I told him the boy; he went by the name of Edward or Ned Archer; I told him I took him to Baltimore for the direction; Stevenson Archer got him to sell, the sale was his brother, John Archer; I left him with him to sell, the sale was on the 10th November, 1851; he was sold at the Court House door at public sale; the Sheriff's name was Robert McHane; John Archer resides in Louisiana.

Robert ARCHER, a black man, had no power from John Archer; I paid the amount of his fine and fees, about \$20; he remained in Bel Air one or two days. I took him to Baltimore at the request of Stevenson Archer; I did not pay the Sheriff. I saw a check which S Archer gave the Sheriff for the money; I took him out early in the morning and arrived in Baltimore between 8 and 9 o'clock. When he was being taken to the jail, he was not brought out by the Sheriff, 21 miles from Baltimore, where he was supposed to be taken; he remained in jail and was a little distressed from the cold. I saw the Sheriff, and he told me the property of Mr Archer. JOHN B. McADDEN, of Cambridge, Maryland, called this 12th of April A D 1854 before me, and

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SAML. GUTHRIE, Commissioner.

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The Hon. John Wales of Wilmington, and John C. Groome, Esq. of Boston, appeared in behalf the respondent.

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negro. In a similar case in Cecil County, he had succeeded in obtaining the freedom of a negro woman who had been convicted under this law on account of a defective record, which was not half so rotten as this. We slaveholders want no slaves who are not legally our property.

Mr. Wales said he could not agree with his colleague in calling the act of 1839 a good law. It was a highly penal and stringent provision, not to mention it by any harsher name. The Fugitive Slave law is founded upon the 4th article of the Constitution of the United States section 2. It has not been proved here that Ned Davis owes service or labor to any one under the laws of Georgia. The penal laws of one State do not extend to another. The sentence of the Orphan's Court gives no authority beyond the State of Maryland. A person who is incompetent to be a witness in one State by conviction of an infamous crime is not followed by that disability wherever he may go. The claimant assumes to execute the penal laws of Maryland in Georgia. The penal laws of one country do not extend to another. (Story's Conflict of Laws, 1613, sec 619.) The record has been demolished by my colleague. The proceedings do not give the name of the informer, or the nature of the offense; nor do they set forth that the fine was not paid, nor to whom it was payable, and these cannot be proved by oral testimony. Nothing can be taken by intendment. The Sheriff is not a judicial officer. A *prima facie* title will not answer. The idea of slavery in this case is rebutted by the admitted fact that Ned was free prior to 1851. Numerous authorities were cited by the counsel for the respondent.

Mr. Rodney, in reply—What power has the Commissioner to review the judicial proceedings of the Orphan Court of Harford County? "Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State." (United States Constitution, Art 4, Sec 1.) What sort of faith would be given to this record to treat it as a nullity. It appears by the act of 1839, and from the whole proceedings, what offense the negro was found guilty of? You have it in evidence what act he committed. If we had brought nothing here but the record, it would be a lame case, but we have the Sheriff's bill of sale. The penal law of Maryland spent itself in that State and changed the character of this boy from a negro to a slave. It is difficult to relieve the mind of sympathy, but how many poor fellows have been sent into slavery for more trivial offenses than the one committed by Ned. Perhaps before the proper tribunal, under different circumstances, and with the proper evidence his freedom might be established. This is an *ex parte* proceeding, and the Commissioner will be guided by a proper construction of the Fugitive Slave law. The principles of law cited on the other side are all good and true, but are inapplicable to this case. It is sufficient for me to show one act of 1839 which sustains the record. All the objections go back to the conviction. The act of 1839 may be wrong, and we may all condemn it; but with this the Commissioner has nothing to do and under the proofs will have to make out the certificate of delivery.

The above is but an outline sketch of the arguments of counsel which occupied nearly five hours.

The Commissioner reserved his decision. [It has since been rendered in favor of the claimant.]

Mr. Keyser, counsel of Philadelphia and Savannah Steam Company, and who appeared for Capt. Hardie at the committal of the negro, was present, but took no part in the cause.

Extract from the Act of 1839 Chap 33, Laws of Maryland.

"No free negro or mulatto belonging to or residing in any other State is permitted to come into Maryland, whether such free negro or mulatto intends settling in this State or not, under the penalty of twenty dollars for the first offense; and so free negro or mulatto shall come in this State a second time where he or she has been arrested under the provisions of this act, under the penalty of five hundred dollars, the one-half of said sum of five hundred dollars to the informer and the other half to the sheriff for the use of the Colonization Society of the State of Maryland to be recovered on complaint and conviction before the County Court of the County, or during the recess the Orphan's Court of said county in which he or she shall be arrested; and any free negro or mulatto refusing or neglecting to pay said fine shall be committed to the jail of the county, and shall be sold by the sheriff at public sale to the highest bidder, whether a resident of this State or not, first giving ten days notice of such sale, to serve in the character and capacity of a slave."