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A NOTABLE TRIAL FOR SLAVE-TRADING

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The traditional attitude of Britain toward Slavery and the Slave Trade is well known. England having in 1772, by the judgment of the Court of King's Bench in the Case of James Sommersett, a Negro, declared that Slavery should have no footing within her borders; Ireland considering herself bound by the decision of the English Court, and Scotland having in 1778 through the Court of Session in the case of *Knight* v. *Wedderburn* settled for all time that slavery—at least of the nature of Negro slavery—should be alien from her glens, the United Kingdom (including Ireland, when she joined the Union) had a practically consistent policy looking toward the total abolition of human slavery throughout the world. Within the territory of the British Isles were many merchants who invested large sums of money in the infamous trade in Negroes; and, as was to be expected, they and their friends raised all kinds of obstacles against its destruction, involving the loss of large profits to the undertakers in the business.

The friends of freedom and humanity toward the Negro continued and increased their efforts; and finally the epochal Slave Trade Act (1824) 5 George IV, cap. 113 (Imp.) was passed by the Parliament of the United Kingdom which was intended to put an end to the touching of the unclean thing by the people of the British Isles.[1]

This Act forbade (except in certain specified cases, not of importance here) all dealing in slaves, removing, importing, shipping, transshipping, etc., any persons as slaves; fitting out, employing, etc., any ships for such purposes; lending or supplying money, credit, etc., for slaving—and all the like practices, those violating the statute to be guilty of a felony.

The Statute was intended and expected to be the means of clearing the skirts of the United Kingdom of the shame which was becoming more and more felt. But money, the shyest of all things where loss is to be feared, proverbially has no conscience; and it was more than suspected that some of the merchants were using their money in schemes involving the shipping of slaves to countries in which slavery was still legal. Dr. Richard Robert Madden, a strong friend of the Negro, his zeal for whom had embroiled him with the Planters of Jamaica, was in 1841, sent by the Melbourne Administration, as a

Commissioner to the West Coast of Africa to inquire into the British Settlements there, Sierra Leone, Gambia and the Gold Coast. On his return, he made four elaborate Reports to the Government, one of which was purely medical and does not concern us here; the other three contained matter of the utmost importance affecting the connection of British subjects with the trade, legally and illegally carried on in the Settlements. These were considered by the new Government of Sir Robert Peel which came into power at the General Election, to treat "of matters of the greatest importance and secrecy" and Lord Stanley, being asked when the Reports would be laid on the Table, said that "He should not feel himself warranted in laying on the Table of the House, the whole of these matters": 59 *Hansard Parliamentary Debates* (1841), col. 1004.

But some parts were laid before the House; and from them it appeared that a British vessel, commanded by a British subject, and sent out by a London House, the ship being called the *Augusta,* had been captured having on board merchandise adapted for slave-trading, and notorious at all the factories on the coast of Africa as aiding and abetting the slave trade and had been condemned by the Vice-Admiralty Court. The London House of Messrs. Zulueta & Co. was known to be the House which had made the shipment and Lord Stanley directed a copy of the Report to be sent to them; they wrote Stanley that they were the shippers but the cargo consisted of not only legal but even unsuspected merchandise, that they were mere shipping agents and possessed no control, direct or indirect, over either vessel or goods from the moment they left England.

A few days before this, Lord Stanley had had a Motion agreed to in the House of Commons, March 22nd., 1842; 61 *Hansard Parliamentary Debates,* coll. 1105, 1108; for the appointment of a "Select Committee to inquire into the state of the British possessions on the West Coast of Africa, more especially with reference to their present relations with the neighboring native tribes." The London House disclaimed any interest in the Committee or its labors, and the Committee went on with its duties; the evidence taken is of considerable importance from certain points of view, but little of it requires notice here.

But a witness of apparent weight said before the Committee: "Zulueta, the gentleman in London . . . is a name well known on the coast in connection with the slave trade": "Zulueta was known at Sierra Leone as the correspondent of the largest slave dealer on the Coast, Pedro Blanco": "his sole occupation was the slave trade": "Mr. Zulueta's former connection with the Gallinas slave dealers shows

that his course of trade with the Gallinas was one liable to exception," etc., etc.—much indicating that the London House was actively engaged in furthering the prohibited traffic.

Lord Sandon, the Chairman of the Committee, caused a copy of the evidence to be sent to Zulueta & Co., "in which your house is mentioned" and acquainted them "that if you are desirous of making any statement thereon, either personally or by letter, the Committee will be ready to receive the same." Thereupon Pedro de Zulueta, Jr., tendered himself as a witness, and was examined by the Committee on several days and at great length.

He testified that his House had been established upwards of 70 years in Spain and nearly 20 years in England, having connection, *inter alia* with Pedro Martinez & Co. of Havanna; that from this House, they had received orders for nearly 20 years for shipments to the West Coast of Africa, and that so far as the *Augusta* was concerned, all they had to do with it was that Blanco wanted to buy the ship and they honored his drafts on money in their hands belonging to him; and all their dealings on the West Coast were filling orders for Martinez. A very considerable amount of evidence was given, which, if believed, would exculpate the London Firm of violation of the Act of 1824. It is quite safe to say that his evidence was received with incredulity in several quarters, including The British and Foreign Anti-Slavery Society, a body of men, many of them wealthy, many of high rank, and most of great moral earnestness who had set themselves to destroy the evil thing. The evidence being given in July, 1842, nothing was done in the way of prosecution till August, 1843, when a charge was laid against him by Sir George Stephen of Slave Trading and another of Conspiracy. The Central Criminal Court then sitting, the Grand Jury found True Bills against him on both charges. Arrested and arraigned, he pleaded Not Guilty and was tried before the Central Criminal Court, presided over by Mr. Justice Maule and Mr. Justice Wightman, Mr. Commissioner Bullock being associated with them.

The proceedings at the Trial are in part reported in 1 Carrington & Kirwan's Reports of Cases at Nisi Prius, pp. 215, *sqq*: but a more extended report is contained in a publication by Zulueta himself: *Trial of Pedro de Zulueta, Jun., on a Charge of Slave Trading . . .* London, 1844. This is an 8vo. of 410 pages in which are contained not only the proceedings at the Trial but also the proceedings before the Committee of the House of Commons, and an elaborate statement in the way of Preface by the defendant, full of complaint as to the

way he was used and the injustice of the whole prosecution. This is of little force—how anyone reading the Report of Dr. Madden and the evidence before the Committee could say that the prosecution was an unfounded and cruel persecution passes my comprehension. A brief résumé will, I think, show the propriety of the action taken. Dr. Madden has reported that "a British vessel, commanded by a British subject, the *Augusta* dispatched by a London house, was captured by Lieutenant Hill of His Majesty's Ship *Saracen,* having merchandise on board adapted for the slave trading factories, and having a direct destination to one of these. . . . The *Augusta,* a notorious slaver, had been captured only a few months before under the name of the Gollupchik and under Russian colors and she was found again on the Coast, under the British flag, the property of London merchants. The Spanish slave trader, who was Captain of the Gollupchik, when captured by the *Saracen* . . . ." Before the Committee, it was sworn that Gallinas to which the *Augusta* was consigned was a place with no trade but the Slave Trade, all legitimate trade having been destroyed by it; it had slave barracoons with chains and fetters for the detention of slaves and no other facilities for trade; that the ship *Augusta* had the record given it by Dr. Madden, that when sold, it was bought at Portsmouth through the Zulueta firm, that they advanced the money to fit her out, pretending that one Jennings was the owner: that they shipped the cargo, which was precisely such as all admitted the slave trade required, to Martinez, the most notorious slave dealer, the cargo to be delivered to three notorious slave dealers; witnesses did not hesitate to say that they must have been aware that the goods were to be used in that trade; and that "Zulueta . . . is a name well known on the Coast in connection with the slave trade," etc., etc. Zulueta in his evidence admitted that he knew Martinez was a dealer in slaves, that the Ship had been bought on money advanced by his firm that they had made the shipment; but denied that they or he had any knowledge of intention to use them in that way. I venture to think that any lawyer would advise that there was a *prima facie* case.

The actual trial began October 27th, 1843, at the Old Bailey, the prisoner being admirably defended by Fitzroy Kelly (afterwards known as "Applepip Kelly"—but that's another story—and then Lord Chief Baron Kelly), Clarkson and Bodkin (who afterwards became the celebrated Crown Prosecutor), while the Crown was represented by Sergeant Bompass (said by some to have been the original of Sergeant Buzfuz, who led for the plaintiff in the well known case of (*Bardwell* v. *Pickwick*), Sergeant Talfourd (afterwards Mr. Justice Tal-

fourd, better known in literature than in law), and Mr. Payne (of Carrington & Payne). There were two Indictments in the old Common Law form of intolerable length: but boiled down, the charges amounted to a violation of the Statute of 5 George IV, already mentioned.

The Report in C & K is only concerned with the motion made by Counsel for the Prisoner that his client might be allowed to sit beside him to interpret the Spanish documents, expected to be produced. The rule in the English Courts (and in those of Ontario, so long as the distinction was recognized) being that in cases of Misdemeanor, this was permitted, but except by leave of the judge, not in cases of Felony—in Felony, the Prisoner sat in the Dock, not in the Well of the Court at the Barristers' Table. The application was denied in Zulueta's case.

The whole trial was conducted with great skill and ability: as there was no real dispute as to the facts, the whole question being as to the prisoner's knowledge—as a sample of what was to be expected from Mr. Justice Maule, I but quote his statement as to hearsay evidence: "We cannot even take the word of a king, so extreme is our repugnance to hearsay evidence." It is true he was talking of a "native king," but there is no reason to suppose that he would have limited the ruling to native kings.

Kelly made an eloquent and powerful—in some parts, rather viperish—address for the accused, the Crown Prosecutors waived their right to reply. Maule summed up impartially and the Jury acquitted. This was on the Felony charge: the Crown Counsel, saying that they rejoiced in the result, took a verdict of "Not Guilty" on the Indictment for Conspiracy: and the prosecution was at an end.

No one, I think, can read the proceedings without coming to the conclusion that Zulueta might well have been convicted: but suspicion is not proof, and the verdict was justified.

The acquittal was the subject of much unfavorable comment, and the cause of much searching of heart on the part of those interested in human liberty: and one is not astonished to find the Committee of the British and Foreign Anti-Slavery Society regarding the trial "as an event of the highest interest and importance," and feeling it their "duty to express their sentiments on the state of things which has been developed by it." They noted the shameful facts that "articles of British manufacture are principally used on the Coast of Africa in barter for slaves," that "although a British merchant may furnish supplies to the most notorious slave dealers in the world . . . the evidence . . . is of such a nature that it is extremely difficult,

if not almost impossible, to prosecute such an offender to conviction," that "the practice . . . is not regarded with the sentiments due to its flagitious character." It is no wonder that the Committee were confirmed in the "principle . . . that the only effective mode by which the slave trade can be abolished is the abolition of slavery itself."

Although the trial of Zulueta did not result in a conviction, the disclosures made had no little to do with the cessation of the scandalous practice of British merchants—and Liverpool was by no means the only, if the worst offender—clandestinely and with the guise of legitimate trade assisting the villainous traffic.