

Famous South Bend Fugitive Slave Trial

By far the most famous incident of these years was known as the South Bend Fugitive Slave Case. So important was this trial in its bearing upon the subject, so remarkable the charge of the Judge, so unjust the verdict, that the Anti-Slavery Society of New York published the proceedings in pamphlet form for distribution to the public. Mr. Edward B. Crocker, who occupied a prominent place in the trial as one of the lawyers for the defence of the alleged slaves, wrote an account of the proceedings. The late Mr. Beal republished the pamphlet in 1873 and we quote from one of the few copies in existence.

"John Norris, of Boone County, Kentucky, the plaintiff, resided on the south bank of the Ohio River, about one mile and a half below the town of Lawrenceburg, Indiana. He claimed to own, as slaves, a family consisting of David Powell, his wife Lucy, and four children, Lewis, Samuel, George and James. During the night of Saturday, October 9 1837, David disappeared from Kentucky. The alarm was given next morning and about forty persons started in pursuit. Norris and a party in his employ hunted through southern Indiana for about two months without success, though they found articles of clothing belonging to the fugitives at several places. In September 1849, Norris started with a party of eight men and about midnight of the twenty-seventh of that month, they forcibly broke into a house about eight miles from Cassopolis, Cass county, Michigan, occupied by Mr. Powell's family. The house was in the woods about half a mile from any other dwelling. Mr. Powell and his son,

Samuel, were absent from home at the time. Norris and his party drew their pistols and bowie knives and compelled the mother and three children to rise from their beds and follow them. Some they bound with cords and hurrying them off to their covered wagons, they started post-haste for Kentucky, leaving a portion of their company at the house to prevent the other inmates from giving the alarm. After a while the alarm was given and pursuit commenced. A neighbor, Mr. Wright Maudlin, overtook them about noon near South Bend about thirty miles from where they started. Mr. Maudlin applied to Mr. E. B. Crocker, Esq., stated what he knew of the circumstances, that he had no doubt the family were free, that he had known them for some time as quiet and industrious persons and never heard any intimation that they were slaves. They had purchased a small tract of land on which they resided at the time of their abduction and were laboring to pay for it.

A writ of habeas corpus was issued by the Hon. Elisha Egbert, probate judge of St. Joseph county, and placed in the hands of Russell Day, deputy sheriff, for service. Mr. Day, learning that the Kentuckians were armed, called upon several citizens to accompany him in serving the writ. In the meantime a report was spread that a party of kidnappers with their captives was in the vicinity. Anxiously inquiring into the matter, the deputy with his company overtook the Kentuckians about one mile south of town where they had stopped to feed their horses. The latter were well-armed and made quite a display of their weapons showing a disposition to resist all legal proceedings. After considerable parley in which they were made to understand that they could not proceed without a fair trial, the Kentuckians at last consented to go back to town and proceed to trial on the writ. By this time about thirty or forty persons had arrived from town, two of whom brought guns, but no violence was attempted although the people were greatly excited. At the request of Norris the captives were placed in jail until he could procure counsel. In a short time he engaged Messrs. Liston and Stanfield. Messrs. Deavitt and Crocker appeared on behalf of the captives. Norris and his counsel were granted time to prepare their defence and after an hour or more made a return to the writ of habeas corpus.

A Scene of Great Excitement

The courthouse was crowded with an anxious audience listening to the argument and decision. Everything was conducted with order and propriety and no one, we presume anticipated the scene which followed the announcement of the decision. The judge spoke in a very low voice so that few heard him. As soon as he had concluded, Mr. Crocker announced the decision in a loud voice. Norris, in the meantime, had gathered his men around the captives and the moment the decision was announced, they seized them with one hand, brandishing their weapons with the other, threatening to shoot the man who interfered. This scene took place while the judge was still sitting on the bench and before any adjournment had been announced.

Everything had been perfectly quiet up to this point, but

upon this display of force, the people rose to their feet, some ran out and spread the alarm through the town, others crowded around the Kentuckians and their captives, calling upon them to put up their weapons. Mr. Liston jumped upon a table and called upon the Kentuckians to shoot any one who interfered and said they would be justified in doing so. His language was most violent and abusive toward the citizens and did much to fan the excitement. The citizens were entirely unarmed and notwithstanding the excitement, no attempt was made to rescue the captives by force. At last the Kentuckians put up their weapons, the excitement subsided, and at the request of Norris, the sheriff locked the captives in jail for safe keeping.

As soon as it was known that Mr. Powell's wife and children had been carried off, several large parties, many of whom were armed, started in pursuit, but it was not until Saturday that they learned the direction taken. During Saturday and Sunday, numbers of these colored persons, estimated at from seventy to two hundred, arrived in South Bend, many of them in a highly exasperated state, though they conducted themselves with great coolness and propriety under the circumstances. The court had ordered the captives discharged. Their colored friends and neighbors immediately came forward, conducted them out of the Court House to a wagon and quietly rode off home with them. On the bridge adjacent to the town, they halted and made the welkin ring with their three cheers for liberty. They rode off singing the songs of freedom, rejoicing over the fortunate escape of their friends from the horrible fate of slavery. Thus ended one of the most exciting scenes ever witnessed in Northern Indiana.

On December 21, 1849, Norris commenced suit in U. S. Circuit court for the district of Indiana against Leander B. Newton, George W. Horton, Edwin B. Crocker, Solomon W. Palmer, David Jordon, William Willington, Lot Day, Jr. Amable M. LaPierre and Wright Maudlin to recover the value of the negroes and other damages. The declaration fine charged the defendants with having knowingly harbored and concealed and aided the four negroes to escape from the plaintiff, stating them to be worth \$2,000.

The Judge's Outrageous Charge

After a series of remarkable proceedings in which demurrers were unceremoniously overruled and motions decided upon mere technical objections, Judge Mc Lean gave to the jury the most outrageous charge probably even given by a judge; and the jury returned a verdict for the plaintiff and assessed the damages at \$3,856. One of the most remarkable statements in the judge's charge was "every person of the large crowd in the Court House or out of it who aided, by words or action, the movement which resulted in the escape of the fugitives is responsible". Mr. Crocker said, in explanation of the extreme attitude of Judge Mc Lean that when the judge came upon the bench, he had just left Washington, D. C. where he had been hearing disunion threats all winter. With the nervousness of a presidential aspirant, he no doubt felt sincerely desirous that the Union should be held together at any sacrifice; and it is not strange, therefore, that in his charge to a jury where the claims of a slave-holder were in litigation, in

which, too, the argus eye of the slave powers was upon him, he should so far forget himself as to bring the political agitations of the country to bear upon a jury to decide a simple question of damaged between private citizens. We leave it to the reader to decide how far the rights of free men are secure in courts where presidential aspirants sit as judges. But his decision in this case did not help big political prospects for Mr. Bugbee went to the convention in Chicago with this charge and several others of similar sentiments, prepared to scatter them broadcast if there was any prospect of Mc Lean's nomination.

But this is not all. Norris obtained judgement for \$2,856 damages and costs taxed at \$1,632.66, (large sums in those days) in June, 1852; execution was issued on the judgment in June, 1851, and in August, 1851, the marshal returned the execution, 'no property found.' It was alleged that the defendants had transferred real estate to avoid judgement. It was necessary to prove this and a number of interrogatories were issued, among others to Mr. Almond Bugbee. It was said that the judge asked Mr. Liston where they would get the costs of the interrogatories and was told, "Oh, there's Bugbee and the 'State Bank, d--d abolitionists; make them pay. Mr. Bugbee answered his interrogatory, through his attorneys, that he had bought the real estate at sheriff's sale on a fore-closed mortgage which the State Bank held, and heard no more about the matter until he saw his property advertised for sale to satisfy the cost of the interrogatories. The bank had never received an interrogatory and no decree was issued against the bank or against Mr. Bugbee. Nevertheless the costs of the suit were awarded against him and while the suit was still pending, an oddly premature proceeding. Mr. Bugbee's attorneys made vigorous efforts to rectify these glaring errors but without success. It would have cost more to appeal to the Supreme Court than the sum awarded, so the innocent victims paid it, a high price indeed for loyalty to a cause.