

**RECLAMATION OF FUGITIVES FROM  
SERVICE: AN ARGUMENT FOR THE  
DEFENDANT, SUBMITTED TO THE SUPREME  
COURT OF THE UNITED STATES, AT THE  
DECEMBER TERM, 1846 IN THE CASE OF  
WHARTON JONES VS. JOHN VANZANDT**

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Reclamation of Fugitives from Service: An Argument for the Defendant, Submitted to the Supreme Court of the United States, at the December Term, 1846 in the Case of Wharton Jones vs. John Vanzandt by S. P. Chase

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**S. P. CHASE**

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AN ARGUMENT

FOR THE DEFENDANT,

SUBMITTED TO

THE SUPREME COURT OF THE UNITED STATES,

AT THE DECEMBER TERM, 1846,

IN THE CASE OF

WHARTON JONES VS. JOHN VANZANDT.

*Salmon Pottowatt*  
BY S. P. CHASE.

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## ARGUMENT.

MR. CHIEF JUSTICE AND JUDGES:

I beg leave to submit to your consideration an argument in behalf of an old man, who is charged, under the act of Congress, of February 12, 1793, with having concealed and harbored a fugitive slave.

Oppressed, and well nigh borne down by the painful consciousness, that the principles and positions, which it will be my duty to maintain, can derive no credit whatever from the reputation of the advocate, I have spared no pains in gathering around them whatever of authority and argument the most careful research, and the most deliberate reflection could supply. I have sought instruction wherever I could find it; I have looked into the reported decisions of almost all the state courts, and of this court; I have examined and compared state legislation and federal; above all, I have consulted the constitution of the Union, and the history of its formation and adoption. I have done this, because I am well assured, that the issues, now presented to this court for solemn adjudication, reach to whatever is dear in constitutional liberty, and whatever is precious in political union. Not John Vanzandt alone—not numerous individuals only—but the States also, and the Nation itself must be deeply

affected by the decision to be pronounced in this case. I ask, therefore—and the character of this venerable court strongly assures me I shall not ask in vain,—for a deliberate, unprejudiced, and thorough examination of the several positions I shall assume, and of the reasonings and arguments by which they are defended.

I shall discuss the issues, presented by the record, with freedom and with earnestness: but I shall advance nothing in the character of a mere advocate, bound to his cause only by his retainer. When great questions, affecting the most sacred personal rights of the People, and the most delicate relations of the States, and the most important duties of the Government, are to be examined before a tribunal clothed with the awful and affecting responsibility of final decision, it ill becomes a lawyer, called to bear a part in the discussion, to strive for victory in disputation, or the triumph of a side. I shall do no such violence to my own convictions of right and duty, as to urge here any argument or statement for which I am not willing to be held responsible as a citizen and as a man.

And here I will frankly say, at the outset, what all must know, that the counsel for the defendant cannot but feel.—I am, I confess, somewhat embarrassed by the peculiar constitution of the tribunal which I address.

I do not, indeed, permit myself to doubt that every consideration of interest, and every feeling of prejudice will be, as far as practicable, excluded from all influence upon the decision of the Court. On the contrary, the expectation, which I indulge with confidence, of a decision favorable to the defendant upon some of the questions presented by the record, is fully sanctioned by the weight of reason and authority, which the impartiality



of judges in slaveholding states has supplied, or has greatly increased.

Other questions, however, are presented and must be discussed, in the argument of which I must expect to encounter some hostile prepossession, opinion and authority. My fear is, that what I shall deem it my duty to advance on these questions, may be regarded by the Court as a rash attempt to unsettle established doctrines, and, by some of the members of the Court, as an unwarrantable attack upon constitutional guaranties, in which they, with many other citizens, have a peculiar interest.

I ask, however, for a dispassionate hearing. If what I urge has not the sanction of reason and truth, let it be condemned: if it has, I trust it will prevail—I am sure it will ultimately prevail—whatever opinion and authority may stand in the way. Opinion and authority may stand for law, but do not always represent the law. There was a time, and a long time, when opinion and authority condemned as rash the doctrine that juries possess the right to determine, in libel cases, not merely the question of publishing, but the general question of libel or no libel; and yet the earlier advocates of the doctrine lived to see it established as law. So, for many years, opinion and authority sanctioned the doctrine that slaves might be held in England; but, after thorough investigation, this doctrine was overthrown, and that maxim, so fraught with important results, established, that slavery is strictly local, and cannot be extended beyond the territorial limits of the state allowing it.

Encouraged by these recollections, and assured of the disposition of the Court to ascertain and declare the law, whatever it may be, I shall proceed to state the facts out

of which the questions before the Court have arisen. I make this statement, partly from the abstract of the evidence contained in the report of the case by Mr. Justice McLean, and partly from my own notes and recollection, because it seems to me that a general knowledge of the facts of the transaction will conduce to a clearer understanding of questions of law.

The defendant, John Vanzandt, is an old man, of limited education and slender means, but distinguished by unquestioned integrity and benevolence of heart. He is a farmer, occupying a small property in the neighborhood of Cincinnati, and maintaining himself and family by the sale of its products in the markets of the city. On Saturday, the 23rd day of April, 1842, after attending the market as usual, he went out of the city to Walnut Hills, where he passed the night with a friend. The next morning, when he rose very early to go home, he found in the road a company of negroes, consisting of a middle aged man, his wife, their children, the wife's mother, and two or three other persons,—nine in all. These persons, it appears, had escaped from slavery in Kentucky, and had been conducted, some twelve miles or more, from where they crossed the Ohio, to Walnut Hills. Vanzandt saw them for the first time in the road where he found them. He had nothing to do with their escape. But, upon their solicitation, or that of the person who had conducted them to Walnut Hills, he undertook to convey them in his wagon to Lebanon or Springborough, thirty or thirty-five miles northward from Cincinnati. There was no evidence that he had any positive knowledge that they were fugitives from slavery, or any information whatever on the subject, except what he derived from the

statements of the negroes themselves. He *believed*, doubtless, that they were fugitive slaves, but he had no notice whatever,—unless such intelligence as this be notice,—that the negroes had been held to service or labor in Kentucky under the laws thereof, and had escaped from that state into Ohio.

Under these circumstances he received them into his wagon, which was a covered vehicle of the kind commonly used by farmers attending the markets, and proceeded towards Springborough. One of them, a man named Andrew, took his seat in front, in open view, as the driver of the wagon.

They had travelled about fifteen miles in four hours, when their farther progress was arrested by two bold villains, who, without any legal process, without any authority or request from any claimant or any other person, in broad day, in open breach of the laws of Ohio, undertook to seize the blacks and carry them out of the state by force, on suspicion that they were fugitive slaves. In this daring and criminal attempt they were successful, except as to Andrew, the driver, who leaped from his seat, and escaped.

All the negroes had been the slaves of Wharton Jones, the plaintiff, and all of them, except Andrew, were recovered. He never returned.

Under these circumstances the plaintiff prosecuted two suits against Vanzandt: one in case, to recover the damages he had sustained by reason of the loss of Andrew, and the expenses of recapturing the others, and another in debt to recover the penalty of five hundred dollars given by the Act of 1793. The first of these actions is still pending in the Circuit Court: the second, which was