THE TRIAL OF THEODORE PARKER: FOR THE "MISDEMEANOR" OF A SPEECH IN FANEUIL HALL AGAINST KIDNAPPING, BEFORE THE CIRCUIT COURT OF THE UNITED STATES, AT BOSTON, APRIL 3, 1855

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649293803

The trial of Theodore Parker: for the "misdemeanor" of a speech in Faneuil Hall against kidnapping, before the Circuit Court of the United States, at Boston, April 3, 1855 by Theodore Parker

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

www.triestepublishing.com

THEODORE PARKER

THE TRIAL OF THEODORE PARKER: FOR THE "MISDEMEANOR" OF A SPEECH IN FANEUIL HALL AGAINST KIDNAPPING, BEFORE THE CIRCUIT COURT OF THE UNITED STATES, AT BOSTON, APRIL 3, 1855

Trieste

THE TRIAL

OF

THEODORE PARKER,

FOR THE

"MISDEMEANOR"

OF

A Speech in Faneuil Hall against Kidnapping,

BEFORE THE CIRCUIT COURT OF THE UNITED STATES,

AT BOSTON, APRIL 3, 1855.

WITH

THE DEFENCE,

BY

THEODORE PARKER,
MINISTER OF THE TWENTY-EIGHTH CONGREGATIONAL SOCIETY IN BOSTON.

BOSTON:
PUBLISHED FOR THE AUTHOR.
1855.

CAMBRIDGE:
ALLEN AND FARNHAM, PRINTERS.

TO

JOHN PARKER HALE

AND

CHARLES MAYO ELLIS,

MAGNANIMOUS LAWYERS,

FOR THEIR LABORS IN A NOBLE PROFESSION,

WHICH HAVING ONCE IN ENGLAND ITS KELYNG, ITS SAUNDERS, ITS JEFFREYS, AND ITS SCROGGS, AS NOW IN AMERICA ITS SHARKEY, ITS GRIER, ITS CURTIS, AND ITS KANE, HAS YET ALSO SUCH GENEROUS ADVOCATES OF HUMANITY AS EQUAL THE GLORIES OF HOLT AND ERSKINE, OF MACKINTOSH AND ROMILLY,

FOR THEIR ELOQUENT AND FEARLESS DEFENCE OF TRUTH, RIGHT, AND LOVE,

THIS VOLUME IS DEDICATED,

BY THEIR CLIENT AND FRIEND,

THEODORE PARKER.

PREFACE.

TO THE PEOPLE OF THE FREE STATES OF AMERICA.

Fellow-Citizens and Friends,—

If it were a merely personal matter for which I was arraigned before the United States Court, after the trial was over I should trouble the public no further with that matter; and hitherto indeed, though often attacked, nay, almost continually for the last fourteen years, I have never returned a word in defence. But now, as this case is one of such vast and far-reaching importance, involving the great Human Right to Freedom of Speech, and as the actual question before the court was never brought to trial, I cannot let the occasion pass by without making further use of it.

When Judge Curtis delivered his charge to the Grand-Jury, June 7th, 1854, I made ready for trial, and in three or four days my line of defence was marked out — the fortifications sketched, the place of the batteries determined; I began to collect arms, and was soon ready for his attack. When that Grand-Jury, summoned with no special reference to me, refused to find a bill and were discharged, I took public notice of the conduct of Judge Curtis, in a Sermon for the Fourth of July.[1] But I knew the friends of the fugitive slave bill at Boston and Washington too well to think they would let the matter sleep; I knew what arts could be used to pack a jury and

[1] 2 Parker's Additional Speeches, 178 – 283.

procure a bill. So I was not at all surprised when I heard of the efforts making by the Slave Power in Boston to obtain an indictment by another grand-jury summoned for that purpose. It need not be supposed that I was wholly ignorant of their doings from day to day. The arrest was no astonishment to me. I knew how much the reputation of this Court and of its Attorney depended on the success of this prosecution. I knew what private malignity was at work.

After my arraignment I made elaborate preparation for my defence. I procured able counsel, men needing no commendation, to manage the technical details which I knew nothing about and so could not meddle with, while I took charge of other matters lying more level to my own capacity. I thought it best to take an active part in my own defence,— for the matter at issue belonged to my previous studies and general business; my personal friends and the People in general, seemed to expect me to defend myself as well as I could.

A great political revolution took place between the Judge's charge and my arraignment, June 7th, and November 29th, 1854, and I thought the Court would not allow the case to come to open argument. For certainly, it would not be a very pleasant thing for Judge Sprague and Judge Curtis, who have taken such pains to establish slavery in Massachusetts, to sit there — each like a travestied Prometheus, chained up in a silk gown because they had brought to earth fire from the quarter opposite to Heaven — and listen to Mr. Hale, and Mr. Phillips and other anti-slavery lawyers, day after day: there were facts, sure to come to light, not honorable to the Court and not pleasant to look at in the presence of a New England community then getting indignant at the outrages of the Slave Power. I never thought the case would come to the jury. I looked over the indictment, and to my unlearned eye it seemed so looped and windowed with breaches that a skilful lawyer might drive a cart and six oxen through it in various directions; and so the Court might easily quash the indictment and leave all the blame of the failure on

the poor Attorney — whom they seemed to despise, though using him for their purposes — while they themselves should escape with a whole reputation, and ears which had not tingled under manly speech.

Still, it was possible that the trial would come on. Of course, I knew the trial would not proceed on the day I was ordered to appear — the eighty-fifth anniversary of the Boston Massacre. It would be "unavoidably postponed," which came to pass accordingly. The Attorney, very politely, gave me all needed information from time to time.

At the "trial," April 3d, it was optional with the defendant's counsel to beat the Government on the indictment before the Court; or on the merits of the case before the Jury. The latter would furnish the most piquant events, for some curious scenes were likely to take place in the examination of witnesses, as well as instruction to be offered in the Speeches delivered. But on the whole, it was thought best to blow up the enemy in his own fortress and with his own magazine, rather than to cut him to pieces with our shot in the open field. So the counsel rent the indictment into many pieces — apparently to the great comfort of the Judges, who thus escaped the battle, which then fell only on the head of the Attorney.

At the time appointed I was ready with my defence — which I now print for the Country. It is a Minister's performance, not a lawyer's. Of course, I knew that the Court would not have allowed me to proceed with such a defence — and that I should be obliged to deliver it through the press. Had there been an actual jury trial, I should have had many other things to offer in reference to the Government's evidence, to the testimony given before the grand-jury, and to the conduct of some of the grand-jurors themselves. So the latter part of the defence is only the skeleton of what it otherwise might have been, — the geological material of the country, the Flora and Fauna left out.

It would have been better to publish it immediately after the decision of the case: but my *brief* was not for the printer, and as many