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WILLIAM H. SEWARD AT THE BAR.

Trials and Incidents.

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THIS work was recently published in the Albany Law Journal. At the solicitation of many admirers of Mr. Seward, the author decided to present it to the public in the form it now appears.

The legal career of William H. Seward has never before been written except in the detached manner in which parts of it appear in some of the memoirs written of him.

A long and intimate acquaintance with him — an eye witness to very many of his contests at the bar — I trust has enabled me to present a reliable description of that great statesman as a lawyer.

L. B. P.

CAPITOL, ALBANY, *April*, 1887.

WILLIAM H. SEWARD AS A LAWYER.

REVIEW OF HIS LEGAL CAREER.

WILLIAM H. SEWARD had many qualities that insure eminence at the bar. He was a finished classical scholar and an assiduous legal student. A minute and rapid observation, a memory at once retentive and ready, a mind enlarged by immense reading, capable of tireless exertion were among his fortunate attributes. Reflection presided over all his mental efforts, rendering them practical and effective, though often, in striving to be accurate, he became too specific and prolix.

Judge Esek Cowen, who always held Mr. Seward in high esteem, once said: "William H. Seward is one of the most effective reasoners at the bar, rendered so by the correct manner in which he demonstrates his legal problems; but he is sometimes thought obscure from the intellectual effort required to follow him."

As a speaker at the bar, in the Senate and popular assembly, he was not distinguished for showy oratorical graces, which often give a speaker of inferior mental qualities ephemeral popularity.

A sprightly writer has said, that Byron attached himself to the heart; Voltaire to the understanding. Mr. Seward always attached himself to the intellect by giving his subject an ethical interest, and the ingenuity with which he disentangled truth from sophistry; still, he knew how to use sophistry with skill and delicacy, giving it the appearance of veritable logic.

Governor Thomas W. Gilman, of Virginia, in the famous correspondence with Governor Seward in the extradition case of *Peter Johnson, et al.* — charged with stealing a negro slave from Virginia — said: "Mr. Seward is the most ingenious, deepest, and therefore dangerous sophist in the north." But it must be remembered that Governor Gilman wrote this, stimulated to irascibility by Governor Seward's refusal to surrender Johnson and associates, on the ground that stealing a negro slave from his master in Virginia was not an offense within the meaning of the Constitution.

There was a calm dignity in Seward's manner when speaking, that gave effect to his language; if occasion required he could assume a manner quite imposing. He used the English language in all its force and purity; but with his pen, Seward was more eloquent than with his lips. As a writer he had few superiors.

We have spoken of Seward as a legal student; in reading law he felt the full force of Dugald Stewart's remark that "Nothing has such a tendency to weaken, not only the powers of invention, but the intellectual

powers in general, as the habit of various and extensive reading without reflection," and therefore by reflection he digested and rendered available every thing he read.

DeWitt Clinton used to say that whatever was worth reading once, was worth reading several times. Mr. Seward profited largely from this remark of his illustrious predecessor in the executive chair of the State. One of latter's early and favorite text-books was Coke-Lyttleton. He often said "I derived my knowledge and love of equity law more from Coke-Lyttleton than from any other author I read. I regard his pages as the fountain head of equity law."

Seward was assisted in his legal studies by his accomplished and distinguished preceptors, John Anthon and John Duer. His intimacy with Ogden Hoffman, — subsequently styled the "Erskine of the American bar"—did much to mould his legal temperament, and fit him for the bar.

It was from such preceptors and such an associate that Seward adopted that high-toned and liberal system of legal ethics and professional courtesy, which governed him through all his practice, so he might well have adopted for his motto, the maxim of Cicero, "*Hoc maxime officii est, ut quisquam maxime opus indigeat, ita ei potissimum opitulari.*" "The clear point of duty is to assist most readily those who most need assistance."

Early in 1821, Mr. Seward was called to the bar

having just attained his majority. In 1823, he began his legal career at Auburn, N. Y.; his juvenile appearance was at first against him; the Nestors of the bar attempted to brush him one side, as a conceited youth, led by his indiscreet ambition into their arena.

"Does this stripling, this tender legal sprout, expect to convince your mature judgments, gentlemen of the jury, that his client has a legal right to take this property?" Said the sharp and experienced Sawyer, one of the leaders of the Cayuga bar, who was opposed to Seward in one of his first cases.

But the young lawyer when a student in New York had seen William Wirt, Thomas Addis Emmet and Martin Van Buren in the forum; he had witnessed with an observant eye and an exact memory the manner in which these master minds tried causes; hence he was no stranger to the contests of the bar, as his opponent soon learned. The successful manner in which he conducted his first case brought him favorably before the public. It was the case of a man indicted for stealing a turkey, that first developed the talents of Choate; it was in an action of trespass brought for breaking a horse's leg that Webster won his first legal laurels; it was an assault and battery case that called the attention of the people to Wm. Wirt. It was for defending a man indicted for stealing "a quilted holder, of the value of six cents, and one piece of calico of the value of six cents, — his second offense — which caused young Seward's opponents to always

sion, he would, like many opulent young lawyers, always have remained only a nominal member of the bar.

He used to say: "I knew I was to support myself by the practice of law. I liked the study of law, but only necessity reconciled me to the toleration of the technicalities of the practice, to the jealousies and contentions of the courts. Nevertheless, I resigned myself to the practice with so much cheerfulness that my disinclination was never suspected."

How many young lawyers there are at the present time who can appreciate young Seward's resignation to the practice of law. The depth of his resignation is understood by the fact, that early in his professional career, notwithstanding his devotion to politics, he rose to considerable distinction.

When Seward first appeared at the bar, very few lawyers ventured to try their own causes. At every county seat in the State there was a limited number of leading advocates who tried the causes of all other lawyers in the county. Seward very soon astonished the gladiators of the Cayuga bar by trying his own causes. Despite the snubs and rebuffs he received from them, he succeeded quite to the satisfaction of his clients in trying their causes alone and unaided.

The Constitution of 1821 opened the Circuit Courts to equity jurisdiction. As we have already said, Mr. Seward delighted in the practice of the Court of Chancery; he considered equity law in its true and genuine mean-

beware of him. He proved by an expert that the holder was not quilted, but merely sewed, that the other article was not calico, but white jeans. But those were days of extreme legal technicalities, especially in indictments. His client was acquitted, much to the delight of the people who thronged the old Auburn court-house.

A fortunate business relation with Judge Miller, subsequently his father-in-law, largely advanced his professional prospects; he had been in practice but two years when the great presidental contest of 1824 opened, with Jackson, Clay, Crawford, Calhoun and Adams, candidates, and the State of New York, with Martin Van Buren as the leader of the Crawford party in it, became the battle ground of the campaign. The singularly adroit, but successful policy of Van Buren in resisting the efforts made by the opponents of Crawford, to change the mode of electing presidential electors, caught the admiration but not the friendshlp of Seward for that wily statesman. Into the presidential contest young Seward entered with all the enthusiasm of his nature, as the champion of John Quincy Adams for president, and DeWitt Clinton as governor. In this contest he became inbued with that passion for the political arena which to a large extent ever after caused the lawyer to be lost in the politican. This was natural enough, since Seward was never an enthusiastic lover of his profession. It is quite certain that had he been wealthy when he entered his profes-

ing, "the soul and spirit of all law: and that positive law is construed, and rational law made by it." It is not strange therefore that he became one of the best equity lawyers in western New York.

His first equity case grew out of an assignment for the benefit of creditors which he drew when he had been in practice but a little over one year. This case became famous, and is now known in the reports of this State as the leading case of *Wakeman* v. *Grover & Gunn*, 23 Wend. 187.

His clients, Grover & Gunn, formed one of the leading mercantile firms in Auburn. The partners were compelled to assign their property for the benefit of their creditors; to young Seward was committed the responsibility of drawing the assignment. It was a long, voluminous and difficult instrument, severely taxing his ability as a draftsman; but at length, with careful study, the instrument was completed, and then submitted to more experienced lawyers. It was pronounced an admirable, strong and impregnable document, reflecting great credit on the young draftsman. But it was destined to be attacked by some of the ablest lawyers in the State, among whom was Daniel Lord, then a young lawyer a few years older than Mr. Seward.

Grover & Gunn assigned their goods on hand, their debts and other property amounting to $50,000, specified in a schedule attached to the conveyance, to three individuals in Auburn, upon trust, for the benefit of

their creditors. With the usual conditions and provisions in such instruments, there was a clause making a preference to certain creditors in the distribution of the assigned property depend upon the execution by them of a release to the debtors of all claims against them. This was one of the principal points of attack of the creditors of the assignors, and an action was commenced by Mr. Lord, in chancery, to set it aside.

In their answer the defendants denied all fraud in the assignment, unless it was illegal on its face; and they insisted it was not.

In due time the case came before Chancellor Walworth for argument. Mr. Seward was assisted by that illustrious character in the legal history of the State of New York, Abraham Van Vechten. Mr. Seward made the opening argument in support of the assignment; it was his first effort in the great Court of Chancery, and he underwent all the embarrassment of his situation. Walworth was not an agreeable judge for a legal *debutant.*

He was perhaps the greatest of our American equity jurists. He had the learning of Bentham, the industry and research of Kent. His mind operated with geometrical exactness. It had the polish and coldness of a Parian marble tablet. He had a disagreeable habit of interrupting counsel in the midst of their argument, by asking questions that anticipated the point or points in the case. Only those who have gone through the ordeal of their first argument before a great tribunal

can understand the embarrassment of Seward at this time. Daniel Webster, on his first appearance before the Superior Court of New Hampshire, experienced as great embarrassment as did Seward on this occasion. When he began to speak, says one of his biographers, "his voice was low, his head was sunk upon his breast, his eyes were fixed upon the floor and he moved his feet incessantly backward and forward, as if trying to secure a firmer position. But he soon began to acquire confidence, his attitude became erect and he took up the thread of his argument in a manner which convinced the members of the court that a gigantic intellect was making its first efforts before it."

Seward's manner when he began his argument was very much like Webster's on the occasion we have described. To add to his embarrassment the chancellor began to ply him with questions and suggestions; at length, in replying to the chancellor, he acquired confidence and courage, and when the questions became too frequent the young lawyer paused in his argument and took his seat.

"Why do you not proceed with your argument?" asked the Chancellor in some suprise.

"I beg leave to say," said Seward, "if your honor will permit, that until now, I never understood that arguments in the Court of Chancery of the State of New York are conducted in the form of a dialogue with the court, and not understanding that practice I find myself unable to proceed." This was said in a

most respectful but firm manner; it brought the color to the face of the chancellor.

"Proceed, sir, proceed with your argument; you shall continue it solus," said the chancellor. No further interruption occurred.

Seward had subjected the case to an exhaustive examination and lucid analysis. He enforced his argument with strength and precision of expression. He combined logic and authority with a facility unexpected to those who witnessed the confusion and embarrassment with which it was opened.

He contended that the authority given to the assignees to compound with creditors, upon such terms as they should deem proper, did vest in the assignees an arbitrary power of giving preference to the several claims. It was a matter of discretion with the creditors in that class whether they should release their claims or not. Admitting that any of the provisions objected to are fraudulent in law, still, as there was no actual intent to defraud, such illegal provisions do not render void the whole instrument; therefore, it should, in all other respects, be supported.

But Mr. Lord was the destined victor in the contest. The law concerning assignments in trust for the benefit of creditors was then comparatively unsettled. He had the gratification of establishing a precedent that has a singularly frequent citation, not only in this but in other States. It was a fortunate event in Mr. Lord's professional life. It gave him retainers in a

series of great trials in State and Federal courts, in which the arguments were unequaled in splendor and learning. It made him indeed *primus inter pares* at the bar.

At length the chancellor handed down a decision setting aside the assignment as fraudulent against creditors, principally on the ground that it made a preference to certain creditors in the distribution of the assigned property, to depend upon the execution by them of a release to the debtors of all claims against them. The case was taken to the Court for the Correction of Errors on a writ of error. When the argument took place Seward had been elected senator and therefore a member of that court, and of course took no part in the argument. Benjamin F. Butler and Samuel A. Talcott appeared in support of the assignment and Daniel Lord in opposition to it.

The decree of the chancellor was affirmed by the Court for the Correction of Errors, though some of the ablest members of that court wrote exhaustive opinions in favor of reversing it.

Notwithstanding Mr. Seward's defeat, the case established his reputation as an equity lawyer.

We should have said that Mr. Seward's first equity case was a defense of a freeholder and *bona fide* purchaser of a military lot under a title derived from a soldier — to whom it had been patented by the State. The bill was filed by a lawyer in New York city, and was based upon title which bore strong marks of for-

gery. After about two years Seward dismissed the complaint. The default was opened through the efforts of another lawyer; but after several years Seward again took a default. Aaron Burr was then retained for the complainant. Through his remarkable skill as a lawyer he succeeded in opening the default, amending the complaint, and placing the case in a formidable attitude. But it was not finally disposed of until 1850, many years after Mr. Burr's death, when it was decided in Mr. Seward's favor. It was known as the "never ending or Crowder case." It was the *Jarnidyce* v. *Jarnidyce* case, of the Court of Chancery of the State of New York.

In 1828, he was elected to the State Senate, from the seventh district. He was then only twenty-seven years of age and the youngest member of a parliamentary and judicial body, composed largely of the ablest lawyers in the State. Among them were N. P. Talmadge, Wm. H. Maynard, Albert H. Tracy and Henry A. Foster.

The portrait of Seward in the executive chamber in the capitol at Albany, vividly illustrates his appearance when he took his seat in the Senate of the State of New York although he appeared still younger than the picture represents, as we have often heard him remark.

For a long time he was a silent, but studious observer of the proceedings of the Senate. "The judicial responsibilities of the Senate," he remarked, "es-

pecially fascinated me. I listened attentively to great men who argued great questions of law and equity, and I cast my vote as a judge in determining controversies, and establishing principles fundamental in the administration of justice."

But there came a time when he was no longer the passive and silent judge, when there was but one member of the Senate regarded as his superior as a legislator or a judge; this was the learned, eloquent and versatile Maynard. His early death cut short a brilliant career as a lawyer and statesman, and opened a field for the still greater abilities of Wm. H. Seward as a statesman.

The period succeeding the Constitutional Convention of 1821, witnessed a large accumulation of business in all the courts of this State, 'particularly in the Court for the Correction of Errors. As a member of this court, Seward exhibited judicial abilities, showing that had his ambition led him to the bench, his name would rank among those of the great judges whose careers embellish the history of the nation; but the history of the State would have missed a name resplendent among her most illustrious statesmen.

We give the following among the numerous opinions he wrote while a member of the Court of Errors, which exhibit his industry and ability as a judge, and his learning as a lawyer.

Williams v. *Bank of Michigan*, 7 Wend. 554; *Wood* v. *Jackson*, 8 id. 37; *Livingston* v. *Peru Iron Co.*, id.

528; *Garr* v. *Gomes*, 9 id. 660: *Davis* v. *Packard*, 10 id. 63; *Jackson* v. *Fitzsimmons*, id. 16; *Jackson* v. *Robberts*, 11 id. 441; *Parks* v. *Jackson*, id. 456.

If in learning, research and judicial penetration, the opinions delivered by Mr. Seward do not equal those of that great judicial triumvirate — Nelson, Cowan and Bronson, or that other gigantic legal mind, Ambrose Spencer,—we must remember they were delivered by a young lawyer under thirty years of age.

He left the Senate in 1834. In the autumn of that year he was nominated by the Whig party a candidate for governor in opposition to Wm. L. Marcy. He was defeated, but as he said "the wounds of his defeat were nearly painless in the reflection that he was stricken down by so great and illustrious a champion as Wm. L. Marcy."

After this election of 1834 he entered the turbulent and exciting political arena a prominent leader, with his constant and undeviating friend, Thurlow Weed, prominently in those events which again placed him in nomination for governor in the fall of 1838. This campaign in 1838 resulted in his triumphant election as governor of the State over his formidable, and heretofore successful opponent, Mr. Marcy.

Mr. Seward's executive duties removed him entirely from the bar over four years. He retired from the gubernatorial chair, returned to Auburn and resumed the practice of his profession at the

head of that distinguished firm, Seward, Morgan & Blatchford. Mr. Morgan was a distinguished lawyer of western New York, having represented Cayuga district in Congress with marked ability, and in 1847 was elected Secretary of State. Samuel Blatchford, the junior member, was a highly educated brilliant young lawyer who had been private secretary to Mr. Seward while governor. In his subsequent career at the New York city bar he rose to such distinction that he was elevated to the bench of the United States Supreme Court.

But Mr. Seward's future legal career was destined to be comparatively short though remarkably brilliant; it covered a period of a little over four years. During this time he was engaged in several cases which enroll his name forever among the great lawyers of his country, not only in the magnitude of the cases, but in the ability he displayed in conducting them.

The history of one of these cases, *The People* v. *Freeman*, has been so often described that it would be the work of supererogation to enter on any description of it here. Yet, as it was our privilege to sit near Mr. Seward during all that great trial, and the one tried at the same term scarcely less memorable, *The People* v. *Wyatt*, we cannot refrain from some reference to them.

Never shall we forget the scene in the court house when Freeman was arraigned at the bar to plead to the indictments found against him for the horrible mur-

ders he had committed. Packed within the large court room was an immense crowd of angry people who could hardly restrain their indignation as he stood in the bar before them. The officers of the court were palid with fear lest he should be taken from them by force and hanged in the streets.

"Do you plead guilty, or not guilty?" asked the district attorney.

Amidst the silence of midnight, an ominous silence presaging a fearful storm, Seward arose calm, dignified and impressive.

"If the court please, I enter the plea of not guilty, and that plea is founded on the insanity of the prisoner."

An angry murmur ran through the court room; mingled with threats of personal violence to Mr. Seward. After settling the time for the trial, Freeman, under the protection of a strong guard, was removed from the bar and the concourse of people left the court house; on every side were heard taunts, threats and execrations against the intrepid advocate, who, in the line of his professional duty, had dared to stand between an enraged populace as the defender of one who had committed the foulest murder that stains the history of the State.

The defense of Freeman, though unsuccessful, was undoubtedly the most brilliant of Mr. Seward's professional life; it was one of the last of his cases. It did for him more, perhaps, than the conduct of any case

in the State, did or could do for any other lawyer in giving him fame and perpetuating his name. But great as was that defense the moral effect of his defense of Henry Wyatt equaled, if it did not exceed the defense of Freeman.

Wyatt, a convict in Auburn prison, was brought to trial in June, 1846, for a cruel, terrible murder of a fellow prisoner.

In this case Mr. Seward interposed the defense of *moral insanity.* That subtle plea which insists that "persons who were the subjects of natural or congenital derangement, are not morally accountable, because though they may know an act to be wrong, cannot refrain from doing it, being irresistibly compelled to its commission."

Seward proved by abundant medical authority that the manner in which Wyatt had been whipped by the "cat" in the prison by blows on his bare back, upon the spinal column, affected the brain, often producing insanity. In order to prove the manner in which the "cat," an instrument equalling in cruelty the Russian "knout," was then used in Auburn prison, the attendance of the warden with the record which the law compelled him to keep showing which convicts had been whipped and how, was subpœnaed before the court. But the warden, a powerful framed man, was determined Seward should not examine this record of torture. When called to the stand he laid the book on the table at which Mr. Seward sat on the opposite

side. Reaching forward, he was in the act of taking up the book, when the warden fiercely withdrew it, saying: "This book is not designed for your inspection, sir, and you shall not see it."

The attorney-general, John Van Buren, arose and attempted to sustain the warden; but Seward drawing himself up till his form appeared gigantic, said in an impressive manner:

"One moment, Mr. Van Buren, I have the right to speak now, and you have not that right; the place of the attorney-general is now in his chair." Van Buren took his seat.

"Your honors," continued Seward turning to the judges, "in the name of Justice, in the name of all that centers in and around her halls, in behalf of this venerable court, I ask that this man be now compelled to give into my hands that record which he is now attempting to withhold from me."

It is said that Mrs. Siddons, the great English actress, was never more applauded than in the pose she assumed when dismissing the guests in the banquet scene in Macbeth, when the ghost of Banquo appears. There was something akin to this, in Mr. Seward's appeal to the court on this occasion.

"Witness," said the judge, "you will immediately deliver to Mr. Seward the book you hold." For a few moments the warden hesitated, and then reluctantly surrendered the record.

Turning to one of the pages of the book, Seward read as follows:

"On this 27th day, September, 1845, Henry Wyatt, a convict, was sentenced to fifty lashes on his bare back; but on removing his clothing his back was found to be so seamed, scarred, cut and ridged by previous whippings, that the sentence was changed to the effect that he should receive the lashes on his bare legs instead of his back."

"Great God!" said Seward as he laid down the book, "what a record of torture, suffering and horrors to induce insanity does this record reveal.

"Well may the officers of the prison shrink from revealing its shocking details to the public. I insist, it was that which unsettled the mind of Henry Wyatt, rendering him irresponsible for the act which has placed him at this bar to be tried for his life."

Mr. Seward's argument to the jury in the case of Wyatt was one of his most powerful forensic efforts. It equals in many respects Erskine's defense of Hadfield, under a similar plea. But Wyatt was convicted and executed. His trial however has opened the eyes of the public and the Legislature to the horrors of the whipping-post in prisons, and by a statute, passed the following winter, they were banished from all the prisons in the State.

Seward went to his grave conscious that the execution of Wyatt was little less than judicial murder.

He was more fortunate in the case of Freeman, who

was convicted and sentenced to be hanged. But the judge who presided at his trial, in his several rulings on challenges to jurors, in one instance, instructed the triers of J., a juror who had been drawn on the panel, and challenged to favor, that as a matter of law, a hypothetical opinion of the guilt of a prisoner did not disqualify a juror, The judge also refused to permit evidence to be given that Freeman was insane after the finding of the verdict upon the preliminary issue, and excluded the opinions of professional witnesses from the observation of him, after that time, as to his insanity when the offense was committed. To these and other rulings exceptions were taken, and the case went to the Supreme Court.

In October, 1846, the case was argued before the Supreme Court, at Albany, by Mr. Seward for the plaintiff in error, and by John Van Buren, attorney-general of the State, and Leeman Sherwood, district attorney for Cayuga county, for the people. Seward's brief in that case was one of the most learned, comprehensive and exhaustive ever presented to the old Supreme Court.

The late Nicholas Hill, whose own splendidly-prepared and powerful briefs scanned every principle of statute and common law, and every conflicting precedent, pronounced it the most learned and able document of the kind he ever had the pleasure of reading.

In January, 1847, the opinion of the court, by Mr. Justice Beardsley, an opinion of unequalled learning

and research, such as that great jurist wrote almost by intuition, was handed down, granting Freeman a new trial, on the exceptions we have mentioned, with others. The case is reported in 4 Den. 9. By the singular frequency with which it has been cited, it is natural to regard it as a sort of legal Mecca attracting hordes of professional pilgrims in search of its riches.

Pending the new trial Freeman died. A thorough autopsy of his brain revealed the fact that he had been the victim of hopeless insanity for years; that when he committed the awful homicides for which he was tried he was very near dementia. So that, as has been said, "his death sentence was an address to a creature who could not understand a word of it, and who was the only one in the court-room who was unconscious of the result of the trial."

"The poor idiot, roused from his cell, was brought into the court room, and ordered to stand up. As he was so deaf, the judge directed him to be brought close to his side, and leaning over from the bench said to him:

"The jury say you are guilty. Do you hear me?"

"Yes."

"The jury, I tell you, say you are guilty. Do you understand me?"

"No."

"The jury who tried you say you killed Van Nest. Do you understand that?"

"Yes."

"Did you kill Van Nest?"

"Yes."

"I am going to pass sentence upon you now. Do you understand that?"

"No."

"I am going to sentence you to be hanged. Do you understand that?"

"No."

The judge then went through the form of pronouncing the sentence of death upon him.

To our own personal observation the verdict in this case was, in a large degree, the result of popular excitement almost unprecedented. While the jury were deliberating, the court house was surrounded by an immense multitude of excited people ready to vociferate the cry "crucify him," "crucify him!" It is more than probable had the jury failed to convict Freeman, the jail would have been stormed and the poor wretch hanged in the streets and perhaps the personal safety of Mr. Seward endangered.

But "time, the friend, the avenger, and adorner of the living and the dead," brought a triumph to him, that has placed his name not only among the great lawyers of the Republic, but among its most magnanimous philanthropist.

Considering the brilliant and successful manner in which the attorney-general, John Van Buren, conducted the prosecution, we have always regarded it singular that so little commendation has been awarded

him. His efforts in the cases of Wyatt and Freeman lose nothing when compared with those of his great opponent. His success in these cases against the all-powerful defense of Seward, were victories seldom won in the contests of the forum. Their brilliant prestige should have shielded him from the results of his defeat in that Trafalgar of legal battles, the *Forest* divorce case.

In 1842 Mr. Seward, associated with S. P. Chase, argued the great case of *Van Zandt* v. *Jones*, in the United States Supreme Court, for the defendant, against James T. Morehead of Kentucky, for the plaintiff.

This action was brought in the Circuit Court of the United States for the District of Ohio, by Wharton Jones, of Kentucky, against John Van Zandt, of Ohio, to recover a penalty of $500. for harboring and concealing Andrew, the plaintiff's slave, in violation of the act of Congress, 1793. The jury, under the charge of the court, rendered a verdict for the plaintiff. The defendant moved for a new trial, and an arrest of judgment. The cause came into the Supreme Court of the United States on a certificate that the judges of the Circuit Court were divided in their opinions upon the questions stated in the argument. Counsel for the plaintiff, Mr. Seward, made the closing argument for the defense. His review of the case of *Gibbon* v. *Ogden*, decided in the United States Supreme Court by Chief Justice Marshall, which the

counsel for the plaintiff contended was in his favor, proves that Seward was not only an exceedingly well-learned far-sighted lawyer, but a close legal reasoner.

He closed his argument in the following beautiful and impressive language: "For ourselves, humble advocates in a great cause, we cannot hope, we dare not hope, we do not expect, that principles which seem to us so reasonable, so just and truthful, can all at once gain immediate establishment in this tribunal, against the force of many precedents and the weight of many honored names. But we do humbly hope that past adjudications, by which the Constitution was unnecessarily declared to recognize and guaranty slavery, may be reconsidered. We appeal to the court to restore to that revered instrument its simplicity, its truthfulness, its harmony with the Declaration of Independence, its studied denial of a right of property in man, and its jealous regard for the security of the people. We humbly supplicate that slavery, with its odious form and revolting features, and its dreadful pretensions for the present and for the future, may not receive in this great tribunal now, sanction and countenance, denied to it by a convention of the American States more than half a century ago. Let the spirit which prevailed in that august assembly only find utterance here, and the time will come somewhat more speedily, when throughout this great empire, erected on the foundation of the rights of man, no court of justice will be required to enforce involuntary obliga-

tions of labor, and uphold the indefensible law of physical force."

In 1851, Mr. Seward defended Abel F. Fitch and others in the Supreme Court of Michigan at Detroit. This was a defense that centred the eyes of the nation upon him. This great trial grew out of an alleged deliberately executed conspiracy by citizens of Leoni, Michigan, of whom Fitch was the supposed leader for the entire demolition of the rails and structures on the Michigan Central Railroad. There is much in this case that gave it dramatic interest. Mr. Seward's defense in a trial that continued many months, against the ablest lawyers in the nation, equaled if it did not excel all his former efforts as a jury lawyer. Some parts of his address to the jury, like William Wirt's historic denunciation of Aaron Burr, have been published in elocutionary works, and mouthed and ranted by school boys, for many years. After Mr. Seward's election as senator in Congress, February, 1849, he virtually retired from the profession, though he occasionally appeared at the bar, as in the case of Fitch, to which we have alluded. In 1851 he conducted the argument for the plaintiff in the case of the *Pittsburgh Iron Co. v. The State of Pennsylvania.* His opponent was Jeremiah Black.

In 1853 he argued the *Albany Bridge* case in the United States Circuit Court in the city of New York. As his argument continued over two days it was exceedingly exhausting, mentally and physically.

The real point in the case was somewhat analogous to the points now raised against the construction of another bridge over the Hudson. It was "whether, regarding the public travel and transportation across the bridge by railroad cars, and also the business dependent upon a free navigation of the river, the bridge could lawfully be built."

Thus we have briefly sketched the career of William H. Seward at the bar.

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