

Source: Alice Dunbar-Nelson [ed.], *Masterpieces of Negro Eloquence* (New York: Bookery Publishing Co., 1914) 49-62.

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**SHOULD COLORED MEN BE SUBJECT TO THE PAINS AND  
PENALTIES OF THE FUGITIVE SLAVE LAW?\***

**BY CHARLES H. LANGSTON**

*CHARLES H. LANGSTON, a native of Ohio, was the first to counsel resistance to the Fugitive Slave Act, and lost no opportunity himself to disobey it. He was found guilty of violating the law in rescuing John Price, an alleged fugitive from service in Kentucky, This speech is his answer to the question of the judge why the sentence should not be pronounced upon him. He was sentenced to one hundred and twenty days' imprisonment, and fined \$100.00 and costs, amounting to \$872.72.*

After a trial of twenty-three days in the United States District Court for the Northern District of Ohio, Hiram V. Willson presiding, and at a cost to the United States Government of more than two thousand dollars, C.H. Langston was found guilty of violating the Fugitive Slave Law, by rescuing John Price, an alleged fugitive from service in Kentucky, from the custody of one Anderson Jennings, at Wellington, on the 13<sup>th</sup> day of September, 1858.

Mr. Langston was sentenced to twenty days imprisonment in the jail of Cuyahoga county, and also to pay a fine of one hundred dollars and a portion of the costs of

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\* Speech of Charles H. Langston before the United States District Court for the Northern District of Ohio, May 12, 1859. Delivered when about to be sentenced for rescuing a man from slavery.

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prosecution, amounting to nine hundred and seventy-two dollars and seventy cents.

BILL OF COSTS

Fine and bill of costs as copied from the Journal of the Court:

Fine...	\$100.00
Clerk's fees...	32.10
Marshal's fees...	30.40
United States' witnesses...	659.10
Defendant's witnesses...	131.10
Docket fees...	20.00
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Total...	\$972.70

On the morning of the 12<sup>th</sup> of May, 1859, C.H. Langston was brought into court to receive his sentence.

The judge, having entered the "oyez, oyez" of the crier, announced the opening of the court, and the rattling of the gavel of the bailiff soon brought the immense crowd to silence. The business then proceeded as follows:

THE COURT.—Mr. Langston, you will stand up, sir.

Mr. Langston arose.

THE COURT.—You have been tried, Mr. Langston, by a jury, and convicted of a violation of the criminal laws of the United States. Have you or your counsel anything to say why the sentence of the law should not be pronounced upon you?

MR. LANGSTON.—I am for the first time in my life before a court of justice, charged with the violation of law, and

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am now about to be sentenced. But before receiving that sentence I propose to say one or two words in regard to the mitigation of that sentence, if it may be so construed. I can not, of course, and do not expect that what I may say will in any way change your predetermined course of action. I ask no such favor at your hands.

I know that the courts of this country, that the laws of this country, that the governmental machinery of this country are so constituted as to oppress and outrage colored men, men of my complexion. I cannot then, of course, expect, judging from the past history of the country, any mercy from the laws, from the Constitution, or from the courts of the country.

Some days prior to the 13<sup>th</sup> of September, 1858, happening to be in Oberlin on a visit, I found the country round about there, and the village itself, filled with alarming rumors as to the fact that slave-catchers, kidnappers, and Negro stealers were lying hidden and skulking about, awaiting some opportunity to get their bloody hands on some helpless creature, to drag him back,—or for the first time,—into helpless and lifelong bondage.

These reports becoming current all over the neighborhood, old men and innocent women and children became exceedingly alarmed for their safety. It was not uncommon to hear mothers say that they dare not send their children to school, for fear that they would be caught up and carried off by the way. Some of these people had become free by long and patient toil at night,

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after working the long, long day for cruel masters, and thus at length getting money enough to buy their liberty.

Others had become free by means of the good will of their masters. And there were others who had become free—to their everlasting honor, I say it—by the intensest exercise of their own God-given powers;—by escaping from the plantations of their masters, eluding the blood-thirsty patrols and sentinels so thickly scattered all along their path, outrunning blood-hounds and horses, swimming rivers and fording swamps, and reaching at last, through incredible difficulties, what they, in their delusion, supposed to be free soil. These three classes were in Oberlin, trembling alike for their safety because they well knew their fate should these men-hunters get their hands on them.

In the midst of such excitement, the 13<sup>th</sup> day of September was ushered in—a day ever memorable in the history of Oberlin, and I presume also, in the history of this court. These men-hunters had, by lying devices, decoyed into a place, where they could get their hands on him—I will not say a slave, for I do not know that—but a *man, a brother*, who had the right to his liberty under the laws of God, under the laws of nature, and under the Declaration of American Independence.

In the midst of all this excitement the news came to us like a flash of lightening that an actual seizure under and by means of fraudulent pretenses, had been made! Being identified with that man by color, by race, by manhood, by sympathies, such as God has implanted in us all, I felt it my duty to go and do what I could to-

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wards liberating him. I had been taught by my Revolutionary father—and I say this with all due respect to him—and by his honored associates, that the fundamental doctrine of this Government was, that *all* men have a right to life and liberty, and coming from the Old Dominion I had brought into Ohio these sentiments deeply impressed upon my heart. I went to Wellington, and hearing from the parties themselves by what authority the boy was held in custody, I conceived from what little knowledge I had of the law that they had no right to hold him. And as your Honor has repeatedly laid down the law in this court, a man is free until he is proven to be legally restrained of his liberty. I believed that upon that principle of law those men were bound to take their prisoner before the very first magistrate they found and there establish the facts set forth in their warrant, and that until they did this every man should presume that their claim was unfounded, and to institute such proceedings for the purpose of securing an investigation as they might find warranted by the laws of this State.

Now, sir, if that is not the plain common sense and correct view of the law, then I have been misled, both by your Honor and by the prevalent received opinion. It is said that they had a warrant. Why then, should they not establish its validity before the proper officers? And I stand here to-day, sir, to say that with an exception, of which I shall soon speak, *to procure such a lawful investigation of the authority under which they claimed to act, was the part I took in that day's proceedings, and the only part.* I supposed it to be my duty as a citizen of

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Ohio—excuse me for saying that, sir, —as an outlaw of the United States, (much sensation) to do what I could to secure at least this form of justice to my brother, whose liberty was at peril.—*Whatever more than that has been sworn to on this trial, as act of mine, is false, ridiculously false.* When I found these men refusing to go, according to the law, as I apprehended it, and subject their claim to an official inspection, and that nothing short of a *habeas corpus* would oblige such an inspection, I was willing to go even thus far, supposing in that county a sheriff might, perhaps, be found with nerve enough to serve it. In this again, I failed. Nothing then was left to me, nothing to the boy in custody, but the confirmation of my first belief that the pretended authority was worthless, and the employment of those means of liberation which belong to us. With regard to the part I took in the forcible rescue, which followed, I have nothing to say, further than I have already said. The evidence is before you. It is alleged that I said “We will have him anyhow.” *This I NEVER said.* I did say to Mr. Lowe, what I honestly believe to be the truth, that the crowd was very much excited, many of them averse to longer delay and bent upon a rescue at all hazards; and that he being an old acquaintance and friend of mine, I was anxious to extricate him from the dangerous position he occupied, and therefore advised Jennings to give the boy up. Further than this I did not say, either to him or to anyone else.

The law under which I am arraigned is an unjust one,

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one made to crush the colored man, and one that outrages every feeling of humanity, as well as every rule of Right.

With its constitutionality I have nothing to do; about that I but little and care much less. But suppose it is constitutional, what then? To tell me a law is constitutional which robs me of my *liberty* is simply ridiculous. I would curse the constitution that authorized the enactment of such a law; I would trample the provisions of such a law under my feet and defy its pains and penalties. I would respect and obey such an inhuman law no more than OUR revolutionary fathers did the odious and absurd doctrine that kings and tyrants reign and rule by divine *right*. But it has often been said by learned and good men that this law is unconstitutional. I remember the excitement that prevailed throughout all the free States when it was passed; I remember, too, how often it has been said by individuals, conventions, legislatures, and even *Judges* that it is not only unconstitutional, but that it never could be, never should be, and never was meant to be enforced. I had always believed, until the contrary appeared in the actual institution of proceedings, that the provisions of this odious statute would never be enforced within the bounds of this State.

But I have another reason to offer why I should not be sentenced, and one that I think pertinent to the case. The common law of England—and you will excuse me for referring to that, since I am not a lawyer, but a private man—was that every man should be tried by a jury of men occupying the same political and legal status *with himself*. Lords should be tried before a jury of lords;

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peers of the realm should be tried before peers of the realm; vassals before vassals. And even “where an *alien* was indicted, the jury shall be *demenietate*, or *half foreigners*”; and a jury thus constituted were sworn “well and truly to try and true deliverance make between the sovereign lord, the king, and the prisoner whom they have in charge; and a true verdict to give according to the evidence and without prejudice.” The Constitution of the United States guarantees—not merely to its citizens, but to *all persons*—a trial before an impartial jury. I have had no such trial.

The colored man is oppressed by certain universal and deeply fixed prejudices. Those jurors are well known to have shared largely in those prejudices, and I therefore consider that they were neither impartial, nor were they a jury of my peers. Politically and legally they are not my equals. They have aided to form a State constitution which denies to colored men citizenship, and under that constitution laws have been enacted withholding from us to be tried in every case by jurors, not only filled with prejudices against us, but far above us politically and legally, made so both by the statute laws and by the Constitution. The prejudices which white people have against colored men grow out of the fact that we have, as a people, *consented* for two hundred years to be *slaves* of the whites. We have been scourged, crushed, and cruelly oppressed, and have submitted to it all tamely, meekly, peaceably; I mean, as a people, with rare individual exceptions,—

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and to-day you see us thus meekly submitting to the penalties of an infamous law. Now the Americans have this feeling, and it is an honorable one, that they will respect those who rebel at oppression, but despise those who tamely submit to outrage and wrong; and while our people as a people submit, they will as a people be despised. Why, they will hardly meet on terms of equality with us in a whiskey shop, in a car, at a table, or even at the altar of God, so thorough and hearty a contempt have they for those who *lie still* under the heel of the oppressor. The jury came into the box with that feeling. They knew that they had that feeling, and so the Court knows now, and knew then. The gentleman who prosecuted me, the Court itself, and even the counsel who defended me, have that feeling.

I was tried by a jury which was prejudiced; before a Court that was prejudiced; prosecuted by an officer who was prejudiced, and defended, though ably, by counsel who were prejudiced. And therefore it is, your Honor, that I urge by all that is good and great in manhood, that I should not be subjected to the pains and penalties of this oppressive law, when I have not been tried, either by a jury of my peers, according to principles of the common law, or by an impartial jury according to the Constitution of the United States.

One more word, sir, and I have done. I went to Wellington, knowing that colored men have no rights in the United States which white men are bound to respect; that the Courts had so decided; that Congress has so enacted; that the people had so decreed.

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There is not a spot in this wide country, not even by the altars of God, nor in the shadow of the shafts that tell the imperishable fame and glory of the heroes of the Revolution; no, nor in the old Philadelphia Hall, where any colored man may dare to ask mercy of a white man. Let me stand in that Hall and tell a United States marshal that my father was a Revolutionary soldier; that he served under Lafayette, and fought through the whole war, and that he fought for my freedom as much as for his own; and he would sneer at me, and clutch me with his bloody fingers, and say he has a *right* to make me a slave! and when I appeal to Congress, they say he has a right to make me a slave, and when I appeal to your Honor, *your Honor* says he has a right to make me a slave. And if any man, white or black, seeks an investigation of that claim, he makes himself amenable to the pains and penalties of the Fugitive Slave Act, FOR BLACK MEN HAVE NO RIGHTS WHICH WHITE MEN ARE BOUND TO RESPECT. (Great applause.) I, going to Wellington with the full knowledge of all this, knew that if that man was taken to Columbus he was hopelessly gone, no matter whether he had ever been in slavery before or not. I knew that I was in the same situation myself, and that by the decision of your Honor, if any man whatever were to claim me as his slave and seize me, and my brother, being a lawyer, should seek to get out a writ of habeas corpus to expose the falsity of the claim, he would be thrust into prison under one provision of the Fugitive Slave Law, for interfering with the man claiming to be in pursuit of a fugitive, and I, by the perjury of a solitary

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wretch would by another of its provisions be helplessly doomed to lifelong bondage, without the possibility of escape.

Some may say that there is no danger of free persons being seized and carried off as slaves. No one need labor under such a delusion. Sir, *four* of the eight persons who were first carried back under the act of 1850 were afterwards proved to be *free men*. They were free persons, but wholly at the mercy of the oath of one man. And but last Sabbath afternoon a letter came to me from a gentleman in St. Louis informing me that a young lady, who was formerly under my instructions at Columbus, a free person, is now lying in jail at that place, claimed as the slave of some wretch who never saw her before, and waiting for testimony of relatives at Columbus to establish her freedom. I could stand here by the hour and relate such instances. In the very nature of the case, they must be constantly occurring. A letter was not long since found upon the person of a counterfeiter, when arrested, addressed to him by some Southern gentleman, in which the writer says:

“Go among the niggers, find out their marks and scars; make good description and send to me, and I’ll find master for ‘em.”

That is the way men are carried *back* to slavery.

But in view of all the facts, I say that, if ever again a man is seized near me, and is about to be carried southward as a slave before any legal investigation has been had, I shall hold it to be my duty, as I held it that day, to secure for him, if possible, a legal inquiry into the

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character of the claim by which he is held. And I go farther; I say that if it is adjudged illegal to procure even such an investigation, then we are thrown back upon those last defenses of our rights which cannot be taken from us, and which God gave us that we need not be slaves. I ask your Honor, while I say this, to place yourself in my situation, and you will say with me that, if your brother, if your friend, if your wife, if your child, had been seized by men who claimed them as fugitives, and the law of the land forbade you to ask any investigation, and precluded the possibility of any legal protection or redress—then you will say with me that you would not only demand the protection of the law, and would ask them to say with you, that, these, your friends, *could not* be taken into slavery.

And now, I thank you for this leniency, this indulgence, in giving a man unjustly condemned, by a tribunal before which he is declared to have no rights, the privilege of speaking in his own behalf. I know that it will do nothing toward mitigating your sentence, but it is a privilege to be allowed to speak, and I thank you for it. I shall submit to the penalty, be what it may. But I stand up here to say that if for doing what I did on that day at Wellington, I am to go to jail for six months, and pay a fine of a thousand dollars, according to the Fugitive Slave Law, and if such is the protection the laws of this country afford me, I must take upon myself the responsibility of self-protection; when I come to be claimed by some perjured wretch as his slave, I shall never be taken

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into slavery. And in that trying hour, I would have others do to me, as I would call upon my friends to help me; as I would call upon you, your Honor, to help me; as I would call upon you (to the District Attorney) to help me, and upon you (to Judge Bliss), and you (his counsel) *so help me God!* I stand here to say that I will do all I can for any man thus seized and held, though the inevitable penalty of six months' imprisonment and one thousand dollars fine for each offense hang over me! We have all a common humanity, and that humanity will, if rightly exercised, compel us to aid each other when our rights are invaded. The man who can see a fellow man wronged and outraged without assisting him must have lost all the manly feelings of his nature. You would all assist any man under such circumstances; your manhood would require it; and no matter what the laws might be, you would honor yourself for doing it, while your friends and your children to all generations would honor you for doing it, and every good and honest man would say you had done *right!* (Great and prolonged applause, in spite of the efforts of the Court and marshal.)

Judge Willson remarked: Mr. Langston, you do the Court injustice in supposing the remarks were called out as a mere idle form, or would not get a respectful consideration from the Court.

It is not the duty of the Court to make the laws—that is left to other tribunals; but our duty, under an official oath, is to administer the laws, good or bad, as we find them.

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I find many mitigating circumstances in your case, and the sentence will therefore be, that you pay a fine of one hundred dollars and the costs of suit, and be imprisoned in jail for twenty days, and it shall be the duty of the Marshal to see the imprisonment carried out in this or some other county jail in this district.