AUGUST T. BLANCHE

AUGUST THEODOR BLANCHE, Swedish poet and novelist, was born at Stockholm, Sept. 17, 1811, and died there Nov. 30, 1868. His versatility from the first was remarkable. He opened his career by writing political articles for a radical journal in Stockholm. Afterward he wrote novels, short stories, essays, poems, and plays, and was singularly successful in every literary project he undertook. It was as a dramatist, however, that he did in his day his most successful work. He was a member of the Swedish Parliament, an ardent politician, and an accomplished orator. In his habits he was eminently social, a generous and jovial host, radical both in religion and politics, and always ready to lend a helping hand to those who needed succor or aid. His kindness, his humor, his bonhomie, and his democratic ways endeared him to the people, and his death was an occasion of general mourning. With Hodell and Jolin, Blanche successfully cultivated comedy.

ADDRESS ON THE DETHRONEMENT OF GUSTAVUS IV

DELIVERED ON ITS FIFTIETH ANNIVERSARY CELEBRATION, MARCH 13, 1859

STATES, like individuals, have their crisis to pass through before they reach maturity and fulness of development, and those which have fallen to the lot of Sweden have been many and severe. More than once has she seemed on the verge of ruin; her forehead has been stained with blood more times than can be reckoned; she is scarred from the crown of her head to the sole of her foot; yet she stands to-day upright and free.

This shows that our land has had able physicians, and that her hurts, though sometimes seemingly mortal, have been in every instance thoroughly cured. There were hard times during the reign of the Danish kings under the union. Uniting the three northern crowns into one was a beautiful thought, conceived by a queen, a woman, but defeated by kings and men. It struck against the selfishness and cruelties of Danish

governors, and Engelbrekt, Sture and Wasar had their hands full in delivering us from this evil.

Yet the independence of Sweden was never in any real danger. The people maintained their fortitude, and not so much as a chip was broken from the old granite foundation. The outlook seemed dark at the close of the reign of Charles XII, but the country, though bleeding from innumerable wounds, was a lion which retreated cautiously with its eyes fixed upon the enemy, paw uplifted, ever feared and ever dangerous to approach. The lion on the three rivers cringes before the lion in the den. Sweden lost a great deal, but she held Finland, nevertheless, and occupied a considerable portion of German soil.

Awful was the year 1809. That disastrous year, which, with darker clouds than ever before, descended upon our poor, suffering and desperate motherland. At war with nearly all the world, calamities and treachery on every side, and stubborn autocracy in our midst; Finland lost; all the resources of the country exhausted, its youth dragged to the battlefields, dying on the way; insurrection fast becoming a necessity; Russian soldiers tramping the soil of our fathers. The wild hordes of the deserts longed to water their horses at the shores of Malaren as they did by the Seine some years later. They reached the Seine, but not the Malaren, and by the help of God they shall never get there.

The help from God on March 13, 1809, was the revolution itself, and the men who led that movement were chosen instruments in God's hands. The memory of the day shall ever be kept holy in the true Swedish heart. Is it, then, over the downfall of an unfortunate and almost senseless monarch that a noble race to-day rejoices? Nay, it is the overthrow of unlimited monarchy which always has been so burdensome,

which gave Narva to us with one hand and Pultava with the other,— unlimited monarchy, which our land shall never more tolerate, but will fight it as persistently as our fathers did, and strangle every semblance of it as Hercules strangled the lion with his strong arm. And so when we drink to the memory of the 13th of March, 1809, we drink also to the destruction of the despotic principle in the north, from the ruins of which the people's new freedom, like a liberated dove, flew out over land and sea without one drop of blood having stained its immaculate wings. Gentlemen! Hail that day! the darkest hour is before the dawn. To the memory of the 13th of March, 1809!

[Special translation by Charles E. Hurd.]

JUDAH P. BENJAMIN

JUDAH PHILIP BENJAMIN, Anglo-American lawyer and politician, was born at St. Croix, West Indies, Aug. 11, 1811, and died at Paris, May 8, 1884. Soon after his birth, his parents, who were English Jews, emigrated to the United States, the boy passing his youth-time at Wilmington, N. C. After three years at Yale College, he entered on the study of the law, and in 1832 was admitted to the New Orleans Bar. He was twice returned from Louisiana to the United States Senate, first in 1853 as a Whig, and again in 1859 as a Conservative. Next to John C. Calhoun he was the most powerful champion of the legal claims of slavery under the Constitution. In February, 1861, on the outbreak of the Civil War and the secession of Louisiana, Mr. Benjamin resigned his seat in the United States Senate, and accepted the appointment of Attorney-General in the provisional government of the Confederate States. He was next appointed Secretary of War, and, ultimately, Secretary of State, which last-named position he held until the Confederacy collapsed. On the fall of Richmond, he escaped to the Bahamas, thence to Liverpool. Admitted to practice at the English Bar, he soon acquired a lucrative practice, and rose to eminence. The speech here reproduced was one of the weightiest defences of the doctrine of the right of property in slaves. In 1883, Mr. Benjamin was compelled, by ill health, to retire from his profession, when he withdrew with his family to Paris, where he died in his seventy-third year.

ON THE PROPERTY DOCTRINE, OR THE RIGHT OF PROPERTY IN SLAVES

SENATE OF THE UNITED STATES, MARCH 11, 1858

MR. PRESIDENT, the whole subject of slavery, so far as it is involved in the issue now before the country, is narrowed down at last to a controversy on the solitary point, whether it be competent for the Congress of the United States, directly or indirectly, to exclude slavery from the Territories of the Union. The Supreme Court of the United States have given a nega-

tive answer to this proposition, and it shall be my first effort to support that negation by argument, independently of the authority of the decision.

It seems to me that the radical, fundamental error which underlies the argument in affirmation of this power, is the assumption that slavery is the creature of the statute law of the several States where it is established; that it has no existence outside of the limits of those States; that slaves are not property beyond those limits; and that property in slaves is neither recognized nor protected by the Constitution of the United States, nor by international law. I controvert all these propositions, and shall proceed at once to my argument.

Mr. President, the thirteen Colonies, which on the 4th of July, 1776, asserted their independence, were British colonies, governed by British laws. Our ancestors in their emigration to this country brought with them the common law of England as their birthright. They adopted its principles for their government so far as it was not incompatible with the peculiarities of their situation in a rude and unsettled country. Great Britain then having the sovereignty over the Colonies, possessed undoubted power to regulate their institutions, to control their commerce, and to give laws to their intercourse, both with the mother and the other nations of the earth. If I can show, as I hope to be able to establish to the satisfaction of the Senate, that the nation thus exercising sovereign power over these thirteen Colonies did establish slavery in them, did maintain and protect the institution, did originate and carry on the slave trade, did support and foster that trade, that it forbade the Colonies permission either to emancipate or export their slaves, that it prohibited them from inaugurating any

legislation in diminution or discouragement of the institution—nay, sir, more, if, at the date of our Revolution I can show that African slavery existed in England as it did on this continent, if I can show that slaves were sold upon the slave mart, in the Exchange and other public places of resort in the city of London as they were on this continent, then I shall not hazard too much in the assertion that slavery was the common law of the thirteen States of the Confederacy at the time they burst the bonds that united them to the mother counry. . . .

This legislation, Mr. President, as I have said before, emanating from the mother country, fixed the institution upon the Colonies. They could not resist it. All their right was limited to petition, to remonstrance, and to attempts at legislation at home to diminish the evil. Every such attempt was sternly repressed by the British crown. In 1760, South Carolina passed an act prohibiting the further importation of African slaves. The act was rejected by the crown; the Governor was reprimanded; and a circular was sent to all the governors of all the Colonies, warning them against presuming to countenance such legislation. In 1765, a similar bill was thrice read in the Assembly of Jamaica. The news reached Great Britain before its final passage. Instructions were sent out to the royal Governor; he called the House of Assembly before him, communicated his instructions, and forbade any further progress of the bill. In 1774, in spite of this discountenancing action of the mother government, two bills passed the legislative Assembly of Jamaica; and the Earl of Dartmouth, then Secretary of State, wrote to Sir Basil Keith, the Governor of the Colony, that "these measures had created alarm to the merchants of Great Britain engaged in that branch of com-

merce"; and forbidding him, "on pain of removal from his government, to assent to such laws."

Finally, in 1775—mark the date—1775—after the Revolutionary struggle had commenced, while the Continental Congress was in session, after armies had been levied, after Crown Point and Ticonderoga had been taken possession of by the insurgent colonists, and after the first blood shed in the Revolution had reddened the spring sod upon the green of Lexington, this same Earl of Dartmouth, in remonstrance from the agent of the Colonies, replied:

"We cannot allow the Colonies to check or discourage in any degree a traffic so beneficial to the nation."

I say, then, that down to the very moment when our independence was won, slavery, by the statute law of England, was the common law of the old thirteen Colonies. But, sir, my task does not end here. I desire to show you that by her jurisprudence, that by the decisions of her judges, and the answers of her lawyers to questions from the crown and from public bodies, this same institution was declared to be recognized by the common law of England; and slaves were declared to be, in their language, merchandise, chattels, just as much private property as any other merchandise or any other chattel.

A short time prior to the year 1713, a contract had been formed between Spain and a certain company, called the Royal Guinea Company, that had been established in France. This contract was technically called in those days an assiento. By the treaty of Utrecht of the 11th of April, 1713, Great Britain, through her diplomatists, obtained a transfer of that contract. She yielded considerations for it. The obtaining of that contract was greeted

in England with shouts of joy. It was considered a triumph of diplomacy. It was followed in the month of May, 1713, by a new contract in form, by which the British Government undertook, for the term of thirty years then next to come, to transport annually 4,800 slaves to the Spanish-American Colonies, at a fixed price. Almost immediately after this new contract, a question arose in the English Council as to what was the true legal character of the slaves thus to be exported to the Spanish-American Colonies; and, according to the forms of the British Constitution, the question was submitted by the crown in council to the twelve judges of England. I have their answer here; it is in these words:

"In pursuance of His Majesty's order in council, hereunto annexed, we do humbly certify our opinion to be that negroes are merchandise."

Signed by Lord Chief-Justice Holt, Judge Pollexfen, and eight other judges of England.

Mr. Mason—What is the date of that?

Mr. Benjamin—It was immediately after the treaty of Utrecht, in 1713. Very soon afterward the nascent spirit of fanaticism began to obtain a foothold in England; and although large numbers of negro slaves were owned in Great Britain, and, as I said before, were daily sold on the public Exchange in London, questions arose as to the right of the owners to retain property in their slaves; and the merchants of London, alarmed, submitted the question to Sir Philip Yorke, who afterward became Lord Hardwicke, and to Lord Talbot, who were then the solicitor and Attorney-General of the kingdom. The question was propounded to them, "What are the rights of a British owner of a slave in Eng-

land?" and this is the answer of those two legal functionaries. They certified that "a slave coming from the West Indies to England with or without his master, doth not become free; and his master's property in him is not thereby determined nor varied, and the master may legally compel him to return to the plantations."

And, in 1749, the same question again came up before Sir Philip Yorke, then Lord Chancellor of England, under the title of Lord Hardwicke, and, by a decree in chancery in the case before him, he affirmed the doctrine which he had uttered when he was Attorney-General of Great Britain.

Things thus stood in England until the year 1771, when the spirit of fanaticism, to which I have adverted, acquiring strength, finally operated upon Lord Mansfield, who, by a judgment rendered in a case known as the celebrated Sommersett case, subverted the common law of England by judicial legislation, as I shall prove in an instant. I say it not on my own authority. I would not be so presumptuous. The Senator from Maine (Mr. Fessenden) need not smile at my statement. I will give him higher authority than anything I can dare assert. I say that in 1771 Lord Mansfield subverted the common law of England in the Sommersett case, and decided, not that a slave carried to England from the West Indies by his master thereby became free, but that by the law of England, if the slave resisted the master, there was no remedy by which the master could exercise his control; that the colonial legislation which afforded the master means of controlling his property had no authority in England, and that England by her laws had provided no substitute for that authority. That was what Lord Mansfield decided. I say this was judicial legislation. I say it subverted the entire previous jurisprudence of Great Britain. I have just adverted to the authorities for that position. Lord Mansfield felt it. The case was argued before him over and over again, and he begged the parties to compromise. They said they would not. "Why," said he, "I have known six of these cases already, and in five out of the six there was a compromise; you had better compromise this matter"; but the parties said no, they would stand on the law; and then, after holding the case up two terms, Lord Mansfield mustered up courage to say just what I have asserted to be his decision; that there was no law in England affording the master control over his slave; and that therefore the master's putting him on board of a vessel in irons, being unsupported by authority derived from English law, and the colonial law not being in force in England, he would discharge the slave from custody on habeas corpus, and leave the master to his remedy as best he could find one.

Mr. Fessenden—Decided so unwillingly.

Mr. Benjamin—The gentleman is right—very unwillingly. He was driven to the decision by the paramount power which is now perverting the principles, and obscuring the judgment of the people of the North; and of which I must say there is no more striking example to be found than its effect on the clear and logical intellect of my frien from Maine.

Mr. President, I make these charges in relation to that judgment, because in them I am supported by an intellect greater than Mansfield's; by a judge of resplendent genius and consummate learning; one who, in all questions of international law, on all subjects not dependent upon the peculiar municipal technical common law of England, has won for himself the proudest name in the annals of her jurisprudence—the gentleman knows well that I refer to