

2015

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Recommended Citation

Westmoreland, Carter B. (2015) "The Legacy of Salmon P. Chase," *Freedom Center Journal*: Vol. 2015: Iss. 1, Article 5.

Available at: <https://scholarship.law.uc.edu/fcj/vol2015/iss1/5>

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THE LEGACY OF SALMON P. CHASE

Carl B. Westmoreland[†]

In an essay titled, *From Antislavery Lawyer to Chief Justice: The Remarkable But Forgotten Career of Salmon P. Chase* by Randy E. Barnett, Chief Justice Chase is described as a “Constitutional abolitionist,” a person who used his legal training and understanding of the American system of jurisprudence to begin the ongoing process of securing fuller citizenship for people of African descent and American white women.¹ “Realizing the fruitless nature of trying to attack the Fugitive Slave Law head-on, Chase decided the only way to truly free African Americans was to change the law through political reform.”²

Chase’s legal and political career began here in Cincinnati following graduation from Dartmouth College and serving in an apprenticeship to U.S. Attorney General William Writ in 1826. He passed the Ohio bar examination in 1828 and in 1830 began to practice law in Cincinnati at the corner of Third and Main Street representing Cincinnati’s leading banks. In 1833, Chase revised and published a new edition of *The Statutes of Ohio*, a work so well respected that it would become known as “Chase’s Statutes.” In 1836, he took on the case of James G. Birney, a former Kentucky slave owner and Princeton-educated lawyer, who abandoned the life of the Kentucky oligarch, moved to Cincinnati, and founded *The Philanthropist*, an abolitionist newspaper. A pro-slavery mob attacked Birney’s newspaper, which was located in a building on Main Street in downtown Cincinnati. Randy Barnett tells us that when he (referring to Mr. Chase) “...heard that the mob was heading to the Franklin House to tar and feather Birney, Chase raced to the hotel to warn the publisher.”³ Chase represented Birney in a successful action against members of the mob for damage they had caused to the building and printing press. In 1837, Chase became active in a series of cases representing blacks attempting to escape enslavement. Due to the ideology

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¹ Randy E. Barnett, *From Antislavery Lawyer to Chief Justice: The Remarkable but Forgotten Career of Salmon P. Chase*, 63 CASE W. RES. L. REV. 653, 697 (2013).

² DAVID L. MOWERY, SALMON PORTLAND CHASE: LINCOLN’S ABLE-FINANCIER (2004).

³ Barnett, *supra* note 1, at 658.

of the era, he lost all of these cases. Some of these cases are mentioned below:

Matilda (1837).⁴ Matilda was brought into the port of Cincinnati by her owner/father whom she begged to free her upon their arrival. After he refused, Matilda ran away and, with the assistance of local Black people, was hidden for almost a year. She found employment at the home of James Birney before being caught by slave catchers. Birney hired Chase to represent her.⁵ In court, Chase contended that Matilda's presence in Ohio made her a free person. Judge D. K. Este of Hamilton County Common Pleas Court disagreed and returned her to her owner/father. Two days later, he sent her to New Orleans where she was sold.

Wharton Jones vs. Van Zandt (1842-1847).⁶ John Van Zandt, a Methodist farmer who lived in the Sharonville-Glendale corridor, assisted a group of Kentucky runaways. He allowed them to drive his wagon north on what is now U.S. 42. All but one were captured in Lebanon, Ohio. Jones, the owner of the runaways, brought suit against Van Zandt in Cincinnati for the expense of reclaiming his slaves and the value of the one he lost.⁷ Chase represented Van Zandt in the case. They lost. They lost the case again on appeal in the U.S. Supreme Court.⁸ Van Zandt would lose his farm in Glendale and his children were sent to friends and relatives to live as orphans. Mr. Van Zandt, a founder of the Sharon Methodist Episcopal church, was excommunicated for "immoral and unchristian conduct." Van Zandt died a financially ruined man in 1847.

Samuel Watson (1845). Samuel Watson escaped from a steamboat docked on the Ohio River. He was being transported from Arkansas to Virginia. Located, seized, and detained by his handler, Watson was taken in front of a magistrate in Cincinnati. Salmon P. Chase was one of three attorneys who represented Mr. Watson in court

⁴ Salmon P. Chase, Speech of Salmon P. Chase in the Case of the Colored Woman, Matilda, Who was Brought Before the Court of Common Pleas of Hamilton County, Ohio, by Writ of Habeas Corpus (Mar. 11, 1837).

⁵ Barnett, *supra* note 1, at 659.

⁶ *Jones v. Van Zandt*, 46 U.S. 215 (1847).

⁷ Paul Finkelman, *John McLean: Moderate Abolitionist and Supreme Court Politician*, 62 VAND. L. REV. 519, 550 (2009).

⁸ *Van Zandt*, *supra* note 6.

proceedings. The judge ruled that Mr. Watson's handler take him back to the steamboat.⁹ In recognition of his service on behalf of Mr. Watson, the Black community of Cincinnati presented Mr. Chase with a silver pitcher at a ceremony at Union Baptist Church on May 6, 1845.

Salmon P. Chase joined the Cincinnati City Council as member of the Whig Party. He served from 1840 to 1841. In 1841 Chase became an organizer of the Liberty Party, "the first nationwide anti-slavery group"¹⁰ From 1849 to 1855 he served in the U.S. Senate as a Free Soil Democrat. From 1856 to 1860 he served as Ohio's first Republican governor and in 1860 and 1861 he was elected to U.S. Senate as a Republican. Mr. Chase did not agree with the Democratic party's support of the Fugitive Slave Act and their support of the expansion of slavery into the western territories and therefore identified as Republican in 1856. He resigned from his seat in the Senate in March 1861 at the request of President Abraham Lincoln so that he could become Secretary of the Treasury. With no experience or background in public finance, he became a major force in raising revenue needed for the U.S. government to sustain itself financially during the Civil War.

Chase created the Bureau of Internal Revenue and introduced the country's first system of paper currency. Under his leadership at the Department of Treasury, Chase brought large numbers of white women and Black men into the Washington office as employees, and, in some cases, as managers. Chase, like most young American men and women, had always wanted to be United States President, and as a member of Lincoln's cabinet his ambition increased. Although he had been a candidate in opposition to Lincoln in a national convention prior to the 1860 election, Chase had become a chief campaigner for Lincoln's election. While they disagreed on many issues, Chase and Lincoln did not disagree on the overall goals of the Lincoln administration. Therefore Lincoln was more patient than most politicians with Chase's often less than subtle disagreements with his approach to major issues. For example, Chase was the first member of the Lincoln administration to lobby for the emancipation of the Black people. Chase's eventually resigned from the Treasury Department due to an internal matter in 1864.

⁹ Matthew A. Axtell, What is Still "Radical" in the Antislavery Legal Practice of Salmon P. Chase? 11 HASTINGS RACE & POVERTY L.J. 269, 317 (2014).

¹⁰ MOWERY, *supra* note 2.

In less than 6 months from his resignation from the Treasury Department, Lincoln appointed Chase as Chief Justice of the U. S. Supreme Court, which filled the vacancy left by Justice Roger Taney's death. Taney, a slave-holder, had been a long sitting conservative in the U.S. Supreme Court and had supported the 1857 Dred Scott decision. During Salmon P. Chase's tenure on the Supreme Court, the 14th and 15th Amendments to the Constitution were passed by Congress and became law. Chase was instrumental in enabling a Black attorney, John Swett Rock, to obtain the right to practice law before the U.S. Supreme Court, a decision that reversed an earlier action of the Taney Court.¹¹

During his tenure in Washington, Salmon P. Chase, who had been labeled by Southerners as the "Attorney General of Fugitive Slaves," represented Solomon Northup in an unsuccessful action to obtain compensation from James H. Burch, a Washington, D. C. slave dealer. Burch was responsible for kidnapping Northup from Washington, D. C. and for his 12-year enslavement in the state of Louisiana. Chase ultimately wore the title given to him by Southerners as a badge of honor.

Chase's believed in equality and worked to create schools and colleges that would provide education for Black men and women. To that end, he became the treasurer of the first co-educational college for Black men and women in America, Wilberforce, which still operates today in Xenia, Ohio. When he died in 1873, per his will, his estate made a \$10,000 contribution to the institution, which provided W.E.B. DuBois, among others, an opportunity to teach at an upper level.

In Randy E. Barnett's summation of Salmon P. Chase's career, he pointed out that Chase was ambitious and driven by two distinct passions—to become President of the United States and to see the end of slavery and its remnants. 20th century historian, Eric Foner, is quoted as saying Salmon P. Chase "lived to see his political approach to the slavery issue spread from a handful of abolitionists to become the rallying-cry of a victorious political party."¹²

Holding titles of Mayor, Senator, Secretary of Treasury of the United States of America, Chief Justice of the United States of America, and "Attorney General of Fugitive Slaves," Chase was, upon his death in 1873, interred in Washington DC in the Oak Hill

¹¹ *Dred Scott v. Sanford*, 60 U.S. 393 (1856).

¹² ERIC FONER, *FREE SOIL, FREE LABOR, FREE MEN: THE IDEOLOGY OF THE REPUBLICAN PARTY BEFORE THE CIVIL WAR* 73 (1970).

Cemetery. As compensation for his legal services, he was given two burial parcels on a lovely slope in Spring Grove. Eleven years passed before the remains of Salmon P. Chase would be brought home to Cincinnati, Six horse-drawn carriages comprised the cortege. It began at Cincinnati's Music Hall and proceeded to the grave site at Spring Grove. Seven Black men who were members of the community to whom Chase had given the best of his legal and intellectual talent, served as honor guards. They never left his remains until Chase was buried in the unmarked grave. Years would pass before an impressive marker would be installed at Chase's burial site. In Washington, DC, the original granite stone that marked his original burial site sat in the corner of a marble yard. The polished stone held these words:

SALMON P. CHASE

BORN

January 13 1808

DIED

MAY 7 1873

The owner of the marble yard complained he could not sell the stone, not even as material for a building foundation. Decades and generations would pass and most of America would forget one of its most important personages. The man for whom one of America's largest banks (Chase) is named and the man who, as Chief Justice of the United States Supreme Court, worked to prevent President Andrew's impeachment fearing another Civil War, was not remembered. The man who headed the Supreme Court, when the descendants of Africans brought to America in 1619 obtained citizenship with the passage of the 13th, the 14th, and the 15th Amendments name and legacy meant nothing in Washington DC, the center of American governance and Democracy.¹³

In 2014, the Cincinnati Museum heard about the Granite Tombstone and the Silver Water Pitcher referenced above. In 2014, a commercial truck delivered the Chase granite tombstone - mud and all - to

¹³ Gordon A. Christenson, *A Tale of Two Lawyers In Antebellum Cincinnati: Timothy Walker's Last Conversation with Salmon P. Chase*, 71 U. CIN. L. REV. 457, 490-491 (2002). See also Barnett, *supra* note 1 (discussing Chase's disagreeable personality, political ambition, and his opponent's attempts to give him a bad name).

the North door of the National Underground Railroad Freedom Center, where it and the silver water pitcher are on proud display today.