JEREMIAH SULLIVAN BLACK: SOMERSET'S GREAT LAWYER

CLARENCE EDWARD MACARTNEY

IF YOU FOLLOW the road leading from Somerset, Pennsylvania, southward toward Bedford for about ten miles, a mile or two beyond Berlin you will come to a clump of fir trees on the left-hand side of the road, not far from a hamlet known as Stony Creek. In the midst of these fir trees stands an enormous block of granite, upon which is a bronze tablet with the following inscription:

Birthplace of
Jeremiah Sullivan Black
10 January, 1810

President, Judge, 16th Penn. Judicial District, 1842-51
Associate Justice and Chief Justice of Penna. 1851-1857
Attorney-General of the United States, 1860-1861
Fearless and eloquent defender of Constitutional Rights,
Of Trial by Jury, and of Civil and Religious Liberty
Until his death, 19th, August, 1883.
"To live unmolested is not a political privilege, but a
Natural, absolute, and indefeasible right, which human
Government may protect, but cannot either give or withhold."

Directly across the road from this monument, according to the custom of that day, is a private cemetery for the Black family, enclosed by a massive stone wall and an iron fence. On the August day when I visited it I could at first not make out a single tomb, because the whole place was overgrown with briars and weeds. But when I pushed through the weeds I did succeed in finding the graves of Black's grandfather and grandmother, and also the grave of his father. The great lawyer and jurist does not sleep here in this bramble cemetery with his ancestors, for he is buried at York, Pennsylvania, where he died in 1883.

1 For the information, chiefly, of readers far distant or long absent from the Pittsburgh district, it may be noted that Dr. Macartney has long been pastor of the First Presbyterian Church of Pittsburgh, and has authored many a book or article on Pittsburgh, western Pennsylvania, and Civil War history, to say nothing of his numerous contributions to ecclesiastical history and religious thought.—Ed.

2 The quotation is from Judge Black's address on "Religious Liberty," delivered before the Phrenakosmian Society of Pennsylvania College on September 17, 1856, and published in Chauncey F. Black, ed., Essays and Speeches of Jeremiah S. Black, 52 (New York, 1885).
Jeremiah Sullivan Black was born at Pleasant Glades in Stony Creek Township, Somerset County, Pennsylvania. The house where he was born stood not far from the Bedford turnpike, which then was crowded with Concord stages and Conestoga wagons rolling westward and herds of cattle and horses, flocks of sheep and droves of swine marching eastward. His father, Henry Black, was a man of considerable standing in the community, having been an associate judge of Somerset County for twenty years, a member of the Pennsylvania General Assembly, and a member of Congress. The early and formal schooling of Black was at the villages of Stoystown, Berlin, and Somerset, and in a classical school at Brownsville, Fayette County, where James G. Blaine was born. When in school at Berlin the young Black with other boys collected nails and pieces of iron from among the ashes of a barn that had been struck by lightning, and, believing that these bits of iron would draw lightning, hid them under the schoolhouse, hoping that lightning would strike the building and set them at liberty.

At an early age Black was well versed in Latin poetry, having translated Horace into English prose, and then into English verse. At the age of seventeen he became a student of law in the Somerset office of Chauncey Forward, a leader of the bar and a prominent politician. He was admitted to the bar in 1830, and when Forward went to Congress took charge of his law practice. Black was greatly influenced by this association with Forward, as to politics, the practice of law, his religion, and his domestic life, for he married Forward's daughter Mary. In 1842 Governor David R. Porter appointed him president judge of the Court of Common Pleas of the 16th Judicial District, which was made up of Franklin, Bedford and Somerset counties. In 1851 he was elected to the Supreme Court of Pennsylvania and served for three years as Chief Justice.

In March, 1857, President Buchanan appointed Black as his Attorney-General, and in December, 1860, when Lewis Cass, Secretary of State, left the Cabinet, Black was put in his place, not only as a Secretary of State, but perhaps more as an advisor to Buchanan in the midst of the hurricane that was then blowing over the nation, and when it seemed to not a few that the great achievements of the Republic since it was born in 1776 were about to be lost in the maelstrom of civil strife.

At the request of Buchanan, and at the time of the angry dispute over the proposal to send Major Robert Anderson and his troops back
from Fort Sumter to the indefensible Fort Moultrie, Black submitted the following opinions on the crisis:

1. Secession was unconstitutional.
2. Yet the Federal Government had no right to invade a state and compel it to remain in the Union.
3. Nevertheless, the Federal Government could, and should, hold the Southern forts, the coast defense and control the customs, and thus render independent states impossible.

There was a certain inconsistency in these opinions, for if secession from the Union was unconstitutional, and therefore an offence against the nation, the government had the right to maintain its authority in all the states.

During these critical days the meetings of the Cabinet were the most dramatic and memorable in the history of the Republic. Great pressure was being brought to bear on the President to send Major Anderson back to Moultrie, and for a time it seemed as if he would yield. The tide of passions ran high. The Postmaster-General, Judge Joseph Holt, said of John B. Floyd, the Secretary of War, that when the news came of Anderson's bold coup, Floyd's "fury seemed as that of some baffled fiend who suddenly discovers open at his feet the gulf of ruin he has been preparing for another."

Edwin M. Stanton, the Steubenville, Pittsburgh, and Washington attorney who had been employed by Black when he was Attorney-General to prosecute the land frauds in California, had become Attorney-General when Black was made Secretary of State. Speaking of one of the meetings of the Cabinet at the time of the debate over Fort Sumter, Stanton said: "The great conflict for the Union commenced a few minutes after I parted from you here." He tells of the President wrapped in an old dressing gown, and, trembling like a leaf in his anxiety, crouched in his chair near the fire, listening to the storm of debate about him, but with no word of counsel or leadership. In answer to Floyd's demand that the President send Anderson back to Moultrie, Stanton declared that it would be a crime equal to the crime of Benedict Arnold, that those who took part in it ought to be hanged like Andre, and that a President who issued such an order ought to be hanged. Stanton told Buchanan that he would resign from the Cabinet if he ordered the garrison back to Moultrie; and in this Black concurred. If Black had had his
way, the "Brooklyn," a formidable warship, instead of the feeble "Star of the West," would have been sent to Charleston to relieve Sumter and vindicate the honor of the nation.

Henry Wilson, Senator from Massachusetts, and a member of a Vigilance Committee organized by active Republicans in Congress during the critical last weeks of Buchanan's administration, writes of the dramatic conflicts in the Cabinet, with Stanton threatening Buchanan and the disunionists, and how Stanton met almost daily with the members of the Republican Vigilance Committee. Strange to say, Black, in a magazine controversy with Wilson, denied that there ever was such a conflict in the Cabinet, or that Stanton was ever in communication with the Republican leaders, and that to assert that he was, was to brand him as a villain and a traitor. One must choose between the testimony of Black and the explicit witness of such men as Henry Wilson, Charles Sumner, and Judge Holt.

Although Black differed sharply on the question of sending Major Anderson back from Fort Sumter to the vulnerable Fort Moultrie, from which he had removed the troops to the much stronger Sumter, Black was a firm defender and admirer of Buchanan. "During all that long period he steadily, faithfully, and powerfully sustained the principles of free constitutional government. This nation never had a truer friend, nor its laws a defender who would more cheerfully have given his life to save them from violation. No man was ever slandered so brutally. His life's life was literally lied away. In the last months of his administration he devoted all the energies of his mind and body to the great duty of saving the Union, if possible, from dissolution and civil war. . . . The accusation of timidity and indecision is most preposterous."

When President Johnson was tried before the Senate on Articles of Impeachment, Black was his counsel, but soon withdrew in displeasure because Johnson would not overrule Seward, the Secretary of State, for one of his own clients. In 1877 Black, who later attacked Grant's administration with such bitterness, as counsel defended Grant's Secretary of War, William W. Belknap, who was on trial before the Senate after he had been impeached by the House for corrupt practices. In 1877 he appeared as counsel for Samuel Tilden before the special electoral com-

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3 Black, Essays and Speeches, 251.
mission. He termed the seating of Rutherford B. Hayes as President as the "Great Fraud."

When Grant was being put forward for a third term, Black strongly opposed his candidacy and made a vigorous attack upon his character. "Grant's own history and character as a civilian," he wrote, "make it certain that those who support him are enemies of free and honest government. These third-termers are not madmen. They have tried Grant, and they know what he is good for. Those acts of deadly hostility to the Constitution which distinguished the period of his Administration they expect him to repeat. Those atrocious corruptions which made it the golden age of the public plunderer they look for again." 4

In 1872 there appeared Ward Hill Lamon's Life of Abraham Lincoln. Lamon, a Danville, Illinois, lawyer, had been Lincoln's bodyguard during the war and slept next to Lincoln's bedchamber. It was the regret of his life that he was absent from Washington on a mission to Richmond when Lincoln was assassinated. He was gigantic in frame, a bitter anti-Abolitionist, and by not a few regarded as "a whiskey-drinking, walrus-mustached boaster and braggart." For a time Lamon was associated with Black in his law practice, and thus made the acquaintance of Black's son, Chauncey Forward Black.

The chief authority for Lamon's biography of Lincoln was the material which Herndon, Lincoln's law partner, had sold to him; but the author of the book, although it was published under Lamon's name, was Black's son Chauncey. Black was an unfortunate choice for a Lincoln biographer, for he was a Buchanan Democrat, shared his father's unfavorable views of Lincoln, and was ready to believe that which would discredit the dead President. The book was a total failure, chiefly because it presented Lincoln as an unbeliever. It quoted Herndon as saying: "As to Lincoln's religious beliefs and views, he was in short an infidel, an atheist. He did not believe that Jesus was God or the Son of God. He was a fatalist; he denied the freedom of the will. Mr. Lincoln told me a thousand times that he did not believe the Bible was the revelation of God as the Christian world contends." On the fierce controversy which raged over the book and the subject of Lincoln's belief or unbelief, the best thing written or spoken was by Josiah G. Holland, editor of Scribner's Monthly, and in 1866 author of a biography of Lincoln: "The reli-

4 Black, Essays and Speeches, 405.
gion of the Lord Jesus Christ is no more in need of the patronage of a great man than it is in danger of disparagement by a small one."

In middle life Black passed through an unusual religious experience and, after baptism by the celebrated Alexander Campbell of Bethany College, Virginia, became a member of the Campbellite, or Disciples, Church. Henceforth he was an ardent and very able defender of Christianity against the attacks of unbelievers, notably those of the eloquent Robert G. Ingersoll. Answering the speeches of Ingersoll, Black wrote: "I am not out on the forlorn hope of converting Mr. Ingersoll. I am no preacher exhorting a sinner to leave the seat of the scornful and come up to the bench of the penitents. My duty is more analogous to that of the policeman, who would silence a rude disturber of the congregation by telling him that his clamor is false, and his conduct an offense against public decency."

Answering the attack of Ingersoll on the credibility of the Gospels, Black said: "What we call the fundamental truths of Christianity consist of great public events which are sufficiently established by history without special proof. . . . Cornwallis surrendered to Washington at Yorktown, and changed the destiny of Europe and America. Nobody would think of calling a witness or even citing an official report to prove it. Julius Caesar was assassinated. We do not need to prove that fact like an ordinary murder. He was master of the world, and his death was followed by a war with the conspirators, the battle at Philippi, the quarrel of the victorious triumvirs, Actium, and the permanent establishment of imperial government under Augustus. The life and character, the death and resurrection, of Jesus are just as visibly connected with events which even an infidel must admit to be of equal importance. The Church rose and armed herself in righteousness for conflict with the powers of darkness; innumerable multitudes of the best and wisest rallied to her standard and died in her cause; her enemies employed the coarse and vulgar machinery of human government against her, and her professors were brutally murdered in large numbers; her triumph was complete; the gods of Greece and Rome crumbled on their altars; the world was revolutionized and human society was transformed."

At the end of this magnificent statement in behalf of the Christian revelation, after describing the moral darkness and cruelty of the pagan

5 Black, Essays and Speeches, 76.
world, Black said: "The Church came, and her light penetrated this moral darkness like a new sun. She covered the globe with institutions of mercy, and thousands upon thousands of her disciples devoted themselves exclusively to works of charity at the sacrifice of every earthly interest. Her earliest adherents were killed without remorse—beheaded, crucified, sawed asunder, thrown to the beasts, or, covered with pitch, piled up in great heaps and slowly burned to death. But her faith was made perfect through suffering, and the law of love rose in triumph from the ashes of her martyrs. This religion has come down to us through the ages, attended all the way by righteousness, justice, temperance, mercy, transparent truthfulness, exulting hope, and white-winged charity. . . . Abolish it—take away the restraints which it imposes on evil passions—silence the admonitions of its preachers—let all Christians cease their labors of charity—blot out from history the records of its heroic benevolence—repeal the laws it has enacted and the institutions it has built up—let its moral principles be abandoned and all the miracles of light be extinguished—what would we come to? I need not answer this question: the experiment has been partially tried. The French nation formally renounced Christianity, denied the existence of the Supreme Being, and so satisfied the hunger of the infidel heart for a time. What followed? Universal depravity, garments rolled in blood, fantastic crimes unimagined before, which startled the earth with their sublime atrocity. The American people have, and ought to have, no special desire to follow that terrible example of guilt and misery."

In 1869, on his way to Galveston, Texas, to argue a case, the side of the car in which Black was sitting was struck by the cars of a freight train, and his right arm so badly injured that it had to be amputated. He learned to write with his left hand, but ever after had to have the help of a servant. Despite this handicap he went from strength to strength in his great career as a lawyer, a "defender of the Constitution, the Union and the Ten Commandments." He died at his home, "Brockie" at York, Pa., on the 19th of August, 1883, full of years and honors. With death approaching him he said to a member of his family: "I would not have you think for a moment that I am afraid to die—my business on the other side is well settled—on this it is still somewhat at loose ends."

Black, *Essays and Speeches*, 76, 89, 95.
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