



JERZY ZAJADŁO



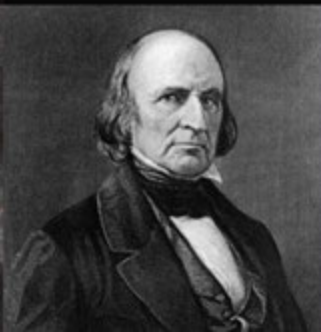
JUDGES
AND SLAVES



SKETCHES FROM
THE PHILOSOPHY OF LAW



GDAŃSK UNIVERSITY PRESS



**JUDGES
AND SLAVES**

In memory of Professor Wiktor Osiatyński

An immoral law makes it a man's duty to break it, at every hazard. For virtue is the very self of every man. It is therefore a principle of law that an immoral contract is void, and that an immoral statute is void. For, as laws do not make right, and are simply declaratory of a right which already existed, it is not to be presumed that they can so stultify themselves as to command injustice (...) Here is a statute which enacts the crime of kidnapping,—a crime on one footing with arson and murder. A man's right to liberty is as inalienable as his right to life.

Ralph Waldo Emerson

JERZY ZAJADŁO

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AND SLAVES

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TRANSLATED BY
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IN COOPERATION WITH
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INTRODUCTION



The Constitution –
A Covenant with Death
and an Agreement with Hell

1. PROSECUTORS, VINDICATORS, AND HISTORICISTS

For the majority of contemporary constitutional scholars, the American Constitution of 1787 is the symbol of an exceptionally concise, coherent, and synthesizing constitutional act, one that in its fundamental form has survived for more than two hundred years. Perhaps, to a considerable degree, it owes this to its succinct nature, one that permits dynamic commentary and interpretation. Still today, in American jurisprudence there is very detailed discussion concerning the historical circumstances of the events that accompanied the birth of the United States – the course of the First and Second Constitutional Congresses between 1774 and 1789, the passing of the Declaration of Independence in 1776 and of the Articles of Confederation and Perpetual Union of 1777, as well as the debates conducted during the constitutional convention in Philadelphia that culminated in the passing of the Constitution of the United States of North America in 1787¹ and those that took place in state legislatures in the process of ratification, which was finally concluded with the Constitution's becoming law in 1789. It is true that sometimes today the question arises as to whether the American Constitution is not possibly somewhat outdated from a contemporary point of view,² but generally the answer is a negative one that points to the huge interpretative achievements of the judiciary. These achievements have prompted the development of various theories of constitutional interpretation – from textualism via originalism to intentionalism, structuralism, pragmatism and to conceptions that are *par excellence* philosophical.³

In the many contemporary publications on this subject in the fields of history, sociology, political science, and jurisprudence broadly conceived, a particular place is enjoyed by the question of slavery. It is true that this institution was formally and finally abolished in the Thirteenth Amendment to the Constitution in 1865, but despite that, both its complicated genesis and its complex moral, political, legal, and social consequences are a matter of controversy – sometimes provoking intense emotions – in American scholarship.

¹ In reference to the Constitution of the United States of North America, this book employs the word Constitution, spelled with a capital initial letter. When referring to the constitutions of individual states, I give the word constitution with a lower-case initial next to the name of the state.

² From recent literature, see, for example, *Is the American Constitution Obsolete?*, ed. T.J. Main, Carolina Academic Press, Durham (N.C.) 2013.

³ For more on this subject, see, for example, S.A. Barber, J.E. Fleming, *Constitutional Interpretation: The Basic Questions*, Oxford University Press, New York 2007.

The American Constitution, as, indeed, any fundamental law, was, of course, a matter of compromise;⁴ however, in the case of slavery, it was an exceptionally ambiguous compromise, and fraught with consequences that were divisive, and it did finally lead to an exceptionally bloody internal armed conflict, one that resulted in more than 600,000 victims, several million wounded, and gigantic material losses that came to ten billion dollars (in 1860s values). It is the case that here and there one hears the voices of the so-called neo-confederates, which call into question the thesis that the issue of slavery played a decisive role in the outbreak of the Civil War, but a different position is dominant. Legal historians and constitutional experts appear to have no doubt that it is precisely the compromise in the Constitution concerning slavery and that resulting later events and political decisions, especially in the late 1840s and early 1850s, led directly to an unavoidable armed conflict between North and South.⁵ In his inaugural address, beginning his second term of office in 1865, Abraham Lincoln expressed this clearly.

One-eighth of the whole population were colored slaves, not distributed generally over the Union, but localized in the southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was somehow the cause of the war.⁶

To use the terminology of the contemporary American Studies scholar Zbigniew Lewicki, one can say that decisions come to at the end of “the era of creation” (1607–1789) mean that the following periods in U.S. history must be called “the era of contradictions” (1787–1865) and “the era of consolidation” (1861–1945).⁷

Thus, in contemporary American historical writing and jurisprudence, a great deal of space is given over to an attempt to reconstruct the views of the so-called Founding Fathers⁸ in the matter of slavery, because such an attempt may be of con-

⁴ Cf. the special number of the *Pepperdine Law Review* 2011, vol. 38, special issue: *Compromise and Constitutionalism*, pp. 821–944, which contains texts by, among others, S. Levinson, P. Finkelman, M. Graber and R. Weisberg.

⁵ For example, P. Finkelman, “How the Proslavery Constitution Led to the Civil War,” *Rutgers Law Journal* 2013, vol. 43, no. 3, pp. 405–438.

⁶ Quoted in P. Finkelman, “State’s Rights, Southern Hypocrisy, and the Crisis of the Union,” *Akron Law Review* 2012, vol. 45, p. 449.

⁷ Z. Lewicki, *Historia cywilizacji amerykańskiej* [*The History of American Civilization*], vol. 1–3, Wydawnictwo Naukowe Scholar, Warszawa 2009–2012.

⁸ In American literature, the concept of the Founding Fathers is usually understood to include the signatories of the Declaration of Independence of 1776. They are differentiated from

siderable significance for the interpretation and evaluation of later events that lead directly to the Civil War. Irrespective of this, however, whether and how we will attempt to understand and explain the dissonance between the ideal of freedom and the institution of slavery, we should always have in mind the following words of the American historian Edmund S. Morgan:

That two such contradictory developments were taking place simultaneously over a long period of our history, from the seventeenth century to the nineteenth, is the central paradox of American history.⁹

In this matter, positions so vary that the literature even attempts to construct a typology of them. Alan Gibson argues that authors who analyze the position of the signatories of the Declaration of Independence and the framers of the Constitution in respect of slavery can be divided into three basic groups: prosecutors, vindicators, and historicists.¹⁰ Independently, attempts are also made to reinterpret the primary meaning of the Constitution itself. Some authors (Neo-Garrisonians) follow the accusations of William Lloyd Garrison and insist on the extremely pro-slavery nature of the Constitution. Others (Neo-Lincolnians) are inclined to share Lincoln's moderate position and argue that only a few provisions had a pro-slavery character, not the Constitution as a whole, and that it was vital

the participants in the Constitutional Convention of 1787, who are called Founding Framers. Gibson seems to understand Founding Fathers as both of these groups. In Polish literature, W. Szyszkowski, when he writes of Washington, Jefferson, and Hamilton, calls them "creators of the United States," *Twórcy Stanów Zjednoczonych. Waszyngton, Jefferson, Hamilton* [*Creators of the United States. Washington, Jefferson, Hamilton*], Wiedza Powszechna, Warszawa 1980. In turn, in the anthology of texts by Franklin, Washington, Jefferson, Adams, Hamilton, and Madison, edited by W. Osiatyński, the reference is to the "Founding Fathers," *Wizje Stanów Zjednoczonych w pismach Ojców Założycieli* [*Visions of the United States in the Writings of the Founding Fathers*], ed. W. Osiatyński, trans. A. Jaraczewski, Państwowy Instytut Wydawniczy, Warszawa 1977.

⁹ E.S. Morgan, "Slavery and Freedom: the American Paradox," *The Journal of American History* June 1972, vol. 59, no. 2, p. 5 ff.

¹⁰ A. Gibson, "How Could They Have Done That? Slavery and the Question of Moral Responsibility" [in:] id., *Understanding the Founding. The Crucial Questions*, 2nd ed., University of Kansas Press, Lawrence (Kan.) 2010, pp. 169–230. It is significant that this chapter with its very distinctive title appears only in the second edition of Gibson's book. It was absent from the first edition in 2007. Perhaps this indirectly indicates that in recent years there has been a growth in interest in the issue of slavery within American constitutional studies.



John Trumbull,
*The Signing of
the Declaration
of Independence*,
1819

to reach a constitutional compromise.¹¹ As an example, let us look more closely only at the first of these classifications, as the second is closely connected with it.

The first of these includes, above all, those scholars who accuse several signatories of the Declaration of Independence and participants in the constitutional convention not only of actually owning slaves, but of possessing pro-slavery convictions, often based on racist views. These authors argue that there is a fundamental divergence between, on one hand, the libertarian and egalitarian ideals of the Declaration of Independence and concrete provisions of the Constitution that directly or indirectly protected the interests of slave owners. This interpretation is labeled “neo-Garrisonian,” for William Lloyd Garrison, the founder of the abolitionist movement in the United States. Drawing on a biblical phrase, he called the American Constitution, by virtue of its pro-slavery character, “a covenant with death and an agreement with hell.”¹² From this point of view, even if the Constitu-

¹¹ F.A. Nabors, “How the Antislavery Constitution Won the Civil War,” *NYU Journal of Law & Liberty* 2016, vol. 10, pp. 346–403.

¹² *The Liberator*, May 1842 – quoted in: P. Finkelman, “Affirmative Action for the Master Class: The Creation of the Proslavery Constitution,” *Akron Law Review* 1999, vol. 32, no. 3, p. 424, footnote 5; also see the same author’s “The Cost of Compromise and the Covenant with Death,” *Pepperdine Law Review* 2011, vol. 38, pp. 845–888.

tion of 1787 was a kind of necessary compromise, the entire subsequent history of the United States right up to the outbreak of the Civil War constituted a series of concessions to the pro-slavery Southern states and to their economic and political interests. Even more, these concessions would have been impossible if decidedly anti-abolitionist attitudes had not been dominant in several Northern states and among their representatives in Congress. Among the accusers, Gibson principally includes the American legal historian and constitutional scholar Paul Finkelman¹³ and the Irish historian, politician, and writer Conor Cruise O'Brien.¹⁴

On the other hand, vindicators speak up for the good name of the Founding Fathers, stressing their exceptional services during the struggle for independence and in the process of passing the Constitution. At all costs, they attempt to explain and justify their not always clear and consistent attitude to slavery. The result is that as opposed to the accusers, they decisively reject the thesis of the pro-slavery character of the Constitution itself and of the compromise that underlies it. They look for inspiration for their interpretation not so much among the representatives of the abolitionist movement such as the above-mentioned Garrison or Wendell Phillips, but rather in the moderate position held by Abraham Lincoln. In consequence, this kind of interpretation is often called a “neo-Lincolnian” one. Therefore, in the writings of the Founding Fathers, the vindicators do not highlight those passages that might signal racism and an approval of slavery, but, on the contrary, those that speak fundamentally for anti-slavery views, at least among the majority of the Fathers.

In a similar fashion, they attempt to interpret any articles of the Constitution that on the surface might attest to its pro-slavery character. Thus, they quite consistently express their moral disapproval of the institute of slavery, but, at the same time, do not perceive any fundamental dissonance between the ideals of the Declaration of Independence and the solutions adopted by the Constitutional Convention. Quite the reverse, bearing in mind the ideals of liberty and equality that underlie the birth of the United States, these recognize slavery as a short-term and, to a degree, necessary episode, with regard to which, from the very beginning, it

¹³ Finkelman is the author of many studies on the constitutional aspects of slavery, but – in the context that interests me here – his most important study is *Slavery and the Founders: Race and Liberty in the Age of Jefferson*, 2nd ed., M.E. Sharpe, Armonk (N.Y.) – London 2001.

¹⁴ O'Brien is principally famous as the author of a study on Thomas Jefferson, *The Long Affair: Thomas Jefferson and the French Revolution*, University of Chicago Press, Chicago 1996; see also his very critical article (under a characteristic title) “Thomas Jefferson: Radical and Racist,” *Atlantic Monthly*, October 1996, vol. 278, issue 4, pp. 53–74.

was clear that it would quite rapidly come to an end. In this sense, the constitutional compromise was a rational compromise, because without it there would have been no United States. If we accept the matter thus, slavery emerges as an institution that exists on a state level, while on a federal level the aim was to abolish it. Gibson counts, above all, among the vindicators the historians Don E. Fehrenbacher¹⁵ and Dumas Molone,¹⁶ and the political scientist Thomas West.¹⁷

Finally, the third group – the historicists. The nature of their position entails a methodological change. It is not a matter of condemning or defending the Founding Fathers from the perspective of today, but rather of properly understanding their world, age, conditioning, ideals, mentality, characters, personal fates, etc. This especially applies to the issue of slavery. A final ethical evaluation of the attitude of the Founding Fathers to the problem of slavery cannot be made from the point of view of our contemporary historical knowledge, and on the basis of our system of values. Such evaluation ought rather to take into account the moral world of the intellectual elites of the specific collectivity that was American society of the colonial period and, subsequently, of the turn of the eighteenth and nineteenth centuries. Further added to this are complex economic, political, and social contexts that are more visible from a position of *tum et tunc* than of *hic et nunc*.

Of course, this does not mean that all historicists attempt in this way to justify both the very institution of slavery and the personal position of selected historical figures, and to avoid any critical judgments. On the contrary, it is sufficient to set together the names of various Founding Fathers (as broadly understood), for example, James Adams, Samuel Adams, Benjamin Franklin, Alexander Hamilton, Thomas Jefferson, James Madison, George Mason, Gouverneur Morris, George Washington, and George Wythe, to realize how varied their personal and systemic attitudes were to slavery. This confirms the historicists' argument that not only a knowledge of the historical context is of significance in our final judgment of the phenomenon of slavery, but also an acquaintance with the character make-up and personal experi-

¹⁵ In this context Fehrenbacher's posthumous study *The Slaveholding Republic: An Account of the United States Government's Relations to Slavery*, collected and edited by W.M. McAfee, Oxford University Press, New York 2001, is most frequently cited.

¹⁶ Dumas Malone is the author of the most extensive biography of Thomas Jefferson (in six volumes, and several years in its preparation) – *Thomas Jefferson and His Time*, 6 vols., Little & Brown, Boston 1948–1981.

¹⁷ Thomas West is known, above all, as the author of a book dedicated to the vindication of the good name of the Founding Fathers, particularly of Thomas Jefferson – *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America*, Rowman & Littlefield, Lanham (Md.) 1997.

ences of outstanding historical figures. Gibson includes in this group, among others, Gordon Wood,¹⁸ Bernard Baylin,¹⁹ Henry Wiencek,²⁰ and Peter Onuf.²¹

2. THOMAS JEFFERSON: AMERICAN SPHINX²²

The question arises whether there was some, at least formal, *iunctim* among these three groups of authors. It appears that this is so and it is the person of Thomas Jefferson. All the authors cited above, when they evaluate the attitudes of the Founding Fathers to the problem of slavery, either devote their attention exclusively to the author of *Notes on the State of Virginia*,²³ or, at least, concentrate on him to a substantial extent. The causes of this state of affairs are multiple and completely understandable.

First, Jefferson is a symbol of American ideals of liberty and equality. He did not in fact take a direct part in the creation of the Constitution, because at that time of the Convention he was ambassador in Paris. Nonetheless, he is seen by general opinion as the author of the text of the Declaration of Independence.

Second, although Jefferson's only extended piece of writing is the *Notes on the State of Virginia* from 1781 (first published anonymously in Paris in 1784), his legacy as a writer is, in fact, quantitatively much richer, and also includes extensive correspondence. These writings offer a picture full of contradictions as regards the author's attitude to slavery *in genere* and toward blacks *in specie*.

¹⁸ *The Creation of the American Republic, 1776–1787*, University of North Carolina Press, Chapel Hill 1998 (reprint of the first edition from 1969).

¹⁹ *The Ideological Origins of the American Revolution*, Belknap Press of Harvard University Press, Cambridge (Mass.) 1992 (reprint of the first edition of 1967).

²⁰ Henry Wiencek is famous, above all, as the author of a book on George Washington's attitude toward slavery – *An Imperfect God: George Washington, His Slaves, and the Creation of the American Republic*, Farrar, Strauss & Giroux, New York 2003. Recently, he has devoted a similar study to Thomas Jefferson – *Master of the Mountain: Thomas Jefferson and His Slaves*, Farrar, Strauss & Giroux, New York 2012.

²¹ Peter Onuf is the author of many studies devoted, above all, to Thomas Jefferson. The most important of these are *Jefferson's Empire: The Language of American Nationhood*, University Press of Virginia, Charlottesville 2000, and *The Mind of Thomas Jefferson*, University Press of Virginia, Charlottesville 2007.

²² I have taken the title of this subchapter from the famous study by Joseph J. Ellis, *American Sphinx: The Character of Thomas Jefferson*, Alfred A. Knopf, New York 1997.

²³ The new Polish edition of this text is T. Jefferson, *Uwagi o państwie Wirginia*, trans. T. Wiecech, Księgarnia Akademicka, Kraków 2014 (it is based on T. Jefferson, *Notes on the State of Virginia: A New Edition*, J.W. Randolph, Richmond 1853).



Rembrandt
Peale, *Thomas
Jefferson*, 1800

Third, Jefferson was the owner of a considerable number of slaves on his estate in Monticello (it was a different number at different times, sometimes even exceeding two hundred persons), and he freed only a few of them. Attempts are made to justify this by his personal biography (vindicators) and the nature of the times (historicists), but, nonetheless, there remains a jarring dissonance here in the context of Jefferson's fame as the author of the Declaration of Independence (prosecutors).

Fourth, although the scholarly dispute about Jefferson's actual attitude toward slavery has a very long history and although its roots go back as far as the beginning of the nineteenth century, recently it has acquired a particular dynamism. This happened as a result of DNA tests conducted in 1998, which confirmed that Jefferson may be the father of at least one of the children of Sally Hemings, a mulatto woman who was Jefferson's slave, very likely his long-term mistress, and, at the same time, the stepsister of his wife Martha.

In recent years, this last issue has been the subject of thorough scholarly research²⁴ is surrounded by an enormous literature.²⁵ However, its nature places it beyond the scope and outside the main focus of this study. The intertwining of Jefferson's complicated personal biography with his outstanding public ser-

²⁴ Cf. *The Jefferson-Hemings Controversy: Report of the Scholars*, ed. R.F. Turner, Carolina Academic Press, Durham (N.C.) 2011.

²⁵ Alongside the work of Henry Wiencek, which I have already mentioned (*Master of the Mountain...*), the work of the historian Anette Gordon-Reed deserves particular attention: *Thomas Jefferson and Sally Hemings: An American Controversy*, University of Virginia Press, Charlottesville–London 1997; and *The Hemingses of Monticello*, W.W. Norton, New York 2008. Cf. also: *Sally Hemings & Thomas Jefferson: History, Memory, and Civic Culture*, eds. J.E. Lewis, P.S. Onuf, University of Virginia Press, Charlottesville–London 1999; W.G. Hyland Jr., *In Defense of Thomas Jefferson: The Sally Hemings Sex Scandal*, St. Martin's Press, New York 2009; L.C. Stanton, *"Those Who Labor for My Happiness": Slavery at Thomas Jefferson's Monticello*, University of Virginia Press, Charlottesville–London 2012.

vice and his extraordinary intellectual achievements means that we are, indeed, dealing with a figure who is both enigmatic and inscrutable just like the legendary ancient sphinx. At the same time, the subject is so vast and complex that it would be difficult to develop it further here. Let us, then, concentrate on a few selected excerpts from Jefferson's rich legacy of writing, which may, however, really lead us into some perplexity and cause us difficulties if we wish to form an unambiguous judgement of his attitude toward slavery. It is hard to agree with the following opinion, recently expressed in the Polish literature on the subject by Tomasz Wiecech.

The problematic aspects of Jefferson's life, among which slavery stands to the fore, are systematically and effectively deleted from public awareness. Apart from professional historians, only de-mystifiers of various kinds (of whom there is no lack all over the world) are concerned with these.²⁶

Quite the opposite is true. Not just in American historical writing, but also in American jurisprudence, this topic constantly arouses interest, and is the object of differing interpretations,²⁷ since one cannot avoid it either in scholarship or teaching relating to constitutional law.²⁸

Above all, the literature very frequently refers to a specific extract from the Declaration of Independence, written by Jefferson in the original draft, but ultimately removed from the final text:

He [King George III] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian king of Great Britain. Determined to keep open a market where men should be bought

²⁶ T. Wiecech, *Unia w myśli politycznej Thomasa Jeffersona* [*The Union in the Political Thought of Thomas Jefferson*], Wydawnictwo Uniwersytetu Jagiellońskiego, Kraków 2012, p. 12.

²⁷ Cf. e.g., W.G. Merkel, "A Founding Father on Trial: Jefferson's Rights Talk and the Problem of Slavery During the Revolutionary Period," *Rutgers Law Journal* 2012, vol. 64, no. 3, pp. 595–663; A. Schwabach, "Thomas Jefferson, Slavery, and Slaves," *Thomas Jefferson Law Review* 2010, vol. 33, no. 1, pp. 1–60.

²⁸ Critical commentary on the avoidance or marginalization of the problem of slavery in American textbooks on constitutional law can be found in J.F. Perea, "Race and Constitutional Law Casebooks: Recognizing the Proslavery Constitution," *Michigan Law Review* 2012, vol. 110, pp. 1123–1152.

and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce.²⁹

Jefferson himself was aware of the reasons why this passage was removed from the final text of the Declaration of Independence. In his *Autobiography*, he wrote of the subject thus:

The pusillanimous idea that we had friends in England worth keeping terms with, still haunted the minds of many. For this reason those passages which conveyed censures on the people of England were struck out, lest they should give them offence. The clause too, reprobating the enslaving the inhabitants of Africa, was struck out in complaisance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who on the contrary still wished to continue it. Our northern brethren also I believe felt a little tender under those censures; for tho' their people have very few slaves themselves yet they had been pretty considerable carriers of them to others.³⁰

For contemporary scholars, however, the most controversial passages are some of those drawn from *Notes on the State of Virginia*. On one hand, Jefferson appears as a decided opponent of slavery and the slave trade because of their negative influence on American society³¹; however, on the other hand, he does not conceal his antipathy toward black people and he considers their intellectual and physical attributes as less developed in comparison to those of whites.³²

²⁹ T. Jefferson, "Autobiografia" [in:] *Wizje Stanów Zjednoczonych...*, p. 187; cf. also: W. Osiatyński, *Korzenie „Korzeni”*. *Dzieje Murzynów w Stanach Zjednoczonych* [*The Roots of "Roots": The History of Negroes in the United States*], Iskry, Warszawa 1981, p. 42. The English text is taken from *Autobiography of Thomas Jefferson*, G.P. Putman's Sons, New York and London 1914, p. 39.

³⁰ T. Jefferson, *Autobiografia...*, p. 186. English text: *Autobiography of Thomas Jefferson*, G.P. Putman's Sons, New York and London 1914, p. 33

³¹ T. Jefferson, *Notes on the State of Virginia*, University of Oxford Text Archive, New York – Oxford 1993, e.g., p. 542: "There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal."

³² *Ibid.*, e.g., p. 471 ff.: "The improvement of the blacks in body and mind, in the first instance of their mixture with the whites, has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life."

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The central concerns of this study are court cases and the verdicts of the judges involved in them. Its uniqueness in Poland resides in the fact that the author does not restrict himself in his narrative to a presentation of judges' views, but concentrates on court rulings. It, thus, brings Polish readers close to the essence of American jurisprudence. (. . .) Jerzy Zajadło convincingly demonstrates the role of ideology, mostly that of natural law, in slave cases heard in court, introducing thereby the exceptionally important concept of "judicial disobedience." Further, the author shows how very often the issue of slavery was only marginal – fundamentally, it was a matter of the interpretation of the Constitution (. . .). From this perspective, I see the main merit of Professor Zajadło's work in the fact that it is basically a book about the law's conservatism and about conflicts between the law and morality. Laws of nature, customs, and interests all come into play, which, as a result, leads to a conflict between positive law and the moral requirement of disobedience. In Zajadło's book, the dilemmas of the judge's conscience are analyzed from all sides.

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