

Slavery  
THE

GRAND ISSUE :

AN ETHICO-POLITICAL TRACT,

BY

SAMUEL WILLARD.

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## THE GRAND ISSUE.

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WHEN human law comes, or appears to come, into direct and inevitable conflict with the Divine law, which is to control the conduct of good citizens? This, I think, is emphatically the question of our day and country, underlying most of the discussions, which for years have agitated the public mind; and is the main issue between the opponents and the abettors, or passive instruments, of slavery. It is indeed denied that there is any such question now pending. All, it is said, confess the supremacy of the Divine law, even while they contend for implicit and active obedience to those human laws, which are opposed to natural justice, and the revealed will of God. The doctrine, and the argument by which it is sustained, so far as I can understand them, may be thus stated:—“Civil government is an appointment of heaven, for the purpose of securing those social benefits for mankind, which could not otherwise be secured; and such government cannot be maintained, without making implicit obedience to all its edicts and commands a universal duty. If disobedience were ever permitted, it would introduce such a principle as would tend to demolish all government, and lead to universal anarchy. Hence, it is the will of God that the law of the land should be obeyed, even when it *contradicts* his will.” If this be not a fair statement, I am wholly unable to understand what is meant



by those who are ready to cry out, "Treason!" against such as contend that there is a law above the Constitution; and if it is a fair representation of their sentiments, and the argument on which they are founded, it would seem that an explicit statement should be in itself a sufficient refutation. Still, it seems to be a lamentable fact, that, for want of due attention, multitudes of good men, and some whom we are accustomed to call *great*, are bewildered and perverted by the sophism involved in the argument. I would therefore invite my reader to look attentively at the subject, first in the perspective of reason, and then in the light of Holy Scripture.

First, then, let us examine the argument for passive obedience to unrighteous and impious laws in the light of reason. It is said, "We must obey the laws of the land, without inquiring whether they be consistent or inconsistent with the law of Heaven, or we shall establish a principle of disobedience, which will tend to the destruction of all human government." There is in this an assumption of something, which is neither self-evident, nor capable of proof; something absolutely false; viz.: That obedience to all human laws, not excepting those contradictory to the Divine law, or the subversion of all human government, is a *necessary alternative*. This is the sophism suggested above. In regard to this point, I would put the question to the candid, and even to the *prejudiced* reader; Is it not conceivable that a man should refuse obedience to a civil law, which seems to require of him disloyalty to Heaven, and still submit so quietly to the severest penalties of that law, as to leave the wheels of Government to roll on, with no other obstructions or frictions, than what are purely moral, and consequently peaceful? Still farther, I would ask, Would such examples, connected, as of course they would be, with prompt and cheerful obedience to all human laws,

which appear to be in harmony with the beneficent will of God, tend either directly or indirectly to subvert all human government, whether bad or good? Would they not, on the contrary, tend to strengthen and perpetuate those which are most entitled to support, and exert a reforming influence on those which are capable of reformation, without a resort to those violent and bloody commotions, which often aggravate, instead of correcting inveterate and deep-rooted abuses?

There is another point in the argument we are considering, which requires a momentary glance from the eye of reason. It is assumed that, for certain purposes and to a certain extent, the Supreme Lawgiver sanctions by his own authority those human laws, which are directly opposed to his authority. It seems, if I may be allowed without impiety to state the doctrine in explicit terms, that the infinite God finds such difficulty in regulating the social interests of mankind, that he thinks it wise or prudent to call in the aid of man to relieve him of his embarrassments, although that aid may be at war with the fundamental principles of his righteous government. Alas! for the infirmities, the perversity of the human mind! Is it possible for a man of any intelligence, who is not blinded by prejudice, to look for a moment on this assumption, without seeing that it is hard, very hard to be reconciled either with sound reason, or with that reverence, which is certainly due from finite, feeble creatures, to their infinite Creator?

The error, which appears so repugnant to reason, and which is alike horrid in its aspect and its legitimate effects, may, I think, be traced in many minds to a one-sided view, and consequently to a misconstruction of *Scripture*. I would, therefore, in the second place, invite the reader to a candid examination of those Scriptures, which have been supposed to favor a doctrine so much at



variance with the rights of private judgment and the duty of man as man; and I hope to show clearly that the argument in favor of this doctrine has no real support from Scripture; that the Scriptures furnish no warrant whatever for human government to interpose itself between the Supreme Ruler of the world and his individual subjects on earth; and, on the other hand, that it does not allow, and much less require any individual to do wrong, or refrain from doing what would otherwise be right, because the law of the land commands or forbids. I am perfectly aware that passages may be quoted, which, separately viewed, seem to enjoin absolute and unreserved submission to the laws of the land, be those laws what they may. Some of these passages I shall bring to view in the connections in which they stand, and by which they must be interpreted.

My first citation is from 1 Peter, ii, 13, 14. "Submit yourselves to every ordinance of man for the Lord's sake, whether it be to the king as supreme, or unto governors, as unto them that are sent by him for the punishment of evil doers, and for the praise of them that do well." One other passage will suffice, inasmuch as it is the stronghold of our opponents, their very citadel. It is found in Romans, xiii, 1—5. "Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever, therefore, resisteth the power, resisteth the ordinance of God; and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou, then, not be afraid of the power? Do that which is good, and thou shalt have praise of the same; for he is the minister of God to thee for good. But if thou do that which is evil, be afraid, for he beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doeth evil.

Wherefore ye must needs be subject, not only for wrath, but also for conscience' sake."

From several parts of these citations we learn the character of those rulers, who are warranted in calling in the Divine authority in support of their own. According to Peter, they are such as are "sent for the punishment of *evil* doers, and the praise of those that do well." In the descriptions of Paul, they are such as "are not a terror to good works, but to the evil; ministers of God for good, who bear not the sword in vain."

Still it may be asked, Are we not required in the quotation from Paul to obey rulers, or be subject to them, whatever their character or laws? With the exception of some extreme cases, I frankly answer, Yes. There is a qualified obedience enjoined by Christian principle to the laws of the land, however unreasonable or cruel those laws may be. We are to obey them as far as we can, without renouncing our allegiance to the King of kings and Lord of lords; and where we cannot do what is required, or refrain from doing what is forbidden, we are to maintain our allegiance to the Great Supreme, and quietly suffer any penalties which man may inflict for the violation of his law. In all such cases I conceive the true doctrine is non-obedience and non-resistance combined. To prove this, it is sufficient, I think, to bring into view the *examples* of those holy men, who have delivered to us the oracles of God. How did they carry out their doctrine in their own practice?

What the apostle Peter meant by the injunction, "Submit yourselves to every ordinance of man for the Lord's sake," we may learn from what he said to the Jewish Sanhedrim, which, to a certain extent, was the legitimate government of Jerusalem and Judea, Acts, iv, 18, 19. "And they called them, and commanded them not to speak at all, nor teach in the name of Jesus. But



Peter and John answered and said unto them, Whether it be right in the sight of God to hearken unto you more than unto God, judge ye:" &c. Acts, v, 29; "Then Peter and the other apostles answered and said, We ought to obey God rather than men." On this principle Peter and his brother apostles persisted in the violation of the express commands of their constituted rulers; and in all this they were expressly supported by the authority of Heaven, as appears from Acts, v, 19, 20. "The angel of the Lord by night opened the prison doors, and brought them forth, and said, Go, stand and speak in the temple to the people all the words of this life."

The conduct of Paul in regard to the point we are considering is not so plain a commentary on his own precepts, as that of Peter. It is to be remembered, however, that *idolatry* was blended with the fundamental laws of the whole Roman empire, which was then spoken of as comprising the whole civilized world. Of course it was impossible to preach the doctrines of Christianity, without coming into immediate conflict with civil rulers, so far as they insisted on the preservation of their fundamental laws. This Paul did through the whole course of his apostleship, in Rome itself, as well as in the provinces.

As the highest authority for the doctrine I am endeavoring to maintain, I make my last appeal to Him, "who spake as never man spake," and always did the will of Him that sent him. He did indeed enjoin obedience to "the powers that be," Matt. xxiii, 2, 3. "The scribes and the Pharisees sit in Moses' seat. All, therefore, whatsoever they bid you observe, that observe and do." Still, our Pattern and Guide did not himself refrain from miracles of mercy on the Sabbath-day, though the priests and elders insisted on such an interpretation of the Divine law, as would make these acts of mercy in the highest degree penal. In support of this position, it is

unnecessary to make any citations, as the fact is notorious to every one that is acquainted with the Gospel history. It is farther observable that our Saviour justified his *disciples* in the non-observance of that traditionary law, which required every man in all cases to wash his hands before he eat. Matt. xv, 2, 11.

Having, as I trust, fully sustained and defended my first position taken above, viz.: That human rulers are not allowed to avail themselves of Divine authority in carrying into effect any laws which are evidently opposed to that authority, as manifested in nature or revelation, I now proceed to the second proposition, under which I shall endeavor to show, from the clearest expressions of our Saviour himself, that no private individual can safely allow any human ruler to interpose himself between him and his God; or, in other words, that he cannot do what is forbidden by the Supreme Ruler, or neglect to do what is required by him, without becoming personally responsible for the act or omission, whatever human law may come in opposition to his supreme allegiance. No bribe, no menace from "the powers that be," will furnish an adequate excuse at the bar of the final Judge. Our Saviour's admonition is awfully solemn, and should make every one tremble at the thought of disobeying his supreme command in hope of gain, or fear of any earthly loss. "Fear not them who kill the body, but are not able to kill the soul; but rather fear Him who is able to destroy both soul and body in hell. Yea, I say unto you, fear Him. He that findeth his life shall lose it, and he that loseth his life for my sake, shall find it." Matt. x, 28, 39. If any suppose that these admonitions had reference to the *unauthorized* persecutions to which the disciples of Christ were exposed, I would observe that the whole of the 10th chapter appears to be closely connected, and I would call their particular attention to the 18th verse;



"Ye shall be brought before *governors* and *kings* for my sake, for a testimony against them and the Gentiles;" which plainly implies that those who would maintain their allegiance to Christ would be brought into conflict with national authorities, to which, on the peril of their salvation, they were to pay no other obedience than that of suffering any penalty which might be inflicted.

An argument to the same effect may, I think, be drawn from Matt., vi, 24. "No man can serve two masters; for either he will hate the one and love the other, or else he will hold to the one and despise the other. Ye cannot serve God and mammon." In view of these solemn declarations, I would ask those who deny that there is any law above the Constitution, How do you avoid the conclusion that while you "love or hold to man," you either "hate or despise God?"

Again it appears from Acts, ix, 4, 5, that the Lord Jesus, the constituted Governor of the world, holds all men personally responsible to him, whatever human laws may oppose: "Saul, Saul, why persecutest thou me? And he said, Who art thou, Lord? And the Lord said, I am Jesus, whom thou persecutest." Saul had been commissioned by the legitimate authorities of Judea, to inflict the penalties of their commands on the disciples of Jesus; and still He regarded Saul as not only opposing, but *persecuting* him. The same view was entertained by Paul himself, who, as appears from several of his Epistles, ever after considered it as a sin against God.

In the 25th chapter of Matthew, near the close, our Saviour has taught us that our final acquittal or condemnation will depend on the fulfilment or non-fulfilment of that great law of love between man and man, that universal neighborhood among all the nations, and tribes, and individuals of mankind, which he came to establish on earth; for which he lived, labored, and died. "I was

a stranger, and ye took me in." "I was a stranger, and ye took me not in." "Inasmuch as ye did it, or did it not, to one of the least of these my brethren,"—and in his view there is no difference between the bond and the free,—"ye did it, or did it not, unto me."

To bring the argument to bear with its full force on the particular point which I have had in view in all that I have said, I now ask, "What real Christian can pay any other regard to the recent law for the restoration of fugitive slaves, than that of quietly submitting to its penalties? If we have the slightest faith in Christ as the present Governor and final Judge of the world, we cannot without infinite presumption shut our doors against him, when he comes pleading for shelter, as he may do in the person of a fugitive slave. For myself, I will not boast of an invincible resolution. The example of Peter should teach us not to presume on our own strength. But, if sustained by Almighty grace, I will perform toward the fugitive slave all the acts of kindness that I should do if there were no prohibition against it; and I will quietly endure the consequences, though enormous fines or exactions should deprive me of my last cent, and though I be thrown into prison for six months, or six years, or all the residue of life; and I will not put the Government of my country to the expense of a single lock and key for my safe keeping. Though the doors be open day and night, I will not come out, till the magistrates come themselves and bring me out. I do not say that all this submissiveness to human authority is clearly required by any Divine principle. I am not now deciding a question of casuistry for others, nor even for myself; but so important in my view is the maintenance of civil order, that I am willing, so far as I alone am involved in the consequences, to make all the concessions expressed above.

Still it was the direction of our Saviour to his disciples,



"When they persecute you in one city, flee ye to another;" and none but a fanatic will court persecution, or expose himself to penal sufferings or privations, any farther than the unchangeable laws of piety and universal love may seem to require. It becomes, therefore, a most interesting question, how the tremendous alternative, into which myriads of sober and conscientious men are brought by the Fugitive Slave law, may best be removed. Doubtless it would contribute much to this object, if a majority of our National Legislators, or of their constituents, could be reasonably convinced that the *Constitution*, rightly and consistently interpreted, neither requires nor permits any action of Congress on the subject of recovering fugitive slaves. This, though it may seem a chimerical and hopeless undertaking, I shall attempt, leaving the issue with Him who, and who alone, is able to give a favorable result to any good endeavor. I know I am entering on very delicate ground, and, that I may hope for a candid hearing, I must first dispose of two or three objections, which will doubtless be thrown in my way.

First, it will be regarded as arrogant for a person, who has no pretensions to extraordinary talents, or any legal science, to offer an opinion at variance with those of the profoundest lawyers and statesmen, and especially to question the decisions of that supreme tribunal, whose special duty it is to decide on all matters of this kind. In reply to this objection, I would say that I should be among the last to withhold from that august bench a single iota of the respect which the good order of the community requires, while I would leave to legal and political science the settlement of all intricate questions relating to the subject. But still I would ask, Is it unreasonable to suppose that there are some points of paramount importance in the Constitution, of which ordinary minds are as competent judges, as the most

gigantic and profound? In natural *history* there may be questions, which require the greatest learning to settle correctly; but the simplest *peasant* in the land is as competent to say that a wolf is not a sheep, though they be in contiguous pens, or in the same pen, as the most thorough anatomist, or the most erudite zoologist.

The second objection that will probably be offered is, that these sentiments are *radical*; and this with many a conservative will be a sufficient reason why they should receive no attention. But is it not frequently recommended that in political discussions and transactions we often recur to first principles, in order to prevent or correct abuses? This is all I wish for, provided that what we call first principles be *really* such. Many maxims, that have been called by that name in almost every science and profession, have, in the progress of light and investigation, been proved to be not only not first principles, but no principles at all; perhaps utterly false; and the history of the past should teach us not to regard anything as a first principle, which is not self-evident.

Another objection is likely to be urged against some of the arguments I have to offer; viz.: That they reflect on the wisdom or the virtue of our fathers, who framed or adopted the Constitution. Such a reflection I would be one of the last to throw on the memory of those great and good men, did not truth and the best interests of our country and the world seem to require it. Many of them I have always regarded as pre-eminent for wisdom and disinterested virtue, faithful in the discharge of what they believed to be their duty to posterity, and consequently worthy of the love and veneration of their descendants. But the history of the world demonstrates that great and good men are not always exempt from intellectual and moral errors; and perhaps our fathers, to whom we are so much indebted for their generous labors and sacrifices,



may have been misled by political maxims, which the experience of succeeding ages may prove to be not only unsound, but fallacious; and I think we may do them higher honor by imitating their independent spirit, than we should do by blindly following their footsteps, when, through the infirmities of human nature, they wandered from the right course.

With these preliminaries, I am prepared to enter on the discussion proposed above; and my first position is the one which is taken by some of our first lawyers: that the article of the Constitution on which the Fugitive Slave law is grounded, gives no such power to Congress as that which is claimed, either expressly or tacitly, and of course that no warrant for Congress to legislate on this subject can be inferred from that provision of the Constitution, which authorizes them to pass any law which may be necessary, in order to carry into effect the powers which are given to them; while it is expressly said that those powers, which are not vested in Congress, are reserved to the several States. A plausible answer may, perhaps, be given to this argument; but it does appear to me that it must involve some fallacy, though it may be deeply hidden. Let the Constitution be read a hundred times over, and I think it will be difficult to find anything like a clear warrant for Congress to act on the subject. If any suppose that the *oath* taken by members of Congress, implies either obligation or power in them to provide for the recovery of those who have fled from slavery, I would request them to consider the consequences of such a claim or admission. That oath *must* be limited to the *peculiar* powers and duties assigned to those by whom it is taken. There are different departments of government, on which different duties are imposed; and one cannot in all instances compel another to discharge its obligations to the full intention of the Constitution. Many duties, for instance, are re-

quired of the President, which may either be neglected, or inadequately discharged, without giving Congress a right to interfere, either by impeachment, or otherwise; and so it must be in regard to the duties of States. I know that a different decision has once been given by a majority of our Supreme Court; but, although a decision of that august bench is to be treated with great respect, the doctrine of infallibility, in Church or State, is no part of our creed. We need not question the competency or integrity of our Supreme Judges. "To err is human." Constituted as that Court is, to suppose it impossible that from self-interest, or some unbalanced influence of education or association, the majority of them may have taken different views of this peculiar subject from what they otherwise would have done, is to suppose them something more than men; something more than great and good men are generally found to be.

My second position against the power of Congress to legislate on the subject of restoring fugitive slaves, is founded on the following prohibition of the Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Why this prohibition? On what principle was it founded? Doubtless on this:—that human government cannot rightfully interpose its authority between the individual soul and that Infinite Being, to whom every soul is responsible for every word and deed. And, if it be an intolerable grievance to be required to attend, or not to attend on a set of mere forms, which may or may not have a moral effect on the man, is it less grievous to be required to disobey the express commands of Him, who has an exclusive right to command? It appears to me that this provision of the Constitution, and the evident reason on which it is founded, would alone be decisive against the competency of Congress to pass such a law as that we are



considering. It was on this paramount reason that the colonies of New England were founded. It was this which gave birth to all our institutions, which have the least title to be considered free; the grand purpose for which our fathers braved the dangers of an unknown sea, and all the hardships of a wilderness, that they might be free to serve their God according to the dictates of their own minds. Can it be supposed that our fathers in New England, who ratified the Constitution, intended to abandon that most precious of all our birthrights, liberty of conscience? I think not.

My third and principal argument against the power of Congress to enforce by law the restoration of fugitive slaves, is drawn from the utter repugnance of such a power to the declared intention or design of the Constitution, which in the Preamble is thus stated:—"To form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

Such were the purposes and intentions of those who framed and ratified the Constitution; and it seems to me very questionable, whether the article we are considering, executed as proposed in the recent law, would eventually conduce to any one of these several objects; while, on the other hand, it seems to be at variance with most of them, if not absolutely subversive of them.

It is one of the declared purposes of the Constitution, as may be seen above, "to establish justice;" and as the term is unlimited, I think we must in all fairness suppose that such an authority or influence was to be exerted by the Constitution, as would be conducive to *impartial* and *universal* justice. Now, if I had the necessary books and documents at hand, I suppose I might prove by ample authorities, so far as human authority *can* prove anything

of this kind, that the imposition of involuntary *slavery* on those who have not, by some misdemeanor, forfeited their natural rights, is incompatible with the law of nature, as well as the common law of civilized nations. My argument, however, will be more brief and direct.

If those who signed our Declaration of Independence were correct in holding that every man has, by the immediate gift of God, a "self-evident" right to be free, it seems an inevitable consequence that the principle of the recent Fugitive Slave law cannot be reconciled with the establishment of justice; and this conclusion has been so deeply felt by some of our great men at the South, that they have resorted to the conclusion that what was said in the Declaration about the universality of equal rights, was nothing more than a "rhetorical flourish." The occasion was too grave, however, to admit this supposition, connected as it was with a direct appeal to the Omnipotent and Infinitely Just, for the sincerity of their professions, and the support of their cause. But whatever the sincerity or insincerity of those who made this Declaration, it is not the final ground on which I would rest this grand principle of natural justice. I would appeal to the consciousness and candor of every man on the face of the earth, who has not lost the grand characteristics of man: "Would you not think it unjust for any man to enslave *you*, and for others, whatever their claims to possession might be, to hold your descendants, without any fault of theirs, in perpetual bondage? The whole human race, in all ages and all countries, would answer, Yes; and what is this universal consent, but a self-evident law of nature against involuntary slavery, where the natural right has not been forfeited by some great offence against the law of nature? If every one thinks it morally wrong for another to enslave *him*, he must, by an immediate and inevitable consequence, think it morally wrong for *him* to



hold any *other* man in perpetual bondage; and this is such a glaring truth, that if mankind had not been blinded by selfishness and moral corruption, they could never have overlooked it, nor, as we have reason to believe, would it have been necessary for the Prince of Peace and Righteousness to have re-enacted or re-published this eternal, immutable law, as he has done in those memorable words: "Whatsoever ye would that men should do unto you, do ye even so unto them."

How vain, then, is the attempt to evade the demonstrable truth, that all involuntary slavery, imposed on those who have not forfeited their natural right to freedom, is a sin against the law of nature, and the God of nature, by asserting that slavery was warranted by the law of Moses, and was sanctioned by the authority of God himself! Without discussing the question, what was the nature and extent of that slavery or servitude, I would remark, that all the involuntary slavery, which was authorized by the law of Moses, without limitation of time, falls under the *exception*, which in the preceding argument has been kept in constant view. It was inflicted on those who had forfeited their natural rights by sin; by disobedience to the Supreme Ruler of the world, which was the state of all the heathen nations at that day. They had renounced their allegiance to Him, and sunk into the grossest idolatry and corruption, and consequently deserved and required a severe discipline, to bring them back to duty. Furthermore, it is to be observed and remembered, that the political institutions of the ancient Hebrews, established through the agency of Moses, were essentially diverse from those of all other nations, from the creation of man to the present time. It was a *Theocracy*. God was the political Head,\* as well as the moral Governor of that

\* 1 Sam., viii, 7.

peculiar people. He was constantly present with them, and provided an oracle for the interpretation of his law, which could be consulted and safely followed on all emergencies; and, if he saw fit to employ his political subjects in punishing or reclaiming his disobedient subjects of other nations, even by reducing them to slavery, it was no suspension nor limitation of that natural law, which forbids involuntary slavery. So far as I can see, it has no bearing on the subject. This, though a brief, is, I think, a competent reply to all the arguments which have been, or can be drawn from the Mosaic law, in defence of American slavery.

Undeniable, however, as the foregoing conclusions may be, many attempt to evade the practical force of them by means of a commonplace argument, which seems, indeed, to be the best apology for our fathers in making the concessions they did to the spirit of slavery. The argument, if I rightly understand it, is substantially this: \* a firm bond of union among the several States was indispensable to their safety and well-being. That union could not be effected without the concessions which were actually made; and, as they were in fact made, we are bound in good faith to fulfil them. Now in my apprehension, there are two grand defects in this argument, which render it no better than two broken links of a chain, which must be too weak to sustain a conclusion of such infinite weight as many are disposed to hang upon them. In the first place, it is not self-evident, and, I think, not very easy to be proved, that a competent union might not have been formed without any such abandonment of the sacred and eternal principle avowed in the Declaration of Independence; without any concession whatever to slavery, and especially that which forms the basis of the law

\* See the letter of Hon. S. A. Eliot.



recently passed. South Carolina and Georgia would, in all probability, have refused for a time to join such a confederacy. North Carolina, too, might perhaps have taken the same ground with South Carolina and Georgia. I have not the documents, nor a distinct recollection of facts which would warrant any confident assertions in regard to this subject, but the unanimity with which the ordinance of 1787 was passed, and the notorious fact that the leading men of Virginia, and, I think, of Maryland too, were anti-slavery in their views and feelings, leave, it would seem, no reasonable doubt that they would have joined with the more northern States in a Constitution which made no concessions to slavery. Let it, however, be granted that the five Southern States would for a time have refused all participation in a general form of government, which did not guaranty to them the continuance of slavery, and other immunities connected with it, still there were nine other States which probably *would*, and certainly *might* have formed such a union; and this, it ought to be remembered, though it seems to have been forgotten or overlooked by Mr. Eliot, was the precise number named in the Constitution, as competent to establish it as a permanent law of those States by whom it should be ratified and accepted. May I not add, that, considering the strong anti-slavery feelings and convictions of the North, there was more reason to apprehend that the introduction of those concessions into the Constitution would procure its rejection at the North, than that the omission of them would have had the same effect at the South? The fact is, that the adoption of the Constitution was strongly contested in several of the Northern States, and was for a considerable time doubtful, on the ground, I believe, of its pro-slavery tendencies. Had the nine, and still more the eleven Northern States joined in a common bond of union, what advantage would the other States

have gained by refusing to come in? Could they have pursued their fugitive slaves into any State and forced them back again into bondage? Could they, in consequence of holding a multitude of human beings in chains, have given to one man as much political influence as now belongs to fifty or a hundred freemen at the North? It is evident they would have had no such immunities. And if those States had formed a union by themselves, what competition could they have maintained with the greater Republic on their borders, endangered and enfeebled as they would have been by the slavery they were endeavoring to maintain? The shipping would have been almost entirely at the North. One third of it, if my information and remembrance be correct, was owned by Massachusetts alone, including the District of Maine; and where the shipping was, there were the seamen by whom it was to be manned, and a great proportion of the effective soldiers. There, too, were the elements of manufacture, and especially that condition of laborers which is necessary to create such establishments, and render them efficient and profitable. Why, then, should those States have persisted in a refusal to unite in a form of government which required no sacrifice of moral principle on the part of the North? Who can reasonably suppose that they would have done it, after they found by their experience that they could not bring the North to their terms? So groundless, I conceive, is the assumption, that, without the concessions we are considering, no union could have been formed.

The other defect in the argument we are canvassing, lies in the *nature* and *limitation* of that *necessity* which required a union of States, in order to relieve their present embarrassments and provide for their well-being in future. I freely acknowledge that the gloomy picture drawn by Mr. Eliot, of the condition and prospects of that time, is



correct in every feature. The sufferings of the people were great and various, and the aspect of the future appalling. A union of States *was* undoubtedly a most desirable object, indispensable to a happy result of the Revolution. Still I contend that the necessity of the case was not that which knows or should acknowledge no law. There is a necessity infinitely higher and stronger than any, which can affect individual or national happiness in this transitory world, the *moral* necessity of obeying that Power, which is able either to prosper or defeat the designs and most strenuous efforts of man for the attainment of earthly good. The preservation of *life* is certainly one of the strongest and most imperious of physical necessities; and yet it will not do for us to kill and eat a fellow-man, certainly not without his consent, in order to save ourselves from the agonizing death of starving; nor should we be justified in throwing a fellow-creature out of a *life-boat*, for the purpose of securing to ourselves a safe passage to land. Supposing, therefore, what is not only not certain, but hardly probable, that no effectual union would have been formed without the concessions which were made to slavery, it appears to me very certain that our fathers could not be justified in giving their aid to hold those in perpetual bondage, who, as they acknowledged, had a self-evident right to freedom; and if they could not *bind themselves* by such a compact, it is hardly necessary to say that they could not impose on their *posterity* any moral obligation to fulfil the compact. Thus I have endeavored to show that the principle of the Fugitive Slave law is irreconcilably opposed to the declared intention of the Constitution, so far as relates to the establishment of justice. It is unjust to the slave, and still more unjust to the conscientious citizen, who cannot comply with its requirements, without the sacrifice

of those moral convictions and feelings, which are a thousand times more valuable to him than life itself.

Another declared purpose of the Constitution is to "secure the blessings of freedom to ourselves and our posterity." That this purpose would be in a great measure frustrated by carrying into effect the Fugitive Slave law, or the principle on which it is founded, would follow as a necessary consequence from what has been said in the preceding pages. Exposure to the greatest injustice most certainly is not freedom. Those, indeed, who obey the calls and injunctions of that law may enjoy the liberty of going where they please, and doing what they please, spending their money according to the dictates of their own will, and many other things of the like kind. But do these things constitute that liberty, which should be most precious to immortal beings? Can a man, while he is a man, surrender the right of acting out the strongest convictions of his mind, and the deepest feelings of a just and generous heart? and will you still mock him by calling him a freeman, a citizen of the freest country in the world? On me, who am only one, perhaps, of myriads and millions who are in the same predicament, is imposed the sad dilemma of either disobeying the law of the land, or renouncing my allegiance to the God of heaven, and all my hopes of salvation. If I do not disobey that universal and most intelligible command of our Saviour, "Do unto others as ye would have them do unto you," I am liable to be stripped of the last cent of property which is to support my declining years; and not only that, but to be confined in prison, which, beside all other hardships, may terminate my life; and, worse than all, if I open my door to my Saviour himself in the person of his declared representative, a fugitive slave, my wife and children are liable to be turned into the streets, and thenceforth to have "not where to lay their



heads." If this be freedom, if this be a legitimate result of our "glorious Constitution," I can form no conception what is meant by tyranny or usurpation.

The imposition I am endeavoring to expose would be sufficiently odious, if it fell on very few; but in the course of ages, should this law be executed and continued, it may be the doom not only of a large minority, but of a large majority of the citizens of this vaunted free country. Of this, indeed, we cannot entertain a doubt, unless it be grounded on the supposed insincerity of those, who profess to believe that slavery is a violation of natural right. From the known circumstances of the times and of the occasion, it may perhaps be doubted whether a majority of the free inhabitants of our country ever did give, either directly or indirectly, an intelligent consent to the principle of the Slave law. In the first place, if I rightly recollect, the Constitution was adopted by small majorities in the Conventions of several States; and it is hardly to be presumed from our experience in such things that all the Delegates truly represented the anti-slavery convictions of their constituents. Secondly, to say nothing of *women*, who were to be no less subject than men to the prohibitions and penalties of law, there were many free *men*, and among them some who had spent their patrimonies and incurred debts for a collegiate and a professional education, who were excluded, for want of the pecuniary qualifications required in those days, in order to make them voters, from all part or lot in the primary assemblies, by which those Delegates were chosen; and, thirdly, there were in those times very few public *journals* or newspapers, scarcely a half dozen in Massachusetts, and those few had little circulation. From my own remembrance, I think it doubtful whether one family in five of our most respectable yeomanry either took, or frequently saw any paper whatever. Hence

there is reason to suppose that there were multitudes of primary voters, who had never cast their eyes upon the Constitution, though they might perhaps have once heard it read; and considering that the word slave is carefully excluded, and the principle is somewhat obscured by an ambiguous phraseology, it would not be wonderful, if among the many particulars, which would engage attention, common minds should have overlooked the obnoxious principle, from which, if it had been seen, their minds and hearts would have instantly revolted. If, then, as we have reason to believe, a large minority, if not a majority of our citizens were always opposed to the principle of the Slave law, is it not a hard case that they and their posterity should be subjected to the alternative of either disobeying the law of God, which they believe to be clearly and indelibly written on their hearts, or of being thrown into prison among criminals and felons, and as the case may be, deprived of all their means of supporting themselves and their families? Beside, it is a momentous consideration that, from various influences, the tide of sentiment and feeling throughout the *civilized world* is rolling on, and that with irresistible power toward the consummation of justice and humanity. In this beneficent tendency, Christianity takes the lead, and as God is true, is destined to triumph over that selfishness in the human heart, which, as we have reason to believe, is the chief corner-stone, though not the only foundation of all slavery, whether political, or personal. It was one of the express designs for which Christ came into the world, "to proclaim liberty to the captives, and the opening of the prison to them that are bound." Is. lxi, 1. He solemnly declared, "I came not to destroy the law or the prophets, but to fulfil." Matt. v, 17. Yes; he came to establish and carry into effect the moral principle, inculcated Is. lviii, 6: "Is not this the fast



that I have chosen? to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free, and that ye break every yoke?" He came to establish, among other principles of the Mosaic code, that humane law, recorded Deut. xxiii, 15, 16: "Thou shalt not deliver unto his master the servant, which is escaped from his master unto thee. He shall dwell with thee, even among you, in that place which he shall choose, in one of thy gates, where it liketh him best. Thou shalt not oppress him." Is it possible that the professed disciples of Him, who sacrificed everything for the cause of humanity, should continue for years and ages to come so far as they now are below the standard, which was given to a semi-barbarous people more than three thousand years ago? And if the benignant spirit of Christianity, and the favorable influences of the nineteenth century should create a decided majority against the principle of the Slave law, what is to be done? Is the minority to rule the majority with a rod of iron, which has scarcely a parallel under the most despotic governments of the present century? It may be said that in such a case, the Constitution might be amended. Perhaps so; but it is to be remembered that the Constitution cannot be altered without the concurrence of *three fourths* of the *States*; three fourths of the *States*, which may be seven eighths of the free population; and is the one fourth or the one eighth to hold in moral bondage the three fourths or seven eighths of what are too ironically called the free citizens of the Union? No, it may be said; the majority may repeal the law, and leave that part of the Constitution a dead letter. True, they might and probably would do this; but what would then become of the principle, which is now so confidently asserted, that this part of the compact must be executed to the letter, though it

require all the armaments of the nation to carry it into effect?

Thus, I think, I have clearly shown that the principle of the Slave law is utterly irreconcilable with that declared purpose of the Constitution, "to secure the blessings of freedom to ourselves and our posterity;" and should the principle be permanently established, it would render the Constitution not only a failure, but incomparably worse than a mere failure.

If in the foregoing discussions it has been clearly shown, as I think it has been, that the principle of the Fugitive Slave law is at war with two of the cardinal objects of the Constitution, the establishment of justice, and the security of freedom to the citizens of the Union, I need not multiply words to prove that the principle is adverse to all the other purposes for which it was established. "To form a more perfect union!" What perfect union can there be between the love and the hatred of involuntary slavery? between two parties, one of which would compel the other to give its aid in perpetuating such an institution? A lamb may indeed be chained to a tiger, but it would not be a very *perfect* union. A perfect union, it is self-evident, must be founded in mutual confidence, affection, justice and generosity.

"To insure domestic tranquillity!" In such a state of things as must inevitably result from enforcing the law in question, while it conflicts with the moral sentiments and feelings of a large minority, not to say a majority of the people, what tranquillity can there be? Those who think themselves cruelly oppressed will remonstrate, and that with a zeal and perseverance proportioned to their real or imaginary wrongs. To prevent the agitation of those subjects, which are the occasion of their grievances, is utterly impossible. As well might Xerxes think to



scourge the waves of the Hellespont into a calm submission to his will.

"To provide for the common defence!" What defence can there be, when the country is divided into two great parties in a state of alienation from each other? They may indeed agree to build navies, raise armies, and provide arsenals and munitions of war. But these very things may be used by the maddened parties for the purpose of mutual destruction, or by the stronger party for the annihilation of the weaker. Beside, I would ask, What defence can there be against the Almighty, whose eternal and self-evident law is violated in the institution of slavery? If not one of the Divine attributes can take the side of involuntary slavery, how much reason have we, in the words of Jefferson, to "tremble for our country!"

"To promote the general welfare!" Yes, however unjust or oppressive to those who are weaker than ourselves, we may indeed accumulate wealth beyond all definable limits. We may extend the boundaries of our empire, by the slaughter of innocent women and children, and we may cultivate the arts of war, till this malign glory shall eclipse everything else of the kind, whether ancient or modern; but are any of these things, or all of them together, true welfare? Better, a thousand times better, are national justice and generosity, a moderate degree of wealth, a small extent of country, and no war-like fame at all.

If, then, the principle against which I have been contending is in itself, or in its inevitable consequences, irreconcilably opposed to all the declared objects for which the Constitution was established, nothing more is necessary to show that it is at least prudent to abandon it, lest it sap the foundations of the fabric.

In what I have written, it has been no part of my

design to add more oxygen, or more hydrogen, or more carbon to those flaming passions, which for years have often burned too intensely for the moral or the political safety of our country; but to bring into a clear view some great principles and facts, which, as appears to me, have been overlooked or misapprehended by many of our leading men. In retrospect of the argument, I would, in that spirit of courtesy, candor, and moderation, which never weakens a good argument, put a few simple questions to every true-hearted man at the South, not doubting that many such there are, and hoping for candid and considerate replies.

Was it quite right for the conservative slaveholders in '88 to demand such concessions from those who had been among the foremost in their generous sacrifices for independence, as the indispensable conditions of forming that union which was to save the country, and was no less important to the South, than it was to the North? and is it magnanimous for the descendants of those slaveholders at the present day to insist on a rigorous fulfilment of that concession, which involves the sacrifice of a high moral principle, and which was extorted from the high, but mistaken patriotism of those who regarded it as a necessary means of saving their beloved country?

Should the foregoing questions be answered in the affirmative, there is another point connected with them, on which I would urge several queries on the just and generous spirits of the South. Ought you not to be very careful yourselves to come up to the requirements of the Constitution in relation to your fellow citizens at the North, before you invoke all the energies of Government to enforce your claims on *them*? To aid you in your self-examination, I would ask, Does not the Constitution contain a provision like the following?—Citizens of one State shall be entitled to all the privileges of Citizens in



any other State. Are there not laws in South Carolina and Louisiana, which not only withhold these privileges from citizens of a certain color from the North, but when they come as seamen, either voluntarily, or by stress of weather into the harbors of those States, throw them into prison, deprive them of their wages as long as the vessel remains in port, charge them with all the expenses of the legal process and of support in prison; and then, if these charges are not paid, and they removed from the State, sell them into perpetual slavery? and have not public agents, sent by the authority of a sovereign State, and therefore invested by the laws of civilization with a sacred inviolability while engaged in the discharge of their mission, been threatened with Lynch law if they did not immediately abandon the peaceable object, for which they came, and leave the State, although their mission had nothing else in view, than to make those inquiries, which were necessary to bring the subject of the controversy before the tribunal, which had been provided by the Constitution for the settlement of all such disputes? Should it be said that only two States are responsible for such laws, I would ask, Have not the Representatives from most, if not all of the slave States taken the side of South Carolina and Louisiana when the subject has been brought before Congress, and thus made themselves accountable for the infringement of the national compact? The plea of necessity and self-defence is urged for the justification of these laws; but might not this object have been as well secured, without all these rigorous provisions? and would it not have been more just and generous for those States, while evidently violating the Constitution, to have paid some part, if not the whole price of the security, which they sought and obtained?

Again, I would request the candid citizens of the South to consider whether they have fulfilled their part of that

compromise, which affects in various ways and to an indefinite extent the interests of the North, contained in the article which determines the apportionment of Representation. While, on the one side, the free States consider that in this apportionment three fifths of the slaves shall be counted as so many free inhabitants, it is stipulated on the other side that property in slaves shall be subject to taxation. Has there ever been a direct tax, in which slaves were included, for the last fifty-two years? and was not the direct tax of '98 a subject of great clamor at the South, and among the principal causes which prevented the re-election of the elder Adams, and proved the destruction of his party? From that time to this, no party, it seems, has dared and chosen to lay a direct tax, including all kinds of property; and what has become of the Southern side of this original compromise? Has not the condition on one part been wholly unperformed for a half century, while the other party has been held with all the tenacity which would have been just, had the condition been fulfilled? When the State of Massachusetts about seven years ago applied to Congress for its aid in procuring such an amendment of this article, as would relieve the North from this one-sided bond, did she not subject herself to a storm of abuse, from which her Senators in Congress did not think it prudent to defend her? It may indeed be said that the South pay their share of those duties, which, for the purpose of revenue, come into the place of direct taxes; and so do the citizens of the North pay in proportion to the articles consumed an equal amount of those duties. How, then, does the payment of duties at the South fulfil the condition, on which alone the North can by any principle of law or equity be any longer held responsible for their part of this compromise? Further, I would ask, Is it not a great mistake to suppose that either this compromise, or that



which relates to the restoration of fugitive slaves was intended for perpetuity? By the provision of the Constitution itself, is it not manifest that these articles are as liable to amendment, as any other, whenever three fourths of the States shall concur in the change? The slaveholders in the South have not been content with holding the free States to the one-sided compact we are considering; but, to confirm and perpetuate in their own hands the dominant power, which by means of an unequal representation, and the consequent possession of executive patronage they have almost invariably held, they have for more than thirty years been adding by purchase, conquest, or other means, territory after territory almost without bounds, and introducing, or providing for the introduction of whole families of slave States, and carrying this false balance of power thousands of miles beyond the original limits of the copartnership. Is it wonderful that the advocates of freedom should wish, by applying the principle of the proviso, to secure to their posterity some chance of rising to an equality in power and influence?

There is still another point, on which I must be allowed to suggest a few queries to those who have candor enough to consider and reply to them. Have the South dealt fairly with the North, in resorting, as they seem to have done, to different modes of interpreting and applying the Constitution, according as the measures proposed favored or contravened their sectional interest? Was not Texas, though a foreign State, invited and admitted into the Union by acts of Congress, without any *express* warrant from the Constitution, or any that was clearly *implied*? And have not the Southern States uniformly insisted that, when any act was proposed which seemed to be unfavorable to their interest, the advocates of such a measure should show that the power of passing it was *expressly* given by the Constitution? Nay, further, have they not

been driven almost to madness, by every serious proposal to abolish slavery in the District of Columbia, though the Constitution says in the most explicit terms, Congress shall have exclusive jurisdiction there in all matters whatever? In the face of these most intelligible words, have not Southern Representatives again and again denied the power of Congress to legislate on the subject of slavery in the District, and declared that if they did abolish it, they would secede from the Union?

On the subject of opposition to the laws of Congress I must be allowed to draw a comparison between the fortunes of the North and those of the South. Is it forgotten, that when the venerable J. Q. Adams, some years ago, presented a petition for a peaceable dissolution of the Union, while he declared himself opposed to the petition, he was for that simple and official act arraigned before the bar of the House, charged with a high misdemeanor, and put on trial for it? At the same time, and from that time to this, members of Congress, in the very chambers of their session, might threaten war upon their country, without even the mildest rebuke from their colleagues, or their partisans at the North. How consistent, how impartial is all this!

The *Hartford Convention* affords a contrast yet stronger. For about six years, the commercial interests of the North had been almost annihilated by a series of measures, which, in the commercial States, were generally regarded as unnecessary, and consequently unjust and oppressive to them; and, in the prosecution of the war, a *conscription*, like that of Napoleon, was recommended by the Secretary of War, which should force our young men from the bosoms of their families into the field of slaughter, and that for no sufficient object. In this state of things, the Convention of delegates met in Hartford, to consult on the best means of securing their most precious rights.



They continued together several days, without a whisper of violent resistance to the Government, and then separated, with a report most exemplary for its moderation, in which they recommended to their constituents to use no means whatever for the security of their rights, which were not strictly within the limits of the Constitution: and this Convention, thus beginning and thus ending, was an unpardonable sin, for which those who were concerned in it were doomed to political death and disgrace. Need I remind the reader how it has been at the South from that time to the present? how they have agitated, and even declared war against the Union in State Legislatures, and Conventions, and even among the members of Congress? what was the fury of Georgia in regard to the Cherokees? and the hostility of South Carolina? how the latter State provided her arms and ammunition, and mustered and trained her legions, for the express purpose of resisting the execution of the laws? By the resolute course of President Jackson, the insurgent State was indeed brought to lay down her arms; but that seemed to be a complete atonement for her political sin, and presently we see the majority of the other States, through their Representatives in Congress, bowing before her, and, by conceding a great part of her demands, virtually telling her that her offence was a venial one; and at the same time giving a virtual promise that any other State at the South might, with the same impunity, commit the like offence. Has not this implied promise been punctually fulfilled during the late session of Congress, in the purchase of peace from Texas, at the sacrifice of philanthropic principle, the promise of protection to one of our Territories, and ten millions of money? Little, comparatively, do I care for the money; yet I should like to know how long it will be before the peace, which we have thus been compelled to buy, must be bought again, and that, perhaps, at a still

greater price; how soon and how often we must redeem our glorious Constitution from destruction, by the sacrifice of principles and feelings, which are dearer to us than our heart's blood.

There is only one other point to which I would at present call attention. In a debate of the last session of Congress, on some question of compromise, I think, some remark like this came from an Honorable Senator on the other side of Dixon's line; that in the compromise proposed, the South would give up pecuniary interests, while the North would sacrifice nothing but sentiment. If by sentiment the gentleman did not mean some principle of morality or true honor, I would ask whether it was not charging the North with insincerity in the professions they are constantly making; and, if he did use the word sentiment in that high and sacred sense, I would ask whether honor and honesty are indeed of less value than money. We solemnly protest that we are compelled, not only by conscience, but by a dread of moral disgrace, to withhold our hands from everything which tends to the perpetuity of slavery. Boasting, as we do, of our free institutions, and setting ourselves up, as we do, as an example for all the rest of the world to follow, we blush to meet the gaze of the world, while we allow ourselves to be made passive instruments in riveting anew the chains of those, who have had the manly resolution to break and escape from them; and we are deeply mortified, while in imagination we see our posterity, in more enlightened, more just, and more generous ages, reading, as they certainly will read, the history of the present time, and weeping over its mental and moral infirmities. High minded men of the South and the North, is there any thing in this sentiment, which is hard to be understood? Is there nothing in your own souls, which beats in harmony with it? "I pause for a reply."



What is to be the end of these things, or how the existing evils are to be removed, is known to that Being alone, with whom there is no distinction between the present and the future. One thing, however, is certain. Government is too strong to be forcibly resisted, even if Christian principle would allow such resistance; and if the Fugitive Slave law should be continued, and be strenuously enforced, another thing is equally certain; viz.: That those who believe in the unchangeable supremacy of the Divine law, and the consequent injustice of every aid that is given to slavery, must be prepared to endure persecution. I do not believe that Christianity, in its true spirit and generous designs, is wholly extinct in our land; nor can I resign the cheering hope, that this sacred leaven, though in a great measure hidden, will diffuse its influence, and leaven the mass more and more, in proportion as it is warmed by the excitements which always attend persecution. It was persecution that spread and established Christianity in the primitive ages, and this mighty agent may be required to give life to those religious professions, which often seem to be nothing more than professions and empty forms; to call forth the regenerating power of the Gospel, and abolish everything in our Constitution and Laws which is opposed to its philanthropic spirit. Let the law in question be rigorously enforced, and the sufferers have everything to hope for, and persecutors everything to fear. Suffering innocence, bleeding under oppression and cruelty, acts on the heart of man, so long as he has any heart, with a power surpassing everything else upon earth; and where the heart is gained, the understanding is apt to follow, and all the noblest energies of the soul. Let, then, the advocates of that law exert all their power and influence to crush opposition to it. They will only hasten the downfall of their political system. They will sooner or later produce

a moral earthquake, which will cause our whole country, from ocean to ocean, to rock like a cradle, or rather, like a ship on a tempestuous sea. Such moral earthquakes, and their kindred storms, are, I think, means appointed by the Almighty and Allwise for demolishing the strongholds of inveterate abuses; and the result of the present conflict, unequal as it may appear—the catastrophe of this national drama, on which more than one world, one age, and one order of beings is now looking, may give a new demonstration of the facts, which are asserted by the apostle Paul: —“God hath chosen the foolish things of the world to confound the wise; and God hath chosen the weak things of the world to confound the things which are mighty; and base things of the world, and things which are despised, hath God chosen, yea, and things which are not, to bring to naught things that are.”

*Deerfield, Nov. 28th, 1850.*



## Act of Congress of 1793.

### AN ACT RESPECTING FUGITIVES FROM JUSTICE, AND PERSONS ESCAPING FROM THE SERVICE OF THEIR MASTERS.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever the executive authority of any State in the Union, or of either of the territories northwest or south of the river Ohio, shall demand any person as a fugitive from justice, of the executive authority of any such state or territory to which such person shall have fled, and shall moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic by the governor or chief magistrate of the state or territory from whence the person so charged, fled, it shall be the duty of the executive authority of the state or territory to which such person shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear: But if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing, and transmitting such fugitive to the state or territory making such demand, shall be paid by such state or territory.

SEC. 2. *And be it further enacted,* That any agent appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the state or territory from which he or she shall have fled. And if any person or persons shall by force set at liberty, or rescue the fugitive from such agent while transporting, as aforesaid, the person or persons so offending shall, on conviction, be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

SEC. 3. *And be it also enacted,* That when a person held to labor in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said states or territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the Circuit or District Courts of the United States, residing or being within the state, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made, and upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the state or territory from which he or she fled.

SEC. 4. *And be it further enacted,* That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney when so arrested pursuant to the authority herein given or declared: or shall harbor or conceal such person after notice that he or she was a fugitive from labor, as aforesaid, shall, for either of the said offences, forfeit and pay the sum of five hundred dollars. Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claiming such labor or service, his right of action for or on account of the said injuries or either of them.

JONATHAN TRUMBULL,

*Speaker of the House of Representatives.*

JOHN ADAMS,

*Vice President of the United States, and President of the Senate.*

Approved February 12th, 1793.

GEORGE WASHINGTON,

*President of the United States*



## Act of Congress of 1850.

AN ACT TO AMEND, AND SUPPLEMENTARY TO THE ACT, ENTITLED "AN ACT RESPECTING FUGITIVES FROM JUSTICE, AND PERSONS ESCAPING FROM THE SERVICE OF THEIR MASTERS," APPROVED FEBRUARY 12, 1793.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the persons who have been, or may hereafter be, appointed commissioners, in virtue of any act of Congress, by the circuit courts of the United States, and who, in consequence of such appointment, are authorized to exercise the powers that any justice of the peace or other magistrate of any of the United States may exercise in respect to offenders for any crime or offence against the United States, by arresting, imprisoning, or bailing the same under and by virtue of the thirty-third section of the act of the twenty-fourth of September, seventeen hundred and eighty-nine, entitled, "An act to establish the judicial courts of the United States," shall be, and are hereby authorized and required to exercise and discharge all the powers and duties conferred by this act.

Sec. 2. *And be it further enacted,* That the superior court of each organized territory of the United States shall have the same power to appoint commissioners to take acknowledgments of bail and affidavit, and to take depositions of witnesses in civil causes, which is now possessed by the circuit courts of the United States; and all commissioners who shall hereafter be appointed for such purposes by the superior court of any organized territory of the United States shall possess all the powers and exercise all the duties conferred by law upon the commissioners appointed by the circuit courts of the United States for similar purposes, and shall moreover exercise and discharge all the powers and duties conferred by this act.

Sec. 3. *And be it further enacted,* That the circuit courts of the United States, and the superior courts of each organized territory of the United States, shall from time to time enlarge the number of commissioners, with a view to afford reasonable facilities to reclaim fugitives from labor, and to the prompt discharge of the duties imposed by this act.

Sec. 4. *And be it further enacted,* That the commissioners above named shall have concurrent jurisdiction with the judges of the circuit and district courts of the United States, in their respective circuits and districts within the several States, and the judges of the superior courts of the Territories, severally and collectively, in term time and vacation; and shall grant certificates to such claimants, upon satisfactory proof being made, with authority to take and remove such fugitives from service or labor, under the restrictions herein contained, to the State or Territory from which such persons may have escaped or fled.

Sec. 5. *And be it further enacted,* That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when so directed; and should any marshal or deputy marshal refuse to receive such warrant or other process, when tendered, or to use all proper means diligently to execute the same, he shall, on conviction thereof, be fined in the sum of one thousand dollars to the use of such claimant, on the motion of such claimant, by the circuit or district court for the district of such marshal; and after arrest of such fugitive by such marshal or his deputy, or whilst at any time in his custody, under the provisions of this act, should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshal shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the full value of the service or labor of said fugitive in the State, Territory, or district whence he escaped; and the better to enable the said commissioners, when thus appointed, to execute their duties faithfully and efficiently, in conformity with the requirements of the constitution of the United States and of this act, they are hereby authorized and empowered, within their counties respectively, to appoint in writing under their hands, any one or more suitable persons, from time to time, to execute all such warrants and other process as may be issued by them in the lawful performance of their respective duties; with an authority to such commissioners, or the persons to be appointed by them, to execute process as aforesaid, to summon and call to their aid the bystanders, or posse comitatus of the proper county, when necessary to insure a faithful observance of the clause of the constitution referred to, in conformity with the provisions of this act; and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose; and said warrants shall run and be executed by said officers anywhere in the State within which they are issued.

Sec. 6. *And be it further enacted,* That when a person held to service or labor in any State or Territory of the United States has heretofore or shall hereafter escape into another State or Territory of the United States, the person or persons to whom such service or labor may be due, or his, her, or their agent or attorney, duly authorized, by power of attorney, in writing, acknowledged and certified under the seal of some legal office or court of the State or Territory in which the same may be executed, may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, of the proper circuit, district or county, for the apprehension of such fugitive from service or labor, or by seizing and arresting such fugitive where the same can be done without process, and by taking and causing such person to be taken forthwith before such court, judge or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner; and upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court, magistrate, justice of the peace, or other legal officer authorized to administer an oath and take depositions under the laws of the State or Territory from which such person owing service or labor may have escaped, with a certificate of such magistracy or other authority, as aforesaid, with the seal of the proper court or officer thereto attached, which seal shall be sufficient to establish the competency of the proof, and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid, that the person so arrested does in fact owe service or labor to the person or persons claiming him or her, in the State or Territory from which such fugitive may have escaped as aforesaid, and that said person escaped, to make out and deliver to such claimant, his or her agent or attorney, a certificate setting forth the substantial facts as to the service or labor due from such fugitive to the claimant, and of his or her escape from the State or Territory in which such service or labor was due to the State or Territory in which he or she was arrested, with authority to such claimant, or his or her agent or attorney, to use such reasonable force and restraint as may be necessary under the circumstances of the case, to take and remove such fugitive person back to the State or Territory from whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the first section mentioned shall be conclusive of the right of the person or persons in whose favor granted to remove such fugitive to the State or Territory from which he escaped, and shall prevent all molestation of said person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.

Sec. 7. *And be it further enacted,* That any person who shall knowingly and willingly obstruct, hinder, or prevent such claimant, his agent or attorney, or any person or persons lawfully assisting him, her, or them, from arresting such fugitive from service or labor, either with or without process as aforesaid; or shall rescue, or attempt to rescue, such fugitive from service or labor, from the custody of such claimant, his or her agent or attorney, or other person or persons lawfully assisting as aforesaid, when so arrested, pursuant to the authority herein given and declared; or shall aid, abet, or assist such person, so owing service or labor as aforesaid, directly or indirectly, to escape from such claimant, his agent or attorney, or other person or persons, legally authorized as aforesaid; or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the district court of the United States for the district in which such offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of one thousand dollars for each fugitive so lost as aforesaid, to be recovered by action of debt in any of the district or territorial courts aforesaid, within whose jurisdiction the said offence may have been committed.

Sec. 8. *And be it further enacted,* That the marshals, their deputies, and the clerks of the said district and territorial courts, shall be paid for their services the like fees as may be allowed to them for similar services in other cases; and where such services are rendered exclusively in the arrest, custody, and delivery of the fugitive to the claimant, his or her agent or attorney, or where such supposed fugitive may be discharged out of custody for the want of sufficient proof as aforesaid, then such fees are to be paid in the whole by such claimant, his agent or attorney; and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, upon the delivery of the said certificate to the claimant, his or her agent or attorney; or a fee of five dollars in cases where the proof shall not, in the opinion of such



commissioner, warrant such certificate and delivery, inclusive of all services incident to such arrest and examination, to be paid in either case by the claimant, his or her agent or attorney. The person or persons authorized to execute the process to be issued by such commissioners for the arrest and detention of fugitives from service or labor as aforesaid, shall also be entitled to a fee of five dollars each for each person he or they may arrest and take before any such commissioner as aforesaid at the instance and request of such claimant, with such other fees as may be deemed reasonable by such commissioner for such other additional services as may be necessarily performed by him or them: such as attending to the examination, keeping the fugitive in custody, and providing him with food and lodging during his detention, and until the final determination of such commissioner: and in general for performing such other duties as may be required by such claimant, his or her attorney or agent, or commissioner in the premises; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid by such claimants, their agents or attorneys, whether such supposed fugitive from service or labor be ordered to be delivered to such claimants by the final determination of such commissioners or not.

Sec. 9. *And be it further enacted*, That upon affidavit made by the claimant of such fugitive, his agent or attorney, after such certificate has been issued, that he has reason to apprehend that such fugitive will be rescued by force from his or their possession before he can be taken beyond the limits of the State in which the arrest is made, it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the State whence he fled, and there to deliver him to said claimant, his agent or attorney. And to this end the officer aforesaid is hereby authorized and required to employ so many persons as he may deem necessary, to overcome such force, and to retain them in his service so long as circumstances may require; the said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses as are now allowed by law for the transportation of criminals, to be certified by the judge of the district within which the arrest is made, and paid out of the treasury of the United States.

Sec. 10. *And be it further enacted*, That when any person held to service or labor in any State or Territory, or in the District of Columbia, shall escape therefrom, the party to whom such service or labor shall be due, his, her, or their agent or attorney, may apply to any court of record therein, or judge thereof in vacation, and make satisfactory proof to such court, or judge in vacation, of the escape aforesaid, and that the person escaping owed service or labor to such party. Whereupon the court shall cause a record to be made of the matters so proved, and also a general description of the person so escaping, with such convenient certainty as may be; and a transcript of such record authenticated by the attestation of the clerk, and of the seal of the said court, being produced in any other State, Territory, or District in which the person so escaping may be found, and being exhibited to any judge, commissioner, or other officer authorized by the law of the United States to cause persons escaping from service or labor to be delivered up, shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of the person escaping is due to the party in such record mentioned. And upon the production by the said party of other and further evidence, if necessary, either oral or by affidavit, in addition to what is contained in the said record, of the identity of the person escaping, he or she shall be delivered up to the claimant. And the said court, commissioner, judge, or other person authorized by this act to grant certificates to claimants of fugitives, shall, upon the production of the record and other evidences aforesaid, grant to such claimant a certificate of his right to take any such person identified and proved to be owing service or labor as aforesaid, which certificate shall authorize such claimant to seize or arrest and transport such person to the State or Territory from which he escaped: *Provided*, That nothing herein contained shall be construed as requiring the production of a transcript of such record as evidence as aforesaid; but in its absence, the claim shall be heard and determined upon other satisfactory proofs competent in law.

HOWELL COBB,

*Speaker of the House of Representatives.*

WILLIAM R. KING,

*President of the Senate, pro tempore.*

Approved September 18th, 1850.

MILLARD FILLMORE.