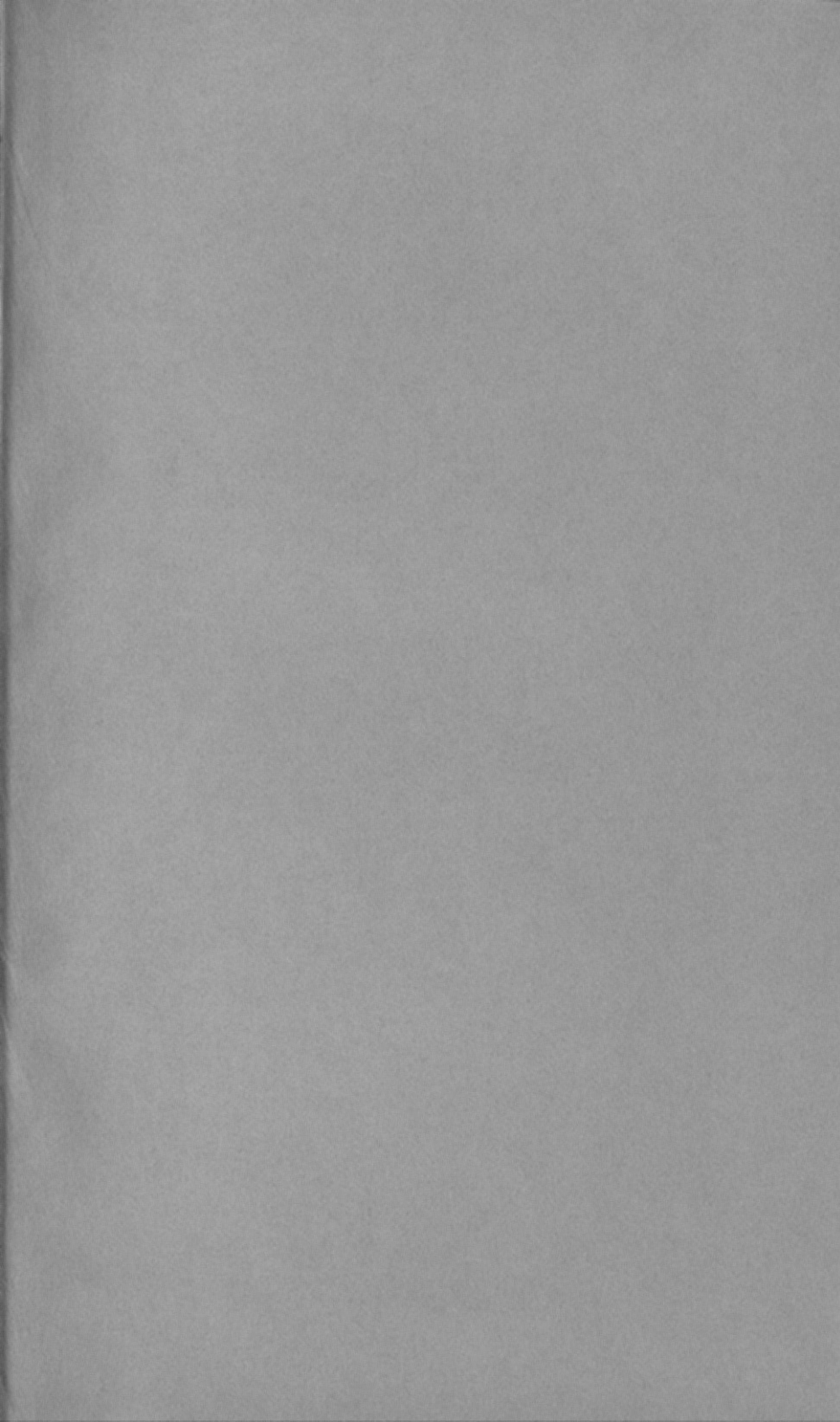


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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
STATE OF DELAWARE.

At a session of the General Assembly, commenced and held at Dover, on Tuesday the fifth day of January, in the year of our Lord, one thousand eight hundred and forty-one, and of the Independence of the United States of America, the sixty-fifth.

Messrs. Mahlon Betts, Samuel Barr, John Higgins, John Dale, Palmer Chamberlain and Robert M. Black from New Castle county.

Messrs. James D. Wilds, John Frazer, William Huffington, Samuel Verdin, Joel Clements, Alexander Johnson and John A. Collins, from Kent county; and

Messrs. Gardner H. Wright, William Hill, Robert Houston, Aaron Marshall, Robert Waples, Richard Jefferson and John R. Sudler, from Sussex county, appeared and took their seats.

The members being all present except Alfred Francis, Esq. of New Castle county, the returns of the election for Representatives of the several counties of the State, were read.

By the returns of the officers of New Castle county, appointed by law judges of elections, it appeared that on the second Tuesday of November, last, at the several and respective places specified by law for holding the elections, in and for the said county, the following persons were chosen to represent the said county in the House of Representatives of the State of Delaware, to wit: Mahlon Betts, Samuel Barr, Alfred Francis, John Higgins, John Dale, Palmer Chamberlain and Robert M. Black, Esquires.

By the returns of the officers of Kent county, appointed by law judges of elections, it appeared that on the second Tuesday of November last, at the several and respective places specified by law for holding the elections, in and for the said county, the following persons were chosen to represent

the said county in the House of Representatives of the State of Delaware, to wit: James D. Wilds, John Frazer, William Huffington, Samuel Virden, Joel Clements, Alexander Johnson and John A. Collins, Esquires.

By the returns of the officers of Sussex county, appointed by law judges of elections, it appeared that on the second Tuesday of November last, at the several and respective places, specified by law for holding the elections in and for the said county, the following persons were chosen to represent the said county in the House of Representatives of the State of Delaware, to wit: Gardner H. Wright, William Hill, Robert Houston, Aaron Marshall, Robert Waples, Richard Jefferson and John R. Sudler, Esquires.

On motion of Mr. Huffington,

The House proceeded to elect by ballot a Speaker, whereupon Robert Houston, Esq. was elected.

The Speaker was then qualified according to the Constitution of the state, and the act of Congress entitled "An act to regulate the time and manner of administering certain oaths," and took his seat in the Speaker's chair.

The Speaker then qualified, in due form, the members present.

On motion of Mr. Huffington,

The House proceeded to ballot for a Clerk, and Joseph P. Comegys was duly elected, introduced, sworn, and took his seat at the Clerk's table.

On motion of Mr. Huffington,

The House then proceeded to elect by ballot a Sergeant-at-arms, and Henry Eubanks was duly elected and qualified.

On motion of Mr. Huffington,

Oliver Wolcott was appointed Messenger to the House of Representatives.

On his motion also,

The House then adjourned until 3 o'clock in the afternoon.



Eodem Die, 3 o'clock P. M.

The House met pursuant to adjournment.

Mr. Huffington introduced the following resolution, which was read and adopted, to wit:—

Resolved, That the Clerk of the House of Representatives be hereby authorized to furnish to the members of the House, two newspapers of their choice, during the session.

On motion of Mr. Black,

Resolved, That the Clerk be directed to inform the Senate that the House of Representatives is duly organized, and ready to proceed to business.

Mr. Higgins laid on the table the following resolution, which

On his motion,
Was read and adopted, viz:—

Resolved, That a committee to consist of three members on the part of the House, be appointed to act jointly with the committee appointed on the part of the Senate, to wait upon His Excellency the Governor, and inform him that a quorum of both Houses of the Legislature have convened, and are ready to receive any communication he may think proper to make.

Ordered to the Senate for concurrence.

The Speaker then announced as the committee on the part of the House, Messrs. Betts, Sudler and Virden.

George P. Fisher, Esq. Clerk of the Senate, being admitted, informed the House of the organization of the Senate, and its readiness to proceed with the transaction of business.

And he withdrew.

Mr. Huffington asked, and

On motion of Mr. Virden,
Obtained leave to introduce a bill entitled "An act directing the time, place and manner of holding elections for senators from this state in the Senate of the United States."

On motion of Mr. Huffington,
The said bill was read.

Mr. Fisher, Clerk of the Senate being admitted, informed the House that the Senate had concurred in the joint resolution appointing a committee to wait on the Governor, and that Messrs. Spruance and Maull had been appointed on the part of the Senate.

And he withdrew.

The committee appointed on the part of the House to wait on the Governor, having retired for a few moments, returned, and through Mr. Betts, their chairman, reported to the House that the Senate had adjourned before the joint committee could assemble.

On motion of Mr. Sudler,
The House then adjourned until to-morrow morning at 10 o'clock.



WEDNESDAY, 10 o'clock A. M., January 6, 1841.

The House assembled pursuant to adjournment.

Mr. Sudler moved,
That a committee of elections be appointed;

Which motion

Prevailed.

And Messrs. Sudler, Higgins and Johnson were appointed.

On motion of Mr. Virden,

A committee of three members, consisting of Messrs. Virden, Black and Wright, was appointed to draft rules for the government of the House at the present session.

Mr. Higgins moved,

That a committee of enrolment be appointed,

Which motion

Prevailed.

And Messrs. Higgins and Marshall were appointed.

On motion of Mr. Huffington,

The bill entitled "An act directing the time, place and manner of holding elections for senators from this state in the Senate of the United States," was read a second time.

Mr. Betts, chairman of the committee appointed yesterday on the part of the House to wait on the Governor, reported that the joint committee of both Houses had discharged the duty devolving upon them, and that His Excellency would make a written communication to both Houses of the Legislature in five minutes.

Charles Marim, Esq., Secretary of State being, at the time designated, announced and admitted, presented a written message from His Excellency the Governor, together with sundry papers and documents, which

On motion of Mr. Black,

Were read, as follows, viz:—

*Fellow-Citizens of the Senate,
and House of Representatives:—*

The circumstances under which you have assembled are such as cannot fail to inspire the most agreeable reflections. During the past two years, we have been permitted to witness the evidences of a prosperity, in the condition of Delaware, which nothing has been sufficiently powerful to check or retard. The labors of the husbandman have been rewarded with adequate returns, and though the fluctuating condition of trade, of all descriptions, has caused a reduction of prices, still the agricultural interest may be regarded as on the advance, and the farmer, if not increasing in wealth, as enjoying the blessings of security and contentment. The same favorable appearance is visible in the other departments of industry—for though, all have suffered much from the shocks and convulsions which have disturbed the monetary system and almost destroyed the currency of the country, the persevering zeal and exceeding industry, to say nothing of the sterling integrity, which have ever distinguished the citizens of Delaware, did not fail them in the adverse seasons to which I have alluded. It is a source of pleasing contemplation, also, that whilst many of our sister states are deeply involved in debt, and some of them scarcely able, from their resources, to pay the interest on their loans, our own state is

free from the slightest pecuniary obligation, and with a population of but seventy-five thousand, she can boast of a credit undoubted and an honor untarnished, with a redundant treasury and invested funds, to the amount of nearly six hundred thousand dollars. In remembrance of these, with other subjects of agreeable reflection, it becomes us to render the most grateful homage to Him, from whom proceed all our blessings, and to humbly implore His gracious benediction, upon every effort, to advance the interests and promote the prosperity of our beloved state.

In casting our eyes beyond the confined limits of our own commonwealth, it is refreshing to behold, in various quarters, so many objects calculated to excite the most cheering emotions. In spite of the rival opinions and interests, which exist in different portions of our wide spread union, and which have, in some instances, agitated the bitter waters of discord and contention, we have reason to believe that the love of country pervades all classes, and inspires, every where, a confidence in the efficiency and perpetuity of our government. Whilst we have so much cause, however, for thankfulness and rejoicing, it is a source of sincere regret that there has existed, in some directions, within the past few years a disposition to substitute popular will for public law. That a people, favored with the enjoyment of every privilege identified with the possession of civil and religious liberty, should, at any time and under any circumstances, be disposed to throw aside, as springs of moral action, the religious and sanctifying principles on which the constitution and laws of our country are founded, is sufficient to fill the heart of the patriot with dismay, and, well nigh, to shake his confidence in the permanency of our free institutions. Such, however, is the mournful state of things, which of late years, has been too rife in the highest and humblest classes of the community. Notwithstanding our boasted possession of all the elements of freedom and security, we have been compelled to witness, in various sections of the country, the manifestations of a spirit, entirely destructive of all the ends of political and civil association. Without inquiring into the reasons which have induced these disturbances, it is the duty of every magistrate to denounce them as illegal. A resort to mob violence sets all law and order at defiance, and, on no account, should be tolerated or sanctioned. In this country particularly, where the law is the great, efficient and only safe representative of the people, no evil should be considered so great, no provoking circumstances so enormous, and no legal remedy so tardy, as to render a resort to the strong arm of popular violence essential or even allowable. If once admitted as a rightful remedy, for any real or fancied grievance, there will be no checking its onward progress. The spirit of anarchy will thereby be unloosed—and whilst it directs itself to one thing to-day, it will bring its powers to bear on something else to-morrow, until it eventually supersedes all law, overturns all order, overleaps the boundaries of all restraint, destroys the social compact, and ruins the liberties of the people. If the laws are inadequate to our protection, it is the duty of the legislature to amend them; at least, so far as to prevent the scenes to which I have alluded, and which I cannot too earnestly denounce.

The subject of education, which should properly find a place in every Executive message, will lose nothing of its consequence by being repeat-

edly presented to the consideration of the General Assembly. Without enlarging on the intrinsic excellence of knowledge, and the momentous importance of an extensive dissemination of its blessings, I will observe, that the indications of awakened interest on the subject of national education, which are apparent in almost every quarter of the union, are in a high degree cheering, and afford the most conclusive evidence that the importance of the subject is properly felt and appreciated. In several states besides our own, the ground work and elements of a free-school system already exist; and it is to be hoped that the day is not far distant, when every district of the country shall be furnished with all the essential appliances of public instruction. That *our* system has been the means of effecting the most incalculable benefits, I believe its greatest enemy will not presume to deny. In such of the districts as have been distinguished for vigor and unanimity in its promotion, it has answered the expectation of its friends, grown into public favor, and been rendered a blessing to the rising generation. Each day's observation strengthens me in the conviction, that, unaided as the legislature were, by the lights of experience, at the time of its establishment, it is as free from imperfection as any which could have been devised: and I am very certain, that had it been aided as it should have been, by the zealous co-operation of those who ought to have stood foremost in its behalf, it would at this moment be regarded by all, as the proudest boast of our state, and the brightest star in its diadem. But it has shared the fate of everything else which is valuable in society—it has been opposed and denounced; and at this moment, there are many who would gladly see it razed from its foundation. Of some Utopian scheme, all profess to be the advocates; but many, who are apparently the loudest friends of a free-school system, are decidedly hostile to any other than one supported exclusively by the school fund, without the aid of the people, and devoted entirely to the education of poor children. That such a system is obnoxious to many and insuperable objections, I need not urge to an intelligent Legislature:—for if it were practicable, from bringing together in any one district, a sufficient number of such children to form a school large enough to command the services of a teacher, the taint of pauperism, which would inevitably attach to it, would be an invincible barrier to its success. The natural pride of those who would be expected to furnish materials for the public bounty, would interpose an obstruction, which a conviction of the blessings dispensed by it would not be sufficient to remove; and the result would exhibit its utter incompetency to the benevolent purpose it was intended to achieve. Without noticing the other arguments which might be adduced against such a system, I will remark, that, in my opinion, no plan can be devised so well suited to this country, as one supported partly by a state fund and partly by the aid of the people. The privileges of instruction should be alike open to all; and every white child in the community, let his condition be what it may, should be permitted to partake of the same common benefit, enjoy the same advantages and aspire to the same distinction. The mental culture of the youth, like every other matter of public utility, should properly be the business of the state, and not a matter of individual concernment;

and, in a free republic, it should be regarded as an *internal* improvement, without which all others are, comparatively unimportant.

I do not wish it to be inferred, from the foregoing remarks, that I am insensible to the defects in the plan of instruction at present in operation: for although as before remarked, I believe it to have been as free from objection, at the time of its adoption, as any other which could have been devised, I nevertheless believe that something remains to be done, not only for the improvement and efficiency of *it*, but for the best of the existing systems. Without obtruding on your notice the various and minute provisions, which might be suggested by way of amendment, I will advance but few particulars for your consideration. The existing law provides annually for a superintendent in each county. As no compensation is given to the superintendents, it is difficult to secure the services of any one disposed to give the requisite attention to his duties. The consequence is, that the state has no official information, in regard to the progress of the schools or the operation of the system. As it is important that it should be furnished, annually, with a report, it has occurred to me that the office of superintendent, in each county, might properly be abolished, and a general superintendent for the whole state created. By appointing a competent individual, giving him a reasonable salary, and imposing on him such duties as should naturally devolve on one, entrusted with the general oversight of the whole machinery of public instruction, much good would result to the system—its movements be accelerated, and its advantages more widely diffused. As another means of improvement, I would recommend that higher qualifications on the part of teachers be required; and the business of examining and licensing them be confined to the superintendent alone, or to a committee in each county, composed of persons of undoubted capacity. It also would be a gratifying alteration, if some means could be found to prevent the high degree of excitement which prevails in some of the districts, at the annual school elections. The bickerings and animosities which are fostered at these elections, are greatly to be lamented and deplored. It has occurred to me, that as much of the excitement grows out of the opposition of young men who have neither children nor education, and who are not permitted to go to school, that an exemption of such persons, and of *all* whose assessment does not exceed three hundred dollars, from school taxation, would remedy the existing evil. Whether it would be advisable to repeal the provision authorizing a vote, and insert one directing the levying a tax as other taxes are laid, I leave you to determine. At all events, I would recommend that if the present feature is continued, it shall so far be changed as to make the decision of an election stand for a longer period than one year. It is foreign from my intention, however, gentlemen, to recommend measures of doubtful expediency, or which would hazard the continuance of the system: and I submit these suggestions to your better judgment, with a perfect confidence that they will receive from you the consideration which they demand.

In my inaugural address, and in my last biennial communication, I offered some suggestions in relation to our existing laws for the punishment of crimes and misdemeanors. Allow me again, gentlemen, to press this

important matter upon your serious consideration. Whatever veneration and attachment the people of this state may have ever manifested to its laws and institutions, it is perfectly certain, that in this respect at least, their will is widely different from the expression of it, through their former representatives. The law of public opinion has, unquestionably become paramount to that of the state—the criminal enactments on your statute book are, in the estimation of the people, a mere bug-bear, and their most solemn requisitions, things to be set aside by strong numerical influence. Scarcely a conviction is had for any offence, that applications for pardon do not follow; and the executive is harrassed by every variety of appeal to his sympathies, and his mind is tortured by every description of heart-rending representations. To a Governor, sincerely desirous of doing in all respects his duty, and especially, of taking “care that the laws be faithfully executed,” this condition of things is fraught with many and peculiar embarrassments: “because,” as was well expressed by Governor Dudley of North Carolina, on the same subject, “it is idle to say that the petition of *many respectable* persons should have no weight.” These embarrassments it has been my fortune to experience in their fullest extent. In my exercise of the power of pardon, I am fully aware of the censure to which I have been exposed, and the mistaken clemency with which I have been charged, not unfrequently, by the very individuals who have invoked the executive action. It is very possible, that with a due portion of the imperfection of judgment which is the common lot of humanity, I may have leaned too strongly to the side of mercy, and thereby prevented a salutary operation of the laws—but if I have thus acted, I can assure you, that I have, in no manner, been governed by any other motive than a conscientious desire to do my duty—and with this consolation, I feel perfectly satisfied with resting my official conduct in this respect, on the calm and dispassionate judgment of the community. It is honestly considered by some, that if the pardoning power were entirely abolished, and the convict invariably compelled to suffer the sentence of the law, the certainty of punishment which would thereby be induced, would tend much to render the commission of crime less frequent, and consequently, exert a favorable influence on society. Without offering any opinion on this sentiment, I will respectfully remark, that I am thoroughly convinced, that if our criminal code could be so far modified as to relieve it from the taint of cruelty and barbarism, and render it more consonant to the views of the people, applications for the exercise of the pardoning power would be infinitely less frequent. I have, on two occasions, recommended the establishment of a penitentiary, as the only efficient remedy for the evils which unquestionably exist in our penal system. Allow me, gentlemen, in my closing communication, to earnestly press this subject upon you. Without, at present, inquiring into the relative merits of the different penitentiary systems, I strongly urge that you determine, at the present session to have one. By doing this you will answer the ends of justice and the expectations of your constituents, whilst you will, at the same time, remove a blemish from the character of the state.

I called the attention of the Legislature on a former occasion, to the ruinous condition of certain papers in the office of the Secretary of State,

consisting of pay and subsistence rolls of the different troops attached to the old Delaware line. As they constitute the only existing evidence of the service of the brave defenders of our country, during the stormy period of our revolutionary struggle, on which to ground any claim to the national bounty, it is of vital consequence that they be put into such form as will prevent them from total decay. I respectfully request, gentlemen, as an act of sheer justice to the meritorious individuals interested in their preservation, that the transcription of these papers be no longer postponed or neglected.

Whilst on this subject, allow me to direct your attention to the condition of the public archives generally. A visit to the library, in which the legislative records, the congressional acts and documents, the laws of the different states, and other valuable books and papers are deposited and kept, will exhibit a powerful argument for the appointment of a librarian, whose duty should be to arrange them in their proper order, and bestow all needful care for their preservation.

By the ninth section of the sixth article of the amended constitution, power is given to the Governor "to commission a judge ad litem, to decide any cause in which there is a legal exception to the chancellor, or any judge." During my administration, I have had to discharge this duty in more than one instance,—and though the circumstance could not have been foreseen by the framers of the constitution, I have experienced some difficulty, from the unwillingness of legal gentlemen to accept the service. It certainly never was contemplated that the Governor would experience any difficulty in discharging this duty, from the presumption that no member of the legal profession would shrink from such an appointment. I am, however, convinced from my own experience, that some suitable provision in this behalf, should be made by the Legislature, to secure litigants from detriment, and the Governor from manifest inconvenience. It may not be improper for me to add, that in the course of the past two years, such appointments have been accepted by Martin W. Bates, Robert Frame and George B. Rodney, Esquires, who for promptly responding to the public exigence and faithfully discharging the onerous duties of the trust committed to them, respectively, deserve from the state a liberal compensation.

At the last session of the Legislature, I was pleased to announce the completion of the standard weights, which had been prepared for the State of Delaware, in pursuance of a resolution of Congress. The commissioners of this state, appointed by the act of 1837, have so far discharged their duty as to cause duplicates to be prepared for the several counties, by which the commissioner for each county has regulated all the weights, within the circuit of his authority. I suppose, from the information I possessed at the date of my last message, that the standard *measures* would have been received before now—but I have been disappointed. A letter recently received from the Treasury Department, however, informs me that the *yard* measures have just been completed, and one designed for this state is ready for delivery—that the standard *capacity* measures have been manufactured and are, at present, undergoing the operation of final adjustment, which is represented to be a very nice and tedious work, re-

quiring the utmost care, skill and attention. I am not aware of the causes which have operated to retard their completion, other than the immense magnitude of the work, which, with another great duty—the Coast Survey—is under the superintendence of the same able gentleman—Professor F. R. Hassler.

The duty enjoined on me, by the resolution, directing the purchase of a sword for colonel Samuel B. Davis, passed at the last session, I had the honor to discharge. The ceremony of presentation took place in the city hall, at Wilmington, in the presence of a numerous audience. The sword was manufactured by Bailey and Kitchen, of Philadelphia, and is not only an exquisite specimen of their skill and good taste, but is a beautiful emblem of the state's gratitude. I will add, that the whole amount of appropriation was exhausted in the purchase, as will appear by the papers on file in the office of the Secretary of State.

By an act passed at the January session, 1835, provision is made for the instruction of the indigent blind of this state, in the Pennsylvania Institution. As a kindred subject, and one equally entitled to your consideration, allow me to recommend a like provision for the indigent deaf and dumb. An institution, for their benefit has long been established in Philadelphia, and would, very likely, extend to us a privilege similar to that granted by the Institution for the Blind. It is believed that there are, in this state, several objects of such a charity—two, to my personal knowledge, reside within a few miles of the seat of government.

I lay before you a communication from the Governor of New Jersey, inclosing a preamble and resolutions, passed by the Legislature of that state, on the subject of the exclusion from their seats, in the House of Representatives of the United States, of five of the persons, duly commissioned as representatives of the people of New Jersey, in the twenty-sixth Congress.

As these resolutions concern a matter of momentous consequence, not only to a sister state, but to every other state in the confederacy, I sincerely regretted that I could not, at the time of their reception, invite an immediate expression of opinion on the part of the General Assembly. It is believed that the history of the country contains no precedent for this case—that it is the first and only instance, in which a portion of the people's representatives, in the popular branch of Congress, have undertaken to prevent another portion, furnishing precisely the same evidences of their election, from taking their seats and participating in the preliminary proceedings of the house, previously to the settlement of conflicting claims of membership. Should this decision hereafter be regarded by Congress as a precedent for its future action in similar cases, the most mischievous consequences must follow; for it is evident, that it is an absolute substitution of power for right, and can invoke for its sanction no other principle than physical violence. I respectfully request, gentlemen, that a proper regard for the insulted feelings of a sister state, to say nothing of the dangerous precedent sought to be established, will induce you even at this late period, to set the seal of your condemnation on an action, for which there never existed a more imperative requirement.

I have received, from the Governor of Virginia, a printed communica-

tion, together with sundry resolutions of the Legislature of that state, on the subject of the refusal of the governor of New York to surrender certain fugitives from justice, on the demand of the Governor of that commonwealth. The offence with which these fugitives stood charged and for which they were demanded, was stealing a negro, within the jurisdiction of Virginia, the property of a citizen of that commonwealth, and taking him therefrom, into the State of New York. The reasons assigned by the Governor of New York for refusing to surrender them, are detailed in the documents on the subject, which accompany this message. They in substance amount to this—that as slavery is not now recognized by the laws of New York, the stealing a slave is not legally a crime. Thus, resolving the controversy into a question whether slavery is a legal institution, he assumes the negative, and thereon, grounds his refusal to accede to the requisition of Virginia.

Though the number of slaves has so far diminished in Delaware, that the habits and feelings of the people have, in some measure, become assimilated to those of our northern brethren, still, slavery has always existed here and is yet recognized by our laws. In regard to the abstract question, whether it is or is not a moral or political evil, it is useless for us now to inquire. It is enough for us to know, that it has existed in this country from the foundation of the government, and that general consent has sanctioned its legality. The compact between the several states, based as it was on mutual concession for the good of the whole Union, vouchsafed to each the guardianship of its own rights and interests, and combined a stipulation that the domestic institutions of one should not be interfered with by the others. In this view, I think it properly becomes you, as the representatives of a state in which slaves are regarded as personal property, not only in justice to your constituents, but as an act of comity to Virginia, to inquire whether it is not the duty of the Governor of a free state, not only to refrain from an actual disturbance of the existing relation between the master and the slave, but also to protect it, by the sanction of his authority, from the unlawful interruption of any of the inhabitants of his own state. At all events, I consider it a matter of important inquiry, whether the constitution of the United States is not violated by a refusal on the part of an executive of one state, to surrender a fugitive from the justice of another, because the crime for which he is demanded, is not recognized as such, by the laws of the state in which he has taken refuge.

I regret most sincerely, the controversy which exists between New York and Virginia. Situated as we are, in the same position to the north and south, and participating measurably in the views and sentiments of each, our relation to both of these states, whilst it enables us to appreciate the motives which have induced this unhappy conflict of opinion, inspires an anxious desire that it may speedily be reconciled, consistently with the interest and honor of these two great and patriotic commonwealths.

I communicate herewith, a letter from the governor of New York, accompanying the copy of "An act relating to fugitives from justice" which he is desirous may be passed into a law by the several states and territories of the United States.

Respecting the subject of demanding fugitives from justice, I will suggest that some embarrassment has resulted from the fact, that considerable expense is necessarily incurred, in the payment of the prison charges of the fugitive, in the state in which he may be apprehended, and in bringing him therefrom into the State of Delaware. It most generally happens, that those persons who are willing to become agents of the executive authority, have not the means at hand of defraying all the costs which accumulate, in discharging the duty enjoined by the executive appointment. In a recent case, this fact had well nigh prevented the ends of justice from being answered. I submit to you, gentlemen, whether it would not be prudent to appropriate a fund to be used by the Governor in such cases. Connected with this subject, I will remark, that Peter Adams, David M. Smith and David H. Stayton have each been employed by me since the last session, as agents to bring fugitives into the state. They will, of course, each present a claim for compensation for the services rendered, which, in view of the disagreeable duty enjoined, and the expenses actually incurred by them, will, I trust, be liberal.

Permit me to call your attention to the documents accompanying this message, containing the proceedings of various meetings of citizens of the District of Columbia, remonstrating against the legislation of Congress, at its last session, in relation to the banking institutions of that District. Amongst the prominent features of the policy of the present administration of the General Government and its immediate predecessor, there is none which has been more productive of wide-spread mischief, or which should be held in more enduring remembrance, by the American people, than the unrelenting war which has been waged, for the last seven years, against the banks, the currency and the credit system of the country. I have no hesitation in expressing my belief, that to this destructive policy, as a primary cause, may be referred all the disorders in the currency, including the bank suspensions, which have afflicted the land within that period. The General Government, diverging from the orbit prescribed to it by the federal constitution, invaded the limits of the states, and assailed their institutions with all the power and influence it could bring to bear upon them. No longer the beneficent sun or centre of our system, diffusing light and genial warmth on all around, it presented the aspect of a baleful comet, darting from its sphere, and spreading consternation and dismay wherever its influence was felt. Fortunately, there was still power enough left with the states, to prescribe some limits to its gigantic encroachments, and to say—thus far shalt thou go and no further. They were enabled, to some extent, to protect their institutions and citizens from the full fury of the storm. Not so, however, with the inhabitants of the District of Columbia. By the federal constitution, Congress has the exclusive power of legislation in the District; which thus presents the anomaly in our free system, of a portion of our people being set apart from their fellow-citizens, to be governed by a legislative body, in which they are not represented, and consequently, by laws, in the enactment of which, they have neither voice nor agency. Such a position, it might have been supposed would forcibly appeal to every generous and republican feeling, for an equitable and liberal course of legislation, towards those who were thus confidently en-

trusted to the exclusive legislation of Congress. No such feeling, however, was permitted to interpose in favor of the District of Columbia. The devoted district was selected by the party in power, as a theatre upon which they might display their taste for experiments and carry out their destructive schemes with impunity. A course of legislation was adopted, in relation to the banks, which has compelled them, in effect, to close their doors, to withdraw their circulation and to suspend all their operations. The disastrous effects, produced by such a condition of things, upon the business and prosperity of any community, will be readily understood by all who are acquainted with the subject. Oppression never wears so odious and revolting a form, as when it is thus exercised, upon those who are incapable of resistance or self-defence. It was the very principle involved in this case—that is, oppressive legislation, exercised by an irresponsible body—which roused our fathers, in 1776, to resist and throw off the yoke of Great Britain. The people of the district, having no other remedy or resource, have appealed to public opinion and to the sympathy of their fellow citizens of the several states: and that appeal, I trust, will receive from you a cordial and generous response. In this connection, I cannot forbear congratulating you on the recent demonstrations of public opinion, which, whilst they confirm more and more, our faith in the redeeming energies of our republican institutions, release our country from the reign of reckless usurpation and destructive experiment, and restore our government again to the old and safe path, in which it commenced its prosperous career, under the wise and paternal guidance of Washington and his illustrious co-patriots—the framers of our happy and glorious constitution.

The occasion is suitable, gentlemen, for recommending to you the passage of resolutions in favor of a National Bank. In respect to the constitutional power of Congress to charter such an institution, I trust there can be no doubt whatever. The venerated names of Washington who approved the first, and of Madison who approved the second act of incorporation, to say nothing of the many other and high authorities that have united in one expression as to its constitutionality, should, in my humble opinion, put this matter forever at rest. Besides, the knowledge which has been purchased by long and painful experience, of the utter inadequacy of state banks to the various and multiform exigencies of the country and the whole business community, establishes, beyond all controversy, the absolute necessity for such an institution. I hope that you, gentlemen, will so far respond to, the requisitions of your country and your constituents, as to furnish our representation in Congress with a decided expression of your views, in this matter, and also, your unqualified disapprobation of the act, passed at the last session,—familiarily known as the sub-treasury law.

Your attention is requested to the documents now communicated, relating to the claims of American citizens for spoiliations, committed on our commerce by France, prior to the year 1800, in which a number of the citizens of this state are interested. This claim is preferred against the United States; on the well known constitutional principle,—that pri-

vate property shall not be taken for public use, without making just compensation. The limits of this communication will not permit me to detail to you all the facts, which enter into the history of this long protracted claim. They are, however, fully set forth in the papers, laid before you. I may state briefly, that by the treaty between the United States and the French Republic, of September 1800, the United States released France from all claim of indemnity to our citizens, for enormous spoliation, committed on their commerce, by France prior to that time, in consideration of a release, on the part of France, of her claim of indemnity, for the non-performance of certain stipulations, contained in the treaty between the two countries of 1778, which stipulations were admitted by our government to be of binding obligation on it. Our government thus purchased a release from an onerous treaty obligation, with the property of their fellow-citizens, and therefore became liable, upon every just principle, to them, for the amount of the claims, thus bartered away. This claim has been standing for forty years; has been elaborately investigated in both houses of Congress, and its validity and justice have been repeatedly recognized by committees in each house. In view of all the circumstances, I regard this claim as one entitled to your favorable consideration, and to that of Congress.

I respectfully suggest the propriety of some suitable action, respecting the fourth instalment of this state's share of the surplus revenue, in the United States Treasury. Notwithstanding the provisions of the distribution law, this instalment has never been received. Without, at present, inquiring into the reasons which have prevented its payment, I think it becomes your duty to insist on the fulfilment of the national pledge in this behalf.

In reference to this subject, I expressed a hope, on a former occasion, that the revenue would not be so far reduced as to prevent an annual distribution to the several states. In inviting your attention to the resolutions of Connecticut, for the protection of domestic manufactures, and of Maine, Connecticut, New York and Kentucky, in favor of an equitable distribution of the proceeds of the sale of public lands, allow me to repeat this sentiment, and to recommend the passage of resolutions on both these important subjects. It is sincerely to be regretted, that the wise and beneficent measure of dividing the proceeds of the public lands among all the states, so loudly called for by so many motives of justice and policy, should have been so long delayed. Provision for its accomplishment was made in the bill, which was reported on the subject, and which after having received the approval of large majorities of both houses of Congress in 1833, was defeated by a most unprecedented and despotic exercise of executive power. We are encouraged to hope *now*, however, that this desirable measure will be no longer postponed. The recent manifestations of popular feeling which have been everywhere exhibited, afford us every reason to believe that the wishes of the people will speedily be gratified by the passage of a law, which sound expediency and public sentiment have for a long period imperatively demanded.

I communicate resolutions of the Legislature of Vermont, in favor of such an amendment of the Constitution of the United States, as will re-

strict the eligibility of the President to a single term. The arguments in favor of such an amendment are so obvious, and have so frequently been repeated, that I consider it unnecessary to do more than call your attention to the subject—not doubting that your views will harmonize with those of the General Assembly of Vermont.

I lay before you two letters from Dr. James Couper—the port physician of New Castle—one addressed to me and the other to the Secretary of State on the subject of the health laws of Delaware. They embrace matters of the utmost importance; and without noticing them in detail, I request that they be taken and considered as a part of this communication, and the views contained in them be so far carried out, as to induce all needful amendments in the laws to which they relate.

For obvious reasons, I recommend the repeal of the act passed at the last session, entitled “An additional supplement to the act entitled, ‘An act providing for the punishment of crimes and misdemeanors.’”

Accompanying my last biennial message, I communicated sundry resolutions of the Legislatures of other states, in favor of extending the franking privilege to the Governors and Secretaries of the different states. The propriety of such a measure is, to me, so apparent, that I cannot forbear presenting it to your particular notice, and requesting that you will follow the example which has been furnished by other Legislatures in regard to it.

The suggestions which I have heretofore had the honor to submit, relative to a further provision for the suffering poor, and also for the abolishment of imprisonment for debt, are again presented to your serious consideration. In both subjects I feel a deep and abiding interest: and I respectfully trust that the pulsations of my own heart in relation to them, may meet a congenial response in the bosom of every member of the General Assembly.

I have received and now lay before you, a certified copy of the proceedings of a meeting of the stockholders of the Wilmington Bridge Company, held in April, 1839, in which they agree to accept the supplement to their act of incorporation, passed at the last session.

I also communicate a statement from the directors of the Union Bank of Delaware, which they transmitted to me, in compliance with the fifth section of their charter.

I also lay before you, in compliance with the request contained in them, sundry resolutions of State Legislatures on various subjects; and also various other documents, which I have received since the last session.

I have received from the United States’ arsenal, at Frankford, Pennsylvania, this state’s quota of arms for the years 1839 and ’40, amounting, in the whole, to 280 muskets and their appendages, which have been deposited in the arsenal at this place. The quota, due the state for the year 1841, I am informed, will be about 90 muskets. I have given directions for their delivery, in kind.

I have also received the usual quantity of congressional acts and documents, and laws of the different states, together with a variety of other books and papers, which I have caused to be placed in the public library

for the use of the different departments—a schedule of which accompanies this message.

The expiration of my official term is near at hand, and I experience, most sensibly, the emotions which usually accompany the dissolution of such a relation; but I am gratified in leaving the government in the hands a successor, so well qualified for the exalted post to which he has been called; and I sincerely hope that his administration may fulfil the expectations which are naturally excited by the intellectual and moral worth of his character.

In closing this, my last biennial communication, I cannot forbear to remark, that, during my exercise of the supreme executive powers of the State, I have been governed by a deep sense of the responsibility of my station, and have endeavored to discharge its functions in such manner as to promote the happiness of my constituents and the prosperity of the State. That my administration has been faultless, I too well know my own fallibility to believe; but as it has, certainly, not been distinguished by intentional errors, I leave it, with the consoling reflection that, for every official action, I enjoy the testimony of an approving conscience.

C. P. COMEGYS.

Dover, January 5, 1841.

SCHEDULE

Of books and papers which have been received at the Executive Department, since the date of the last biennial message, and deposited in the public library.

Three copies each of the Journal of the Senate and House of Representatives of the United States, of the second and third sessions of the 25th Congress.

Two volumes, one volume each of the revised Statutes of Connecticut. Index to the Laws of Maryland, from 1832 to 1837.

Eighth volume of Gill and Johnson's (Maryland) Reports.

Three copies, one volume each, of the general and local laws of Ohio, passed at the 37th session of the General Assembly.

One copy, volume 4 Napton's Missouri Reports.

Three copies Laws of Missouri, passed in 1838-9.

Three do do each of private and special Laws of Maine, 1839.

Three do do do do of Connecticut.

Three do revised Statutes of Indiana of 1838.

Three do Laws of New York, 1839.

Thirty-six copies of acts and resolutions of the third session, twenty-fifth Congress.

Third and fourth volumes of Statutes at large, of S. Carolina.

Three copies of Laws of Mississippi, 1839.

Three do do do from 1824 to 1838.

Statutes of Wisconsin.

Three copies, Session Acts of Indiana, 1839.

Three do do New Hampshire, 1839.

Three copies Session Acts of Rhode Island, 1837.

Three do do New Jersey, 1837.

Two do do Illinois, 1838-9.

Three do do Louisiana, 1839.

Two do do Florida, 1839.

Three do do Maryland, 1838.

Three do do Massachusetts, 1839

Report on agriculture and prison discipline, and pauper abstract, etc.
etc., of Massachusetts, 1839.

Sundry reports on education, agriculture, &c., Michigan.

Three copies, two volumes each, general and public Acts of Congress
in relation to public land laws, institutions, etc.

Third annual report of the Geology of Maine.

Three copies of the Laws of New York, passed in 1839.

Three do do Vermont, do 1838.

Annual report of the Regents of New York University, 1839.

Three copies of the Laws of Michigan, passed in 1839.

Two do of do Kentucky, do 1838-9.

One do do Alabama, 1838.

Communication of the Governor of New York to the Legislature, re-
specting State Geology.

Report of the board of common schools of Connecticut.

Twenty-first general report of the President and Directors of the
Chesapeake and Delaware Canal Company.

Fourth annual report of the N. Y. Institution for the Blind.

One copy of the Journal of the provincial Congress of Massachusetts.

One do tactics and regulations for militia.

Three copies of revised Statutes of Arkansas.

One do do State of Michigan.

Two do Session Acts of Tennessee, 1837.

Two do do do of Illinois, 1838-9.

Two do compiled Statutes of Tennessee, 1836.

Three do Session Acts of Mississippi, 1838.

Three sets, twenty-four volumes each (and two maps) of 2d Session of
25th Congress.

Three do, fifteen volumes each of 3d Sessions of 25th Congress.

Three copies of Session acts of Ohio, December Session, 1839.

Three do Resolves of Connecticut, May do, 1840.

Acts of Tennessee, 1839-40.

Three copies Session Acts of New Jersey, December Session, 1839.

Three copies first, second and third volumes, Howard's Mississippi

Reports.

Three do Laws of Maryland, 1840.

Three do do New York, 1840.

Three do acts and resolves of Maine, January Session, 1840.

Several copies of ninth volume Laws of United States.

Three copies Session Acts of Mississippi, 1840.

Three do revised Laws of do.

Three copies Session Acts of Louisiana, 1840.
 One do volume nine of Gill and Johnson's (Maryland) Reports.
 One do number three and four of third volume Battle's North
 Carolina Reports.
 Two do public Laws of Indiana, December Session, 1839.
 Two do Session Acts of Kentucky, do do.
 One do volume two South Carolina Statutes.
 Thirty-six copies acts and resolutions passed at first Session of 26th
 Congress.
 Three copies Session Acts of Pennsylvania, 1840.
 Three do fourth series of American Archives, volume two, 1775.
 Indexes to volumes two, three and four of Reports of Supreme Court
 of North Carolina, by Deveraux and Battle.
 Three copies volume fourteen, Shepley's (Maine) Reports.
 Two do Acts General Assembly of Georgia, Dec. Session, 1839.
 One copy Laws of Alabama, 1840.
 Three do each, Laws and Legislative Documents of Illinois, 1839-40.
 Three do Laws of Pennsylvania, 1840.
 Three do acts and resolves of Massachusetts, 1840.
 Two do Laws of Rhode Island, January 1839.
 One do Laws of Georgia, 1839.
 One do Laws of South Carolina, 1839.
 Geological Survey and Documents, &c. of New York, 1840.

C. P. COMEGYS.

Dover, January 5, 1841.

WILMINGTON, April 29, 1839.

C. P. Comegys, Esq.

Governor of the State of Delaware.

Dear Sir—I have the honor to transmit to your excellency, a certified copy of the proceedings of the stockholders of the Wilmington Bridge Company, at a meeting held on the 2nd day of April A. D. 1839, on the subject of the "Supplement to the act entitled 'an act to incorporate a company to erect a draw bridge over the river Christiana at Wilmington, and for other purposes therein mentioned,'" passed at Dover February 15, 1839; which supplement was duly accepted.

On the receipt of this communication, your excellency will have the goodness to acknowledge the same, that such acknowledgment may be filed by said company, with the proceedings aforesaid.

I have the honor to be

Your excellency's most ob't. serv't.

W. A. MENDENHALL, *Secretary.*

At a meeting of the stockholders of the Wilmington Bridge Company, convened agreeably to notice duly given for that purpose, twenty days before the time of meeting, and held this second day of April A. D. 1839, at No. 25, Market street, in the city of Wilmington, for the purpose of considering the supplement to the act of incorporation of this company, passed at Dover, February 15, 1839, more than one-half of the capital stock of said company being represented, William Seal was appointed Chairman, and W. A. Mendenhall Secretary. A certified copy of said supplement being read and considered. It was, upon motion, unanimously

Resolved, That the said "Supplement to the act entitled 'an act to incorporate a company to erect a draw bridge over the river Christiana, at Wilmington, and for other purposes therein mentioned,'" passed at Dover, 15th February, 1839, be and the same is hereby assented to and accepted under the terms and conditions thereof; and that this assent and acceptance be duly certified to the Governor of this State in writing, under the corporate seal of this company.

WILLIAM SEAL, *Chairman*.

Attest.

W. A. MENDENHALL, *Sec'y*.

To His Excellency, C. P. Comegys,

Governor of the State of Delaware.

Sir,—I deem it to be a part of my duty, as Port Physician for the town of New Castle, to inform you that under the existing health laws of the State of Delaware, as they are construed by the Attorney General, no authority is given to the health officers of the State to prevent the landing, within its limits, of passengers who may be affected with small pox or measles.

The want of this authority is much felt at this time, when large numbers of Irish and other emigrants are passing up the Delaware, and several of their vessels have lately been found to have small-pox on board.

The fact that small-pox and measles are made exceptions to a law, designed to guard against the introduction of infections and contagions into the State, is so extraordinary, and so little in accordance with the usual legislation on this subject, that I would respectfully suggest to your Excellency, that the public good requires such further appropriate action in the matter, as will enable the health officers of the State effectually to protect our citizens from the importation of these loathsome and dangerous diseases.

I am,

Very respectfully,

Your most ob't.

JAS. COUPER.

New Castle, Del. July 7, 1840.

New Castle, Del. Dec. 11, 1840.

CHARLES MARIM, Esq.

Secretary of State.

Dear Sir,—It affords me much pleasure to comply with the request contained in your favor of the 9th inst.

Since we last met at Newark, I have discovered in my library a copy of the health laws of the State of Pennsylvania, which I have carefully compared with those of our own State. They agree in most important points, as well as in the singular exception which was the origin of our present correspondence. In all the Pennsylvania laws, enacted between the years 1794 and 1824, the phrase “small-pox and measles excepted,” occurs just as it does in our laws; and it was not until the month of March 1824, that a repeal of the exception was affected, so far as small-pox alone is concerned. I can readily understand why such an exception should have been made prior to the year 1800, when small-pox was a very common disease, and one which every person expected to experience either in the natural way, or by inoculation. But I cannot so easily explain the fact that this provision should have remained so long unrepealed after the introduction of vaccination, and that too, in a State which enjoyed the possession of the first medical school in the country.

In regulating the number of passengers which a vessel may bring, the Pennsylvania laws allow one adult, or two children between the ages of five and twelve years, to every ton—custom-house measurement. This mode, I think, is much more practical and useful than that pointed out by our laws. See *Digest Del. Laws*, p. 299, sec. 5.

They also confer upon their health officers the power to administer oaths and affirmations to the officers, crew or passengers of vessels, and under their sanction, to demand answers to all such questions as shall be put to them touching the health of the crew and passengers during the voyage; and the nature and state of the cargo: and they make it the duty of the health officer, before proceeding in his examination, to explain to the person interrogated the penalty imposed by law upon those who shall give false answers, under oath or affirmation, to the questions proposed in such examination. This I should consider a valuable addition to the powers and duties of our port physicians.

But the most important suggestion I can make on this subject is, that a supplementary act should be passed, providing that vessels arriving within the limits of the State, with small-pox or measles on board, shall be subject to the same rules, restrictions and regulations that are provided and directed by the existing health laws in relation to vessels arriving with other infectious or contagious diseases on board. I would not except measles. For, although they are generally a mild and manageable disease, they do occasionally appear in a very malignant form, and are then a source of as great popular apprehension and real danger as small-pox. In fact, as we have no such means to prevent the *extension* of measles, as vaccination affords in small-pox epidemics—so when measles assume a malignant form, they become, in this respect, a more truly formidable disease than the small-pox itself.

The three points just stated are very respectfully submitted to the consideration of the Executive. They are all that seem to be very important, unless his views should extend to the entire reconstruction, rather than the amendment of the health laws of the State.

I am,

Very truly and respectfully

Your friend and most ob't.

JAS. COUPER.

Port Physician of the town of N. Castle.

UNION BANK OF DELAWARE,

Wilmington, May 31, 1839.

DEAR SIR,—I inclose to you the statement of the Directors of the Union Bank of Delaware, made in conformity to the fifth section of its charter. Please to favor me with an acknowledgment of its receipt.

Very respectfully

Your ob't. serv't.

W. P. BROBSON.

Cashier.

The Governor of the State of Delaware.

*To the Governor of the
State of Delaware,*

The Directors of the Union Bank of Delaware, in compliance with the fifth section of the act entitled "An act to incorporate The Union Bank of Delaware," passed at the last session of the General Assembly of the State of Delaware, state to the Governor, that there is now actually paid in and deposited in the vaults of the said bank, the sum of ninety thousand dollars and upwards, and that the said deposit consists of upwards of forty-five thousand dollars in specie, and the residue amounting to more than forty-five thousand dollars, is in notes of the banks of this State, or of Philadelphia, paying specie. Witness our hands at Wilmington, May 31st, 1839.

JAMES PRICE,
JAMES CANBY,
WM. HEMPHILL JONES,
JAMES W. THOMPSON,
WM. CHANDLER,
MILLER DUNOTT.

STATE OF DELAWARE. }
New Castle County, ss. }

Be it remembered, That on the thirty-first day of May, in the year of our Lord one thousand eight hundred and

thirty-nine, before me, William M'Caulley, a Justice of the Peace in and for New Castle county aforesaid, personally appeared James Price, James Canby, Wm. Hemphill Jones, James W. Thompson, William Chandler and Miller Dunott, Directors of the Union Bank of Delaware, whose names are subscribed to the within certificate, who upon their solemn oaths or affirmations, respectively declare and say, that the statement contained in said certificate is just and true, as therein set forth.

Sworn and affirmed before me at Wilmington, the day and year aforesaid.

W. M'CAULLEY, *J. Peace.*

STATE OF MAINE.

EXECUTIVE DEPARTMENT, }
Augusta, March 25, 1839. }

Sir:—Agreeably to the direction of the Legislature of this State, I herewith forward you a copy of certain Resolutions adopted by that body in relation to the Public Domain.

With high respect, I am, sir,
Your obedient servant.

JOHN FAIRFIELD.

STATE OF MAINE.

Resolve relating to the Public Domain.

Resolved, That the public lands having been acquired, either by purchase out of the common funds of the Union, or by cession to be held as a common fund, belong to the States, not in severalty, but in their confederated capacity; and that the appropriation of the proceeds of the Public Lands to the support of the Federal Government, best effectuates their true purpose as a common fund, by relieving the States from an equivalent taxation.

Resolved, That the Public Domain, having been wrested from the British Crown, by the toil and blood of our revolutionary patriots and soldiers, belongs as a just, honorable and equal inheritance, to all their descendants whether situated in the old or new States; and that while the people of Maine, however willing to consent to the cession of the Public Lands to the States in which they lie, upon just and equitable terms, can never recognize the exclusive right of those States to the property or dominion of the Public Domain, they at the same time repudiate and disavow any assumption of a title on the part of the original thirteen States, to a partial division of the Public Lands, as unfounded, impracticable and injurious.

Resolved, That the policy of confining the sale of the Public Lands to

actual settlers, would be eminently republican in its tendencies, by checking the dangerous speculations of grasping monopolists, by preventing the formation of a landed aristocracy, by increasing the number of our independent yeomanry, who are at once, the pride and reliance of the country, and by securing to honest and provident labor, for ages to come, the opportunity of acquiring upon easy terms, the enjoyments and blessings of a freehold possession of the soil.

Resolved, That the Governor be requested to forward a copy of these Resolutions to each of our Senators and Representatives in Congress, and also to each Executive of the several States, for such disposition as they may consider proper.

In the House of Representatives, March 22, 1839.

Read and passed.

H. HAMLIN, *Speaker*.

In Senate, March 22, 1839.

Read and passed.

JOB PRICE, *President*.

March 23, 1839. Approved.

JOHN FAIRFIELD.

STATE OF VERMONT.

Resolved by the Senate and House of Representatives, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure the passage of a law which shall provide for a just distribution among the several States, of the proceeds of the public lands, agreeably to the terms of the deeds of cession, which provide that the lands so ceded, "shall be considered as a common fund, for the use and benefit of the United States, members of the Federal alliance," and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever"—and to oppose any measure calculated to promote the eventual surrender of these lands to the States in which they are situated, which would be entirely repugnant to the condition of these grants, and contrary to that principle of equal and exact justice which should characterize all the dealings of the general government with the several States of the Union.

Resolved by the Senate and House of Representatives, That the Governor be requested to transmit copies of the foregoing resolution to each of our Senators and Representatives in Congress, and to each of the Governors of the States, with a request that they present it to the Legislatures of their respective States.

STATE OF VERMONT.

SECRETARY'S OFFICE,
Montpelier, Nov. 20, 1839. }

I certify the foregoing to be a true copy of resolutions passed by the Legislature of said State at their session in October, A. D. 1839.

C. L. KNAPP,
Secretary of State.

STATE OF CONNECTICUT.

At a General Assembly of the State of Connecticut, holden at New Haven, in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and forty:

Resolved, by this Assembly, That the Public Lands belonging to the United States, are the common property of all the States, and not of the particular States in which they lie; and that neither said lands or the proceeds thereof, ought to be appropriated for any purpose except for the benefit of all the States.

Resolved, That the proceeds of the Public Lands, not required for the payment of the debts of the Government, or for other public purposes connected with the administration thereof, should of right be divided among the several States of this Union.

Resolved, That this Assembly earnestly protest against any reduction in the prices of the Public Lands, as now fixed by law, regarding such a measure as unnecessary and unjust.

Resolved, That this Assembly do request their Senators and Representatives in Congress, to use their exertions to sustain the principles contained in these Resolutions.

Resolved, That His Excellency the Governor, be requested to forward copies of the foregoing Resolutions to the Senators and Representatives in Congress from this State, and also to the Executives of the several States, that they may be communicated to the Legislatures of their States respectively.

STATE OF CONNECTICUT, ss.

Secretary's Office, May Session, 1840.

I hereby certify that the above is a true copy of record in this office. In testimony of which I have hereto set the seal of this State, and signed the same.

ROYAL H. HINMAN,
Secretary of State.

STATE OF NEW YORK.

EXECUTIVE DEPARTMENT,

Albany, May 4, 1840.

SIR:

I transmit a copy of certain Resolutions of the Senate and Assembly of this State in relation to the National Domain.

I am, very respectfully,

Your obedient servant,

WILLIAM H. SEWARD.

His Excellency,

The Governor of the State of Delaware.

STATE OF NEW YORK,

In Assembly, April 16, 1840.

Resolved, (if the Senate concur,) That the public lands, the national domain, is the common property of the United States, "and of right constitutes a common fund for their common use and benefit, and ought to be faithfully disposed of for that purpose, and for no other use or purpose whatever."

Resolved, That we protest against the surrender of this common property of all the States to a portion of them, as unjust in the abstract, as in direct violation of the uses and purposes for which it was ceded to, and the conditions on which it was accepted by, the United States.

Resolved, That we protest against the sale of those lands at a price below the present minimum, as a virtual violation of the trust and pledge under which they were received, as wasting the common fund, and by inducing exhausting emigration from, and as diminishing the value of, the old States.

Resolved, That it is not to be endured, that a government free from debt, and at peace with all the world, should use and consume, for its current expenses, the national domain; that the common resources, from imposts and tonnage are abundantly sufficient, when faithfully collected, and prudently and economically applied, for all the legitimate purposes of the common government.

Resolved, That we recommend a separation of the proceeds of the public lands from the general revenue, and an equal distribution thereof amongst the several States, "according to their usual and respective proportions in the general charge and expenditure."

Resolved, That the Senators and Representatives of New York, in Congress, will conform to the views and wishes, and promote the interests of the people of this State, by acting in accordance with the foregoing resolutions.

Resolved, That the Governor be requested to forward copies of the foregoing report and resolutions to the Senators and Representatives in Con-

gress from this State, with a request that the same be laid before the Senate and House of Representatives; and also to the Governors of the several States in the Union, with a request to lay the same before their respective Legislatures.

By order.

P. B. PRINDLE, *Clerk*.

IN SENATE, *April 28, 1840.*

Resolved, That the Senate concur with the Assembly in the above resolutions.

By order.

SAM'L. G. ANDREWS, *Clerk*.

EXECUTIVE DEPARTMENT, }
Frankfort, Kentucky, February 18, 1840. }

SIR:

I have the honor of inclosing you a copy of a Preamble and Resolutions adopted by the General Assembly of Kentucky, concerning the Public Lands; you will perceive the wish of the General Assembly expressed that you lay the same before the Legislature of your State.

Respectfully, your obedient servant,

C. A. WICKLIFFE.

Preamble and Resolutions concerning the Public Lands.

WHEREAS, The Legislature of Kentucky has seen that a proposition is now pending before the Congress of the United States, to cede, by act of Congress, the Public Lands to the several States in which they lie. The Legislature of Kentucky feels itself called upon to express its dissent to such a measure, or any other that either cedes such lands to the States in which they lie, or appropriates them to any use, except such as will result in the general benefit and welfare of the whole of these United States. The lands conveyed to Congress, by the State of Virginia, were conveyed, in trust, for the benefit of all the States, and were conquered from the crown of Great Britain, by the common struggle and treasure of all the States, as were all other lands acquired in the revolutionary war. Those acquired since, have been acquired by the common treasure of the whole of the States, and are held by Congress, in like trust, for all the States; and having been so obtained, and so held, ought not to be relied on as a fund for the payment of the ordinary expenses of the National Government, and thus dissipated without any lasting or permanent benefit resulting to those by whose blood and treasure they were acquired: Therefore,

1st. Be it resolved by the General Assembly of the Commonwealth of Kentucky, That the Public Lands of the United States are not, of

right, the property of the particular States in which they lie, nor that of the people of such States, and therefore the Congress of the United States ought not to cede such Lands to such States, or any of them, or to appropriate such Lands for any purpose whatever, but in behalf and for the benefit of the people of *all* the States.

2d. Resolved, That the National debt being now paid off, all moneys arising from the sales of the Public Lands, after defraying the expenses incident to the sales, ought to be distributed among the several States according to the federal numbers of each State.

3d. Resolved, That a copy of the foregoing preamble and resolutions be forwarded by the Governor, to our Senators and Representatives in Congress; and that our Senators be instructed, and our Representatives requested, to resist with all their energies, and to enter their solemn protests against any measure by which the Public Lands are to be transferred to the particular States in which they lie, or any appropriation made of them, except for the general benefit of the whole of the United States.

4th. Resolved, That that a copy of this preamble and resolutions be forwarded, by the Governor, to the President and Vice-President of the United States, and also to the Governors of each of the other States in the United States, with a request that they should lay them before the respective Legislatures of the said States.

JOHN L. HELM, *Speaker of the House of Representatives.*

SAMUEL HANSON, *Speaker of the Senate.*

Approved, February 12, 1840.

CHARLES A. WICKLIFFE.

STATE OF MISSOURI.

EXECUTIVE DEPARTMENT, }
City of Jefferson, March 1, 1839. }

To His Excellency,

Governor of the State of Delaware.

SIR:

In compliance with a resolution of the General Assembly of the State of Missouri, adopted on the 13th day of February, A. D. 1839, I herewith transmit to your Excellency a copy of a series of Resolutions in relation to the Public Lands, and request at the same time, that at the earliest convenient period, you will lay them before the Legislature of your State.

I have the honor, Sir, to be,

Your most ob't. servant,

L. W. BOGGS.

Governor of the State of Missouri.

RESOLUTIONS IN RELATION TO THE PUBLIC LANDS.

WHEREAS, This General Assembly has seen with surprise, regret and apprehension, the proceedings of several of the Legislatures of the States of this Union in relation to the Public Lands, and especially so far as those proceedings oppose a reduction of the price of the old lands which have been years in market, and propose a distribution of the money received from the sales of the lands among the several States; and considering these proceedings to be in their tendency and effect, both injurious and derogatory to the new States, and tending to a virtual infraction of the compacts with the new States, and to an abuse of the trust confided to the General Government for the disposal of the lands, this General Assembly deems it a duty to protest against such proceeding, and to express their opinions thereon, and to communicate them to the Congress of the United States, and to each of the States of the Union.

Therefore, Be it resolved by the General Assembly of the State of Missouri, That the Congress of the United States, being, so far as the primary disposal of the soil is concerned, in the place of a local Legislature, is bound to exercise the powers of primary disposition in a fair, just and equitable manner so as to accomplish, within a reasonable time, the great object of disposing of the lands, and making them available to the States for the great purposes of settlement, cultivation, and taxation; and to do this, it is obviously and indispensably necessary to reduce the price of the lands, which have been offered for years, without finding a purchaser at the present minimum price.

2nd. Resolved, That by the terms of the session acts, the public lands in the States east of the Mississippi were ceded to the General Government, half a century ago to be disposed of, and by the terms of the treaties with France and Spain, the States formed out of the territory of Louisiana and Florida were to be admitted into the Union upon an equal footing with the old States, and with all the rights of sovereignty appertenant to them; and that the refusal of the Congress of the United States to graduate the price of the lands according to their quality, and a perseverance in the policy of demanding the same price for all qualities of land is a virtual refusal to dispose of them, and is a breach of the cession acts, and by delaying the right of the new States to tax and cultivate the lands within their limits, is denying to them an equality of sovereign rights with other States.

3rd. Resolved, That by the constitution of the United States, article 4, section 3, clause 2, Congress is authorised to dispose of the territory and other property of the United States; and by another clause in the constitution, article 1, section 8, clause 16, is authorised to hold and exercise jurisdiction over lands within the States, only for certain specified, limited and needful purposes; and that to hold bodies of lands, indefinitely in the new States, subject to the exclusive legislation of Congress for all trespasses upon it, with the right of trying the citizens of the States in her own courts for alledged trespasses, is a power no where deducible from the constitution, and clearly incompatible with the two clauses referred to.

4th. Resolved, That by the compact between the State of Missouri and

the General Government, the said State in consideration of certain grants, of land to be applied to the purposes of education, and also of a per centum on the sales of the lands, applicable to internal improvement, bound herself not to tax the lands of the United States within her limits, whether for State, county, township, or any other purpose whatever, until five years after the sale thereof by the United States, which stipulation to refrain from the sovereign right of taxing these lands, until after they were sold, contained a clear pledge on the part of Congress to sell them in a reasonable time, and to comply with that pledge given by Congress near twenty years ago; it is indispensably necessary to offer the lands at prices adapted to their value, and at which they will sell, and not to hold them at prices far above their value, and for which they will not sell in ages and centuries.

5th. Resolved, That the public lands in the State of Missouri, are of different qualities and different values, that they descend through every gradation of quality from the best to the worst, from that which is worth much to that which is worth but little and even nothing at all, and that to demand one uniform price for all these qualities is a perversion of all the principles of right and wrong, is contrary to equity, justice and fair dealing, and cannot be persevered in without taking the character of hostility to the new States.

6th. Resolved, That this General Assembly has seen with surprise, the sudden, unexpected and simultaneous movement of several States against the Graduation Bill; a measure which has been depending at intervals for more than a dozen years, which has been petitioned for repeatedly by the new States, the principles of which have received the sanction of many eminent members of Congress from the old States, and which, until now, never excited the alarms of any new States for the loss of the national domain, and which in fact tends to no such loss, but is a measure of sheer justice to the new ones.

7th. Resolved, That the distribution of the proceeds of the lands among the several States would have the most injurious and degrading effects upon the new States, that it would tend to make the populous old States unite together to resist all reductions in the price of the lands, to resist all pre-emption claims, to resist all confirmations of French and Spanish claims, to resist all grants to the new States, to put them on an equal footing with Ohio, to which the General Government has granted upwards of one million of acres of land for roads and canals, and would induce them to consider the public lands in the new States as a fund for paying their own debts, and a means of raising money for themselves, and therefore lead them to keep up the price, and to practice every possible act, to make them yield the largest amount of money.

8th. Resolved, That to carry out of the new States the monies collected within them for the lands, and to transport that money in masses to the remote and populous States, would be to eviscerate annually the new States of their gold and silver, and their effective funds, and would be ruinous and destructive to the said new States.

9th. Resolved, That the system of dividing out the proceeds of the public lands, must have the effect of creating an insatiable appetite in the

old States for that species of the spoils, and preventing necessary appropriations for the defence of the frontiers, and the country generally; and must lead to a debt or taxes or to the revival of the tariff, and must end in debauching and demoralizing the public mind, tainting the purity of legislation, degrading the States into annuitants of the General Government, and ending in a consolidated government.

10th. Resolved, That this General Assembly deprecates all attempts to connect the question of the public lands with party politics, and to make them subservient to political aspirations at the approaching returns of presidential elections, and that they invoke the good faith and justice of Congress to execute with fidelity the trust reposed in the Federal legislature by the cession acts, the constitution, the treaties with France and Spain to dispose of these lands, and also to comply with the fair implication resulting from the compacts with the States to sell them in a reasonable time. What that reasonable time should be, this General Assembly do not undertake to prescribe, but do say that to effect these sales in a reasonable time it is indispensable to reduce their prices, and to establish various prices for various qualities of land; that a graduation of price according to the time the land has been in market, is the readiest and cheapest way to accomplish the object, and may come as near the true value, as the expensive, dilatory, imperfect and discordant valuations of different men in different districts could ever attain.

11th. Resolved, That the enlightened policy of a statesman should see, in the occupation and cultivation of the lands, by private owners, the true and perpetual source of strength, wealth and revenue, to the country, infinitely transcending any amount which can be received from their sale, and that a mere gift of a reasonable quantity to a cultivator would be a wise and beneficial disposal of the land, looking to a term of years in a mere pecuniary and revenue point of view.

12th. Resolved, That a copy of these resolutions be forwarded to each of our Senators and Representatives in Congress to be laid before the bodies of which they are members, also that copies be forwarded to each of the Governors of the States of this Union, with a request to lay them before the legislatures of the States to which they respectively belong.

Approved, Feb. 13, 1839.

WASHINGTON, Nov. 10, 1840.

To His Excellency

The Governor of Delaware.

DEAR SIR:

Having understood that many citizens of Delaware, who are interested in a bill now pending in Congress, for the relief of American citizens who suffered by French Spoliations prior to 1800, are about to appeal for aid and protection to the local Executive and Legislature, at least so far as to recommend *the consideration* of the subject to Congress—as several of the State Legislatures have already done—I beg your indulgence, while I perform a duty to those of your fellow-citizens

concerned therein, and as their agent, respectfully request your acceptance of the several Reports on that subject made to the two Houses of Congress from time to time, (including all that have been made,) copies of which I have now the honor to present.

These reports contain all the essential matters of fact and principle necessary to a proper judgment of the subject: and as they unfold matters of deep interest to the dignity, integrity and history of our country, so I trust you will consider them worthy of your perusal, and of a place in the archives of your office.

I have the honor to be,
 With high respect,
 Your most obedient serv't
 JAMES H. CAUSTEN.

May I ask of your kindness to acknowledge the receipt of my communication and accompanying documents.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

In General Assembly, January session, A. D. 1832.

Resolved, That our Senators in Congress be instructed to use their exertions to secure for our citizens all the compensation for French spoliations which, by treaty with France or otherwise, may be constitutionally provided and secured.

True copy: witness,

HENRY BOWEN, *Secretary.*

MARYLAND RESOLUTIONS.

Whereas, the United States of America, by her Convention with France, concluded on the 30th day of September, in the year 1800, pursuing a course of wise and urgent policy, which had the effect of maintaining the peace and eminently promoting the prosperity of our country, stipulated for a discharge from the onerous article in the treaty with France of the year 1778, by which the United States became bound to guaranty to the crown of France her possessions in America; and also by that Convention was released from all claims on the part of France or her subjects against the United States; but whereas, the United States accomplished her exoneration from these momentous liabilities by surrendering all pretensions for indemnification claimable for American citizens on account of "illegal captures, seizures and confiscations" by France before the 30th of September, 1800, by which renunciation those sufferers were not only forever debarred the mediation of their own government, but lost all claim in every form against France for the wrongs inflicted upon them by that government; and whereas, although it was the privilege of the United States thus to avail herself of the means which the grievances of her citi-

zens afforded, to relieve the Union from a corresponding liability for indemnification: but, above all, from the treaty obligation referred to, which, if continued, would have entangled this country in all the wars to which France was a party, yet it became the consequent duty of the United States to assume the satisfaction of those claims of her citizens which she used as the rich consideration to France for an inestimable benefit conferred upon this country; and whereas, any other view would be repugnant to the sacred duty of protection which bound the United States, and under which she undertook to vindicate those demands of her citizens and to enforce their redress, and would imply a right in the government of the Union to avail itself of the misfortunes of a portion of her citizens to accomplish a national good, at the sacrifice of individual interests entitled to her care, and confided to her as their necessary and only guardian; and whereas, citizens of Maryland, sufferers to a large extent, have asked this indemnification from the Congress of the United States as a debt thus devolved upon the United States; and from various quarters of the Union the same appeals are made to Congress for this manifest and long deferred justice: Therefore,

Be it resolved by the General Assembly of Maryland, That the Senators and Representatives from this State in Congress be, and they are hereby requested to promote the granting of prompt and full indemnification to the claimants aforesaid.

And be it further resolved, That the Governor be, and he is hereby requested to transmit to our Senators and Representatives in Congress, a copy of these resolutions.

True copy from the original resolutions which were assented to at December session, 1835.

JOSEPH H. NICHOLSON,
Clerk of the Senate.

GEORGE G. BREWER,
Clerk House of Delegates.

CONNECTICUT RESOLUTIONS.

OFFICE OF THE SECRETARY OF STATE.

New Haven, May 25, 1838.

At a General Assembly of the State of Connecticut, holden at New Haven, in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and thirty-eight:

Resolved, That the members of the Senate of the United States, and the Representatives in Congress from this State, be requested to use their influence to procure the passage of a law to indemnify the citizens of the United States for losses sustained by them from the French prior to September 30, 1800.

And be it further resolved, That his excellency the Governor of this

State be, and he is hereby, requested to transmit to our Senators and Representatives in Congress a copy of these resolutions.

The above and foregoing is a true copy of record in this office.

ROYAL R. HINMAN, *Secretary*.

NEW HAMPSHIRE RESOLUTIONS.

Resolved by the Senate and House of Representatives in General Court convened, That our Senators in Congress be instructed, and the Representatives in Congress, from this State be requested, to use their efforts to cause provision to be made by law for the equitable adjustment of the claims of our citizens for spoliations by France prior to 1800.

Resolved, That the Secretary of State be required to furnish the Senators and Representatives in Congress with copies of the above resolution.

IRA A. EASTMAN,

Speaker of the House of Representatives.

SAMUEL JONES,

President of the Senate.

ISAAC HILL, *Governor.*

Approved, July 4, 1838.

MAINE RESOLUTIONS.

Resolves relating to the French spoliation prior to September, in the year of our Lord one thousand eight hundred.

Resolved, That the Government of the United States are bound, upon every principle of equity, to make provision for an indemnity to those who suffered by French spoliations upon American commerce prior to September 1800; that, having compromised all claims upon the French Government for such spoliation, and received an ample indemnity therefor; a longer delay on the part of the General Government in making provision for those individuals whose property has been appropriated for the common benefit, would be neither expedient nor just.

Resolved, That a copy of these resolves be forwarded to each of our Senators and Representatives in Congress, with a request to lay them before the bodies of which they are members, and to use all their influence to procure the passage of a law making due provision upon the subject matter of these resolves.

In the House of Representatives, March 18, 1840.

Read and passed.

H. HAMLIN, *Speaker.*

In Senate, March 18, 1840.

Read and passed.

STEPHEN C. FOSTER, *President.*

Approved March 18, 1840.

JOHN FAIRFIELD.

PENNSYLVANIA.

To the Honorable the Senate and House of Representatives of the United States of America in Congress assembled :

The memorial of the undersigned, citizens of the State of Pennsylvania, respectfully sheweth :

That representations have been made to the undersigned (who are at present assembled in this city, for the purpose of amending the constitution of Pennsylvania) that a bill is now pending before Congress, in which a large number of the citizens of this Commonwealth have a deep interest.

Your memorialists allude to a bill to indemnify certain citizens of the United States for claims upon France for spoiliations upon their commerce prior to the year 1800, which the Government of the United States released France from paying, in consequence of a most valuable consideration which the United States obtained from France for that discharge.

By our treaty with France, negotiated by Dr. Franklin, in the year 1778, the United States bound themselves to that nation to guaranty to France forever all her colonies in the West Indies. If we did not continue to fulfil that obligation, we should have been guilty of a violation of national faith; and if we did fulfil it, we were liable to be involved in every war in which France might engage.

Therefore, in order to get honorably rid of this embarrassing obligation, our Government agreed, by the treaty of 1800, to relinquish all the claims of our fellow-citizens upon France, for spoiliations upon our commerce up to that period; and France, on her part, in consideration of this discharge, released the United States from all obligation imposed by the treaty of 1778, to guaranty to her the possession of her West India colonies. The claim, therefore, of the citizens of the United States upon their own Government for their property thus given in barter, to obtain a great national object, appears well established. And your memorialists are informed that twelve committees of Congress have, at various sessions, reported in favor of these claims; and that the Senate of the United States actually passed a bill, a few years since, to pay them.

Your memorialists would observe, that the constitution of the United States declares that private property shall not be taken for public use without just compensation; and as, in this case, the property of a small portion of the people of the United States was taken to purchase a great national benefit, your memorialists are of opinion that the claimants, who thus suffered by this surrender of their rights, are entitled to relief upon every consideration of law and justice.

Philadelphia, February 7, 1838.

Wm. Heister
George M. Keim
M. Henderson
R. G. White
John Clarke
Jacob Stickel

G. W. Woodward
A. H. Read
Jos. Hopkinson
E. T. McDowell
R. Young
Samuel C. Bonham

George Serrill
 J. F. Cox
 W. M. Meredith
 Robert Fleming
 James Pollock
 Jeremiah Brown
 Virgil Grenell
 James Ladd
 Richard McCrain
 Wm. Clark
 Aaron Kerr
 Thomas Weaver
 Thomas P. Cope
 Abm. Helffenstein
 Joseph R. Chandler
 J. M. Porter
 Daniel Seager
 William Ayres
 W. P. Marley
 Lindley Coates
 Jos. B. Stingere
 Thomas S. Bell
 Ch. Chauncy
 James Porter
 John A. Gamble
 J. Barndollar
 Phs. Jenks
 D. M. Farrallay
 S. A. Purviance
 M. W. Baldwin
 John Chandler
 James C. Biddle
 Benjamin Martin
 William Hays
 R. E. Cochran
 Walter Craig
 J. M. Russell

Samuel Shock
 Thomas Hastings
 William Brown
 James Merrill
 Morgan J. Thomas
 N. Clapp
 John Dickey
 Jos. Konigsmacher
 Harmar Denny
 John M. Scott
 James McSherry
 John J. McCahen
 David Lyons
 Jos. M. Doran
 William Overfield
 Charles Brown
 John Foulkrod
 Thomas H. Sill
 W. Nevin
 Thomas Earle
 C. J. Ingersoll
 J. Montgomery
 J. Hyde
 Daniel Agnew
 E. T. McDowell
 William Henderson
 Mark Darrah
 H. G. Long
 E. W. Sturdevant
 William L. Harris
 E. C. Reigart
 Pierce Butler
 A. J. Cline
 Henry Scheetz
 M. Henderson
 Jos. Fry, jun.
 Walter Forward.

To the Senatc and House of Representatives of the United States of America in Congress assembled :—

The undersigned, members of the Legislature of Pennsylvania, fully concurring in the views expressed in the within memorial, respectfully recommend the *immediate enactment of a law for the relief* of the citizens of the Union having claims for spoliations committed on their commerce by France previously to the year 1800.

Harrisburgh, June 8, 1840.

Henry Myers
 Samuel Stevenson
 Mich. Snyder
 H. S. Spackman
 Charles B. Penrose
 Abraham Shortz
 F. Fraley
 R. P. Flenniken
 W. P. Wilcox
 Daniel M. Smyser
 J. Higgins
 Daniel D. George
 G. Church
 Samuel Strohecker
 Jonas Keim
 James Sprott
 William Andrews
 Samuel Goodwin
 William B. Anderson
 M. W. Coolbaugh
 Henry Flannery
 William Albright
 Isaac Hottenstein
 J. G. Henderson
 G. R. Smith
 S. M. Barclay
 Findley Patterson
 William Purviance
 R. P. Maclay
 Elihu Case
 J. M. Bell
 D. F. Barstow
 M. Ritter
 G. Leidy
 R. Broadhead, jr.
 Fred. Neff
 J. Bruner
 William McClure
 Benjamin Kauffman
 Jacob Stickel
 B. G. Herr
 L. Hoge
 Charles D. Jones
 John Flick
 Enos Benner
 Robert Love
 John K. Zeilin
 E. E. Law
 John H. Ewing

T. C. Miller
 Jos. M. Sterrett
 Nath. Brooke
 John Killinger
 J. C. Plumer
 Charles Frailey
 P. A. Hummel
 J. Hartshorne
 Martin Loy
 William Field
 E. A. Penniman
 William A. Penniman
 Samuel Hill
 John Park
 Benjamin J. Fogel
 D. Washabaugh
 B. Crispin
 James Henry
 W. Snodgrass
 Samuel Penrose
 George Snyder
 Jos. Konigmacher
 William M. Watts
 David R. Porter, *Governor.*
 J. W. Griffiths
 John Strohm
 Samuel Hays
 E. Kingsbury, jun. *Speaker.*
 Thomas Williams
 John Miller
 William Hopkins, *Speaker.*
 A. J. Wilson
 B. M. Hinchman
 Stokes L. Roberts
 George Ford, jun.
 Jos. Coleman Fisher
 William Johnson
 John Hoge
 Joseph Griffin
 Franklin Lee
 William Morton
 Robert Carothers
 R. Graham
 Daniel B. Kutz
 Abraham Helffenstein
 John Morgan
 J. R. Burden
 William F. Coplan
 William McKinstry

John J. Pearson
Robert Fleming
Thomas E. Cochran
William A. Crabb
A. Holmes
George Potts
Charles W. Hegins
Jacob Gratz
J. Zimmerman

Gotb. Kinzle
Chester Butler
George Darsie
A. N. Cassel
Adam Schoener
James Ross Snowden
William Bonsall
Charles Evans
A. S. McKinney.

RESOLUTION OF THE CHAMBER OF COMMERCE OF PHILADELPHIA.

PHILADELPHIA CHAMBER OF COMMERCE,
February 20, 1838.

Extract from the Minutes.

“WHEREAS, frequent spoliations of the property of our citizens were committed, in violation of national law and existing treaties, under the authority of the French Government, anterior to the Convention of September, 1800; and whereas, by the conditions of the treaty of that date, as ultimately ratified, the Government of France, for valuable consideration, was expressly absolved from all claims for the losses and injuries thus inflicted—our own Government thereby assuming their liquidation; and whereas, repeated applications have been made by the sufferers to secure the attention of Congress and obtain redress; therefore,

“*Resolved*, That it is due to our national character that our Government should no longer withhold a fair and equitable compensation from a class of claims based upon such plain and acknowledged principles of justice.

“*Resolved*, That a copy of the foregoing preamble and resolution be transmitted to each of the Senators and Representatives in Congress from Pennsylvania, and that they be respectfully requested to use their efforts for procuring the enactment of a law securing to the claimants, under such circumstances, a proper and just indemnification for their losses.”

A true extract.

JOHN H. BARNES,
Secretary of the Chamber of Commerce.

MEMORIAL OF THE BOARD OF TRADE OF THE CITY OF BALTIMORE.

*To the honorable the Senate and House of Representatives of the
United States:*

The Memorial of the Board of Trade of the City of Baltimore,

RESPECTFULLY REPRESENTS:

That, whereas, there is now pending before your honorable body, a

bill for the relief of sufferers by French spoliations prior to 1800; and whereas, such a measure is one in which your memorialists are deeply interested, not only individually, but as the representatives of many and heavy claims upon the part of the commercial community of the City of Baltimore, your memorialists have felt it their duty, in their official capacity, respectfully to solicit from your honorable body the passage of the bill proposed.

Your memorialists are well aware that numerous and urgent petitions have, for many years past, been directed to the Legislature of the Union; that several of the legislative bodies of the States, and among them, that of the State to which we belong, have requested their Senators and Representatives to press upon Congress the remedial measures which are now in their inception before your honorable body.

Your memorialists do not forget that various reports have, from time to time, been made by the most distinguished statesmen of our country, on behalf of most respectable Congressional committees, in favor of such measures.

In justice, however, to the protracted sufferings of many whom we represent, we must crave leave to repeat to your honorable body the grounds upon which we base our claim to relief at your hands.

There is no rule that occupies a more prominent position among those which prescribe the relative obligations of government and the governed, than that which imposes upon the community the duty of fully recompensing individuals for the use or destruction of their property in the public service. The fifth amendment of the Constitution establishes this principle as law—enacting that private property shall not be taken for public use without just compensation. Upon this principle the claim of your memorialists has its foundation. The only questions, therefore, which are presented for the solution of Congress, are simply these: Did or did not the United States sacrifice the private property of the claimants? If so, was or was not that sacrifice for public use? The documents which go to furnish, without doubt, an affirmative answer to both these questions, have been long upon the records of your honorable body: the facts contained in them are matter of history. The protests of our Government, the instructions to our ministers, and the acknowledgements of the French Government, teem with unquestionable evidence of the existence and recognised validity of our claim upon France. The story of those claims is stained with rapine and written in blood. That those claims were surrendered by our Government, which had become agent for the claimants, is obvious upon the face of the Convention of 1800, and the enactments which gave it sanction.

So much for the existence of the private property; so much for its sacrifice. What was the end proposed and compassed by that sacrifice? That our Government was bound, by the obligation of a solemn treaty, to guaranty to France for ever her possessions in America; that France insisted upon the execution of the guarantee; that our envoys were instructed to offer, for a release from it, sums which, it can be arithmetically proven, would at the present day, have accumulated to an amount surpassing far the provisions of the bill before you; that France refused

most positively to receive them, and that she only surrendered her right to the guarantee, at last, in consideration of receiving from our Government a release from these very claims of her citizens, are facts which it is too late to dispute. Our Government is, therefore, for ever precluded, by her own acts, from endeavoring to show that those claims had ceased to exist, through war or other cause. That they existed, is proved by their surrender; that they were the property of the claimants, cannot be denied; that they were immensely valuable, is obvious from the immense consideration which was paid by France for the surrender; that our Government surrendered them, is shown by the hands and seals of her officers; and that the surrender was for her sole benefit, is to be read in the fact that the claimants were left pennyless by it, and without remedy, while our Government purchased by it an immunity whose value was incalculable to the nation—a release from a burden which would have wrung from her toil, treasure, and life. Here, then, would seem to exist every ingredient of a just claim upon the Representatives of the nation. Private property is taken for public use; a just compensation must follow, if the Constitution and its provisions have not lost their weight.

Your memorialists will content themselves with the slender outline which they have presented to your consideration. They are confident that your honorable body are not disposed to pass over, without relief, a petition which, though just, has been fruitless for more than a third of a century. The class of society whom your memorialists represent have been, during the whole history of our country, the active agents of her commercial prosperity. The losses to which they are necessarily subjected by the nature of their calling are, at all times, sufficiently numerous, and they feel that they have a right always to solicit from their Government full protection in the prosecution of legitimate and authorized commerce, and entire justice, even where other nations refuse it, much more when their own Government is their debtor, and has reaped incalculable benefit from their loss and suffering.

That it may please your honorable body to weigh these considerations, and afford relief in the premises, your memorialists will ever pray, &c.

JAMES WILSON, *President*.

SAMUEL T. THOMPSON, *Secretary*.

STATE OF NEW JERSEY.

EXECUTIVE DEPARTMENT,
Trenton, January 24, 1840.

SIR:

I have the honor to enclose a copy of a Preamble and Resolutions passed by the Legislature of the State of New Jersey at their present

session, and to request that you will lay the same before the Legislature of the State over which you preside.

With high consideration,
Your obedient servant,

WM. PENNINGTON,
Governor of New Jersey.

*To His Excellency
The Governor of Delaware.*

JOINT RESOLUTIONS.

WHEREAS it appears, from a report made by John B. Ayer, John P. B. Maxwell, William Halsted, Charles C. Stratton, and Thomas Jones Yorke, five of the persons duly commissioned as representatives of the people of New Jersey in the twenty-sixth Congress of the United States, to the Governor of this State, and by him communicated to the Legislature, that, at the time and place prescribed by law for the meeting of that Congress, they appeared and produced their commissions as such representatives, and claimed the right to unite with the representatives from the other States of the Union in forming and organizing a House of Representatives, but by the acts of a portion of those Representatives were prevented from exercising that right, and are still excluded from any participation in their proceedings and deliberations;—by which acts the people of New Jersey are deprived of their just voice in the councils of the nation at a time when measures of great public importance and deeply affecting their feelings and interests are to be acted upon; their state authorities and their seal are treated with indignity; and a precedent is sought to be established, which, if not promptly and successfully resisted, may hereafter be used to justify the rejection of electoral votes or the exclusion of any number of duly commissioned representatives that a designing and unprincipled faction may deem necessary to secure to itself the control of the national Legislature. And whereas, in this unprecedented emergency, it becomes the solemn duty of New Jersey firmly to oppose this attempt to subvert the fundamental principle of a free representative government, and to call upon her sister states to disavow and redress the wrong which has been perpetrated by a portion of their representatives—therefore,

Be it resolved by the Council and General Assembly of New Jersey, That the State of New Jersey became a party to the Union upon the express condition, embodied in the Constitution, that in common with her sister states, she should be at all times entitled to a number of members of the House of Representatives proportioned to her population, and that by the laws passed in pursuance of that Constitution she is now entitled to six representatives.

And be it resolved by the authority aforesaid, That until Congress shall by law make some regulation of the subject, the Legislature of each State has, by the Constitution, full and exclusive power to prescribe “the

times, places, and manner of holding elections for representatives," which necessarily includes the power to prescribe the manner in which the result of those elections shall be ascertained and certified.

And be it resolved by the authority aforesaid, That as the Legislature of New Jersey has prescribed a commission granted by the Governor under the great seal of the State, as the only mode in which the election of her Representatives shall be officially certified, such a commission issued in due form of law confers upon each person to whom it is granted a full and perfect right to claim and exercise all the powers and duties of a Representative of the State, until a regularly constituted and organized House of Representatives, after due examination, shall have solemnly adjudged that he is not elected or not qualified; and that any other mode of certifying such election is utterly invalid and unknown to the laws of New Jersey.

And be it resolved by the authority aforesaid, That a House of Representatives cannot be constitutionally and lawfully organized and invested with any authority, judicial or legislative, while a single Representative from any State, duly returned and commissioned according to the laws of that State, is excluded from his seat or denied the exercise of the rights and privileges of a Representative.

And be it resolved by the authority aforesaid, That the late acts of a portion of the representatives from the several states, by which five of the persons who were duly commissioned under the great seal of the State of New Jersey, as her Representatives in the twenty-sixth Congress of the United States, were prevented from exercising their rights and discharging their duties as such representatives, were a palpable violation of the constitution and of the parliamentary law established by reason and unvarying usage, a precedent of most alarming and dangerous character, and a gross outrage upon the rights and feelings of the people of New Jersey.

Therefore be it resolved by the authority aforesaid, That, in the name and behalf of the people of the State of New Jersey, we do hereby solemnly PROTEST against the acts aforesaid, as unconstitutional, unwarranted and unjust, and against any assumption by the remaining representatives from the several states of the right or authority to exercise any of the powers conferred upon a constitutional House of Representatives, and more especially against the attempt to enact any law for regulating the collection or disbursement of the public revenue; for disposing of the public lands, or the proceeds thereof; for pledging the public faith or credit; for imposing any tax or duty, or for the apportionment of representatives, until the people of New Jersey and their duly commissioned representatives shall have been restored to the rights of which they have been wrongfully deprived.

And be it resolved by the authority aforesaid, That a copy of the foregoing preamble and resolutions, certified under the great seal of the State, which since seventeen hundred and seventy-six has been, and still

is, the constitutional and cherished emblem of the sovereignty of New Jersey, be transmitted to the Hon. R. M. T. Hunter, a Representative from Virginia, with a request that he will lay the same before the other representatives from the several states now assembled at Washington.

And be it resolved by the authority aforesaid, That a copy thereof be transmitted to the Governor of each of the several States of the Union, with a request that he will cause the same to be laid before the Legislature thereof, and also to each of the Senators and of the six Representatives of this State.

HOUSE OF ASSEMBLY, *January 21, 1841.*

These Joint Resolutions having been three times read and compared, in the House of Assembly,

Resolved, That the same do pass.

By order of the House of Assembly.

WILLIAM STITES,

Speaker.

IN COUNCIL, *January 23, 1840.*

These Joint Resolutions having been three times read in the Council,

Resolved, That the same do pass.

By order of Council.

JOSEPH PORTER,

Vice President of Council.

STATE OF NEW JERSEY.

I, JAMES D. WESTCOTT, Secretary of State of New Jersey, do hereby certify that the foregoing is a true copy of certain Joint Resolutions, passed by the Legislative Council and General Assembly of said State, on the twenty-third day of January, A. D. one thousand eight hundred and forty, as taken from, and compared with the original, now on file in my office.

* L. S. *

In testimony whereof, I have hereunto set my hand and affixed my seal of office, at the city of Trenton, this twenty-fourth day of January, A. D. one thousand eight hundred and forty.

JAMES D. WESTCOTT.

NEW YORK, March 4th, 1840.

Sir,—In pursuance of a Resolution adopted by a public meeting of the

citizens of New York, held on the 27th ultimo, we have the honor to hand you the annexed record of proceedings in relation to a National Bankrupt Law.

With the highest respect,
We have the honor to be,
Your most obedient servants,
ISAAC L. VARIAN, *President*.

JAMES G. KING,	C. W. LAWRENCE,	} <i>V. Pres.</i>
JONATHAN GOODHUE,	THADDEUS PHELPS,	
SHEPHERD KNAPP,	HICKSON W. FIELD,	
JAMES BROWN,	J. M. BRADHURST,	
JOHN HAGGERTY,	ROBERT H. MORRIS,	
MORRIS ROBINSON,	T. T. WOODRUFF,	
R. L. LORD,	JOHN HARLOW,	
ROBERT B. MINTURN,	SILAS BROWN,	
T. B. WAKEMAN,	BENJAMIN STRONG.	

PROSPER M. WETMORE,	R. M. BLATCHFORD,	} <i>Secretaries.</i>
R. H. WINSLOW,	JOHN W. EDMONDS,	

*To His Excellency, C. P. Comegys,
Governor State of Delaware.*

PUBLIC MEETING.

At a meeting of the citizens of New York, held at the Merchant's Exchange, on Thursday, Feb. 27th, 1840, on motion of Matthew C. Patterson, Esq., the following officers were appointed:

Hon. ISAAC L. VARIAN, (Mayor) *President*.

Vice Presidents:

JAMES G. KING,	C. W. LAWRENCE,
JONATHAN GOODHUE,	THADDEUS PHELPS,
SHEPHERD KNAPP,	HICKSON W. FIELD,
JAMES BROWN,	J. M. BRADHURST,
JOHN HAGGERTY,	ROBERT H. MORRIS,
MORRIS ROBINSON,	T. T. WOODRUFF,
R. L. LORD,	JOHN HARLOW,
ROBERT B. MINTURN,	SILAS BROWN,
T. B. WAKEMAN,	BENJAMIN STRONG.

Secretaries:

Prosper M. Wetmore,	R. H. Winslow,
John W. Edmonds,	R. M. Blatchford.

The following Preamble and Resolutions were submitted by M. C. Patterson, Esq., and after an address by the mover, were adopted unanimously:—

WHEREAS, by the Federal Constitution, power has been vested in the General Government of establishing a uniform Bankrupt Law for the United States, for the better regulation of our Commerce and Domestic Trade, and with the view of preventing the embarrassments and frauds that arise from the various and conflicting legislation of numerous Confederate States; and whereas experience has confirmed the propriety and wisdom of this grant of power to the General Government, until the exigencies of the country and the interest alike of debtors and creditors demand that its exercise should be no longer delayed or neglected,—Therefore it is, by this meeting of citizens of New York, without distinction of party—

Resolved, That it is in the highest degree expedient and desirable, not only on general principles of policy, justice and humanity, but with a special reference to the existing state of affairs, that the relation of debtor and creditor among citizens of this vast Union should no longer be left to the separate legislative action of six-and-twenty independent Sovereignities, but that they should be brought within the circle of one uniform and harmonious system.

Hon. John McKeon, next addressed the meeting, and presented the following, which was adopted unanimously:—

Resolved, That this meeting solemnly call on Congress to exercise the power granted to them, by passing a Bankrupt Act, with suitable provisions, in order that the honest but unfortunate debtor may not be devoted to perpetual bondage; that his property may all be delivered up and equitably divided among his creditors; that a large mass of industry and enterprise may be resuscitated and brought into useful action; that the prosperity of the Union may be promoted, and an attachment to our Republican Institutions be invigorated by an act of salutary and essential Justice demanded not less by the interest of the Creditor than the Debtor.

Hugh Maxwell, Esq., after an address to the meeting, presented the following, which was adopted unanimously:—

Resolved, That the adoption of such a system is required not only by the interests of Commerce, but by public considerations of even a higher and graver character, and especially by the desire to maintain undisputed that free and friendly intercourse among the citizens of the several States, which is so indispensable to the perpetuity of the Union.

The Hon. B. F. Butler next addressed the meeting, and presented the following, which were adopted unanimously:—

Resolved, That in this view of the subject, and with the conviction of its interest and importance, we do most respectfully recommend to the Representatives of this District, in the House of Representatives, and we earnestly pray our Senators and the other Representatives from this State in Congress assembled, to urge with all possible diligence the enactment of such a Bankrupt Law as the Constitution authorizes, and the exigencies of the country now imperatively demand.

Resolved, That we solicit and invite the citizens of other States and

State Legislatures, friendly to the adoption of such a system, to unite in Petitions and Memorials to the Federal Government, praying its early attention to this important subject.

Resolved, That the officers of this meeting be requested to transmit its resolutions to our Senators and Representatives in Congress, and to the Governors of the States of the Union; and that while we render our thanks to the conductors of the Press for the lively interest they have already manifested, they be requested to republish our proceedings.

Each of the Gentlemen who presented Resolutions, enforced them with appropriate arguments.

On motion,

Resolved, That the thanks of this assembly be tendered to his Honor the Mayor, the gentlemen Vice Presidents, Speakers, and Secretaries, for their services on this occasion.

On motion, adjourned.

At a General Assembly of the State of Connecticut, holden at New Haven in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and forty:

WHEREAS, our forefathers having freed themselves from the British yoke, and found by experience, the incompetency of the confederation to protect them in their industry, organized this Government for this among other purposes. The Government true to the principles and objects of its organization, has continued to protect domestic industry; thus affording useful employment to millions; diffusing comfort and happiness throughout the land; and producing that social equality among our citizens on which the Government itself depends. Therefore,

Resolved by the Senate and House of Representatives of the State of Connecticut in General Assembly convened, That our Senators and Representatives in Congress be requested to resist, by all constitutional means, every attempt to destroy or impair the protective policy of our Government; and to use their exertions to procure the passage of such laws as will effectually protect the labor of this country from the policy and legislation of foreign governments; and that His Excellency the Governor be requested to transmit copies of this Preamble and Resolution to each of our Senators and Representatives in Congress; and also to transmit copies to the Executives of the several States, with a request that they lay the same before their respective legislatures, and obtain an expression of their sentiments on the subject.

STATE OF CONNECTICUT, ss. }

Secretary's Office, May Session, 1840. }

***** I HEREBY CERTIFY that the above is a true copy of record
* L. S. * in this office. In testimony whereof I have hereto affixed the
***** Seal of this State, and signed the same.

ROYAL R. HINMAN,
Secretary of State.

STATE OF MAINE.

EXECUTIVE DEPARTMENT, }
 Augusta, March 31, 1840. }

Sir:—You will herewith receive certain Resolutions adopted by the Legislature of this State, relating to the Northeastern Boundary, which I have the honor to transmit, in obedience to a request therein contained.

I am, sir, very respectfully,
 Your obedient servant,

JOHN FAIRFIELD,
Governor of Maine.

STATE OF MAINE.

Resolves relating to the Northeastern Boundary.

Resolved, That the patriotic enthusiasm with which several of our sister States the past year tendered us with their aid to repel a threatened foreign invasion, demand our grateful recollection, and whilst this spirit of self sacrifice and self devotion to the national honor pervades the Union we cannot doubt, that the integrity of our territory will be preserved.

Resolved, That the promptness and unanimity with which the last Congress, at the call of this State placed at the disposal of the President, the arms and treasures of the nation for our defence, the firmness of the Executive in sustaining the action of this State, and repelling the charge of an infraction of the arrangement made with the British Lieutenant Governor in March last, and charging back upon the British government the violation of that agreement—their decision in demanding the removal of the British troops now quartered upon the disputed territory as the only guaranty that they sincerely desire an amicable adjustment of the boundary question, afford us confident assurance that this State will not be compelled single handed to take up arms in defence of our territory and the national honor, and that the crisis is near when this question will be settled by the national government, either by negotiation or by the ultimate resort.

Resolved, That unless the British government, during the present session of Congress, make, or accept a distinct and satisfactory proposition for the immediate adjustment of the boundary question, it will be the duty of the general government to take military possession of the disputed territory; and in the name of a sovereign State we call upon the national government to fulfil its constitutional obligations to establish the line, which they have solemnly declared to be the true boundary, and to protect this State in extending her jurisdiction to the utmost limits of our territory.

Resolved, That we have a right to expect the general government to extend to this member of the Union, by negotiation or by arms the pro-

tection of her territorial rights, guaranteed by the federal compact, and thus save her from the necessity of falling back upon her natural and reserved rights of self defence and self protection—rights which constitutions can neither give nor take away, but, should this confidence of a speedy crisis be disappointed, it will become the imperative duty of Maine to assume the defence of our State and national honor, and expel from our limits the British troops now quartered upon our territory.

Resolved, That the Governor be requested to forward copies of these resolutions to the President and Heads of Departments, and to the Senators and Representatives in Congress from this State, with a request to the latter to lay them before the respective bodies of which they are members, also to the Governors of the several States with a request to lay them before their several Legislatures.

In the House of Representatives, March 18, 1840.

Read and passed.

H. HAMLIN, *Speaker*.

In Senate, March 18, 1840.

Read and passed.

STEPHEN C. FOSTER, *President*.

March 18, 1840. Approved.

JOHN FAIRFIELD.

EXECUTIVE OFFICE, OHIO,
Columbus, April 15, 1839.

SIR:

In compliance with a Resolution of the General Assembly of the State of Ohio, I herewith transmit to you a series of resolutions passed March 18, 1839, on the subject of the Maine Boundary.

Yours with great respect,

WILSON SHANNON.

*To His Excellency,
The Governor of the State of Delaware.*

RESOLUTIONS

Approving of the course of the General Government and the authorities of Maine, in relation to the Northeastern Boundary.

WHEREAS, by the Declaration of Independence on the 4th of July, 1776, the United States of America became a sovereign and independent nation, with full power over the territory within her limits: *And whereas*, at the treaty of 1783, between the United States of America and Great Britain, the northern and northeastern boundaries between the two Governments were fairly designated and distinctly described: *And whereas*, the said British Government has since set up claims to a part of the territory of these States, and now lying within the State of Maine: *And whereas*, the subjects of the British Crown have recently invaded and trespassed upon the territory of the State of Maine, and within the limits

of this confederacy, and destroyed the property belonging to the State: Therefore,

Be it resolved by the General Assembly of the State of Ohio, That we view with united approbation the prompt and energetic action of the authorities of Maine, to protect the rights and honor, not only of their own State, but of the whole Union.

Resolved, That the act of Congress conferring upon the President of the United States ample power and means to protect this nation from foreign invasion, has our full and most hearty assent.

Resolved, That while we highly approve the efforts made by the President of the United States, to avert from this country the calamities of war, and earnestly hope that they may be as they have been hitherto, successful; yet should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Ohio tenders her whole means and resources to the authorities of this Union, in sustaining our rights and honor.

Resolved, That the Governor be directed to transmit a copy of the foregoing preamble and resolutions to the President of the United States, and to the Governors of the several States.

JAS. J. FARAN,

Speaker of the House of Representatives.

WILLIAM HAWKINS,

Speaker of the Senate.

March, 18, 1839.

SECRETARY OF STATE'S OFFICE,
Columbus, Ohio, April 12, 1839.

I hereby certify that the foregoing is a true copy of the original roll on file in this department.

CARTER B. HARLAN,

Secretary of State.

EXECUTIVE DEPARTMENT, }
Indianapolis, March 10, 1840. }

His Excellency,
The Governor of Delaware.

Sir,—In compliance with the request of the General Assembly of this State, I have the honor to forward a copy of their Preamble and Joint Resolutions in relation to the Northeastern boundary.

Very respectfully,
Your obedient servant,

DAVID WALLACE.

A Preamble and Joint Resolutions in relation to the North-eastern Boundary.

WEREAS, the General Assembly of the State of Ohio have adopted and caused to be laid before this General Assembly the following resolutions, to wit: "Whereas, by the Declaration of Independence on the fourth of July, seventeen hundred and seventy-six, the United States of America became a sovereign and independent nation, with full power over the territory within her limits; and whereas, at the treaty of seventeen hundred and eighty-three, between the United States of America and Great Britain, the Northern and Northeastern boundaries between the two Governments were fairly designated and distinctly described; and whereas the said British Government has since set up claims to a part of the territory of these states, and now lying within the State of Maine; and whereas, the subjects of the British Crown have recently invaded and trespassed upon the territory of the State of Maine, and within the limits of this confederacy; and destroyed the property belonging to the state: Therefore, Be it resolved by the General Assembly of the State of Ohio, That we view with united approbation the prompt and energetic action of the authorities of Maine, to protect the rights and honor not only of their own State, but of the whole Union: Resolved, That the act of Congress conferring upon the President of the United States ample power and means to protect this nation from foreign invasion, has our full and most hearty assent: Resolved, That while we highly approve the efforts made by the President of the United States, to avert from this country the calamities of war, and earnestly hope that they may be, as they have been heretofore successful; yet should a collision take place between this Government and Great Britain, in the settlement of the pending dispute, Ohio tenders her whole means and resources to the authorities of this Union, in sustaining our rights and honor: Resolved, That the Governor be directed to transmit a copy of the foregoing preamble and resolutions to the President of the United States, and to the Governors of the several states," March 18, 1839. Therefore—

Be it resolved, by the General Assembly of the State of Indiana, That we fully concur in and heartily approve of the above resolutions of the General Assembly of the State of Ohio.

Resolved, That while we cherish the hope that in the adjustment of the question of our national boundary, the integrity of our soil, and the national honor may be preserved inviolate without an appeal to arms, yet we will ever prefer honorable war rather than dishonorable peace.

Resolved, That should a collision take place between this Government and Great Britain in the settlement of the pending dispute, Indiana tenders her whole means and resources to the authorities of the Union in sustaining our rights and honor.

Resolved, That the Governor be directed to transmit a copy of the foregoing Preamble and Resolutions to the President of the United States,

to each of our Senators and Representatives in Congress, and to the Governors of the several States.

J. G. READ,
Speaker of the House of Representatives.

DAVID HILLIS,
President of the Senate.

Approved, February 24, 1840.

DAVID WALLACE.

STATE OF VERMONT.

EXECUTIVE DEPARTMENT, }
Shoreham, November 10, 1840. }

SIR:—In compliance with the request of the Senate and House of Representatives, I have the honor to forward to your address a copy of the accompanying resolutions.

With great respect,
Your obedient servant,

S. M. JENISON.

To the Governor of Delaware.

STATE OF VERMONT

IN GENERAL ASSEMBLY, }
October 21, 1840. }

Resolved, by the Senate and House of Representatives, That the Senators in Congress from this State be, and they are hereby instructed, and our Representatives in Congress be, and they are hereby requested to use their best endeavors to procure such an amendment to the Constitution of the United States as will restrict the eligibility of the President of the United States to a single term.

Resolved, That the Governor be requested to forward a copy of the foregoing resolution to each of our Senators and Representatives from this State in the Congress of the United States; also to the Executive of each State in the Union, that the same may be laid before their several Legislatures for their co-operation in procuring said amendment.

SECRETARY'S OFFICE, }
Montpelier, Oct. 30, 1840. }

I certify the foregoing to be a true copy of resolutions passed by the Legislature of the State of Vermont on the twenty-first day of October, Anno Domini, eighteen hundred and forty.

CHAUNCEY L. KNAPP,
Secretary of State.

EXECUTIVE DEPARTMENT, }
Indianapolis, February 20, 1839. }

SIR,—Agreeably to the request of the General Assembly of the State of Indiana, I forward you the enclosed copy of a Joint Resolution of that body, with the request that you communicate the same to your State Legislature.

Respectfully, your obedient,

DAVID WALLACE, for

J. M. WALLACE, *Prote. Sec'y.*

Resolved by the General Assembly of the State of Indiana, That any interference in the domestic institutions of the slave holding States of this Union without their consent, either by Congress or State Legislatures, is contrary to the compact by which those States became members of the Union.

Resolved, That any such interference is highly reprehensible, unpatriotic, and injurious to the peace and stability of the Union of the States.

Resolved, That a copy of this resolution be forwarded to each of our Senators and Representatives in Congress.

TH. I. EVANS,

Speaker of the House Representatives.

DAVID HILLIS,

President of the Senate.

Approved

1839.

DAVID WALLACE.

STATE OF MISSOURI.

EXECUTIVE DEPARTMENT, }
City of Jefferson, October 20, 1839. }

To the Hon.

The Governor of the State of Delaware.

SIR:

I have the honor this day to transmit to you a copy of a series of Resolutions, adopted by the General Assembly of the State of Missouri, on the subject of Slavery.

I am with great respect,

Your ob't. servant,

LILBURN W. BOGGS,

Governor of the State of Missouri.

Preamble and Resolutions respecting Slavery.

Resolved by the General Assembly of the State of Missouri: That whereas the institution of domestic slavery, as it now exists in many of the States of this confederacy, whether or not a moral or political evil, was entailed on us by our ancestors, recognized by the Constitution of the

United States—the paramount law of the land,—and by that same instrument, forming the solemn compact which binds these States together, entirely and alone left to be regulated by the domestic policy of the several States: and whereas the interference with that institution on the part of the citizens of other portions of the Union, among whom it may not be tolerated, is unconstitutional; a gross violation of the solemn compact subsisting between the States of the confederacy, officious, derogating from the dignity of the slave-holding States, and insulting to their sovereignty; well calculated to disturb their domestic peace, light up the torch, and plunge them amid the horrors of servile insurrection and war; disturb the friendly feeling and intercourse, which should ever subsist between the several States of the confederacy, and ultimately destroy their union, peace and happiness; and whereas we have long viewed with feelings of deep regret the disposition continually fostered and promoted by the citizens of many of the States of this Union, wantonly to intermeddle with such institution, as manifested by numerous disorganizing and insurrectionary movements; and have as fondly anticipated that the evil tendency of such a course of policy must long ere this have been seen and desisted from; but in these reasonable expectations, and calculations upon the sober sense and patriotism of our eastern brethren, we have been very disagreeably disappointed: Therefore, the southern and southwestern States, in these numerous and continued acts of insult to their sovereignty, are admonished in language too plain to be misunderstood, that the dreadful crisis is actually approaching, when each of them must look out means adequate to its own protection, poise itself upon its reserved rights, and prepare for defending its domestic institutions from wanton invasion, whether from foreign or domestic enemies, “peaceably if they can, forcibly, if they must:”

1. *Resolved*, That since the Constitution of the United States has nowhere deprived the States from regulating domestic slavery, that institution therefore is plainly and expressly left to the regulation and control of their domestic policy, and forms one among the most important features of their reserved rights.

2. *Resolved*, That the interference with such institution, on the part of the citizens of other portions of the Union where it does not exist, is in direct contravention of the Constitution of the United States and of the solemn compact subsisting between the members of the confederacy, derogatory from the dignity of the slave-holding States, grossly insulting to their sovereignty and ultimately tending to destroy the union, peace and happiness of these confederated States.

3. *Resolved*, That we approve the course of our Representatives in the Congress of the United States, for their able and manly defence of the domestic institutions of the southern and southwestern States, and for their uncompromising opposition to the wanton encroachments now attempting to be made upon them.

4. *Resolved*, That we view the active agents in this country in their nefarious schemes to subvert the fundamental principles of this govern-

ment, in no other light than as the mere tools of a set of arch machinators, who envy the prosperity of these confederated States, and desire to effect by management, what they cannot do through force of arms—the destruction of our domestic peace and the reign of equal laws.

5. *Resolved*, That we can see in these numerous acts of aggression and interference with the domestic institutions of the southern and southwestern States, nothing but wanton invasion of their reserved rights, and contemptuous insult to their dignity as sovereign and independent States; and that they have no other safe alternative left them but to adopt some efficient policy by which their domestic institutions may be protected and their peace, happiness and prosperity secured.

6. *Resolved*, That copies of this preamble and these resolutions be printed, and that the Governor be requested to transmit a copy of them to the Governor of each of the States of this Union, and one to each of the members in the Congress of the United States.

Approved February 12, 1839.

STATE OF SOUTH CAROLINA.

EXECUTIVE DEPARTMENT,

Abbeville, January 25, 1840.

To His Excellency

The Governor of Delaware.

SIR:

I herewith transmit to your Excellency, the enclosed Report and Resolutions, adopted by the Legislature of South Carolina, in relation to the Georgia and Maine Controversy, with the request that they be laid before the Legislature of your State.

I have the honor to be,

With considerations of

High respect, your ob't.

PATRICK NOBLE.

STATE OF SOUTH CAROLINA.

IN THE HOUSE OF REPRESENTATIVES, }
Columbia, December 13, 1839.

The committee on Federal Relations, to whom was referred so much of the Governor's Message, as relates to the controversy between the States of Georgia and Maine, with the accompanying Documents, have had the same under consideration, and beg leave to submit the following Report:

In May, 1837, a slave, named Atticus, the property of James Sagurs and Henry Sagurs, citizens of the city of Savannah, in Chatham county, in the State of Georgia, was conveyed from that State to the State of Maine, by Daniel Philbrook and Edward Killeran, citizens of the latter State: the former

of whom was the master, and the latter the mate of the schooner *Boston*, which had recently entered the port of Savannah. On the 16th of June, of the same year, information on oath was made before a Magistrate of Chatham county, by James Sagurs, one of the owners of the slave, that Daniel Philbrook and Edward Killeran "did, on or about the fourth day of May last, feloniously inveigle, steal, take and carry away without the limits of the State of Georgia," the slave Atticus, "that the said Daniel Philbrook and Edward Killeran have been guilty as the deponent is informed and believes, of a felony under the laws of this State," and "that since the commission of said felony, the said Philbrook and Killeran have fled from this State, and are, as he believes, at this time, within the limits of the State of Maine, in the United States."

A warrant for the arrest of Philbrook and Killeran, was issued by the Magistrate before whom the information was made, on the same day, to which the officer charged with its execution, returned that they were not to be found in the county of Chatham.

On the 21st of the same month, His Excellency, William Schley, Governor of the State of Georgia, made a demand upon His Excellency, Robert P. Dunlap, Governor of the State of Maine, of Philbrook and Killeran, as fugitives from the justice of Georgia, charged of feloniously inveigling, stealing, taking and carrying away, a slave, and transmitted with his demand, a copy of the affidavit and warrant, and the return, duly authenticated. On the 16th of August, of the same year, Governor Dunlap addressed to Governor Schley, a communication, in which he declined to cause the arrest of Philbrook and Killeran.

In December, 1837, the Legislature of Georgia, adopted resolutions, declaring the refusal of the Executive of Maine to surrender Philbrook and Killeran, dangerous to the rights of the people of Georgia, and directly and clearly in violation of the plain letter of the Constitution of the United States: that the State of Georgia became a party to the Federal Constitution no less for the better protection of her own, than the common rights and interests of all, and that when these ends are defeated, she is released from the obligations of that compact, and it has become her right and her duty, to provide protection for her people in her own way; that when an indictment should be found against Philbrook and Killeran, the Executive be requested to renew the demand for their arrest, and if the demand be again refused by the Executive of Maine, that a copy of its resolutions be transmitted to the Executive of each State in the Union, to be laid before their respective Legislatures; that a copy be transmitted to the President of the United States, and to the Senators and Representatives of Georgia in Congress, to be submitted to that body; and if the Legislature of Maine, at its next session, after those resolutions should have been forwarded by the Executive of that State, neglect to redress the grievance complained of, then, that the Executive of Georgia announce the same by proclamation, and call a Convention of the people, to take into consideration the state of the commonwealth of Georgia, and to devise the course of her future policy, and to provide all necessary safeguards for the protection of the rights of her people.

On the 7th of February, 1838, an indictment, charging Philbrook and

Killeran with larceny, in feloniously inveigling, stealing, taking and carrying away the slave Atticus, was found by the Grand Jury of Chatham county, and on the 27th of April, His Excellency, Governor Gilmer, the successor of Governor Schley, made upon Governor Kent, the successor of Governor Dunlap, the demand requested by the Legislature of Georgia, and accompanied that demand with the copy of the indictment found, and the proceedings on which it was founded, duly authenticated.

On the 25th of June, Governor Kent declined to order the arrest and surrender required by the authorities of Georgia.

On the 19th of August, 1839, Governor Gilmer addressed a communication to Governor Fairfield, the successor of Governor Kent, desiring to be informed of the action of the Legislature of Maine on the subject of the resolutions of the Legislature of Georgia, and received for answer, the proceedings of the Legislature of Maine, declaring it inexpedient to legislate on the subject, as it is exclusively within the province of the Executive Department.

The second clause of the second section of the fourth article of the Constitution of the United States, provides "that a person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

The act of Congress of 1793 declares, "that whenever the Executive authority of any State in the Union or of either of the Territories North-west 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 which 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 surrendered, 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."

By the code of Georgia, "simple larceny is the *felonious* taking and carrying away the personal goods of another," and the same code provides, that "any person or persons who shall feloniously take and carry away a slave, shall be punished by imprisonment at hard labor in the Penitentiary, for any time not less than three years and not longer than seven years."

In reply to the demand of Governor Schley, His Excellency, Governor Dunlap, suggests that Philbrook and Killeran visited the city of Savannah, in the course of their business as mariners, and returned to their domicile in Maine, by the customary route, and in the usual time; that they abided at their residence without concealment, and demeaned themselves as unsuspecting and innocent citizens, and insists that it may well be

called a question whether such a course of conduct can be regarded as a fleeing from justice, and they as "fugitives," within the meaning of the Constitution.

As this point is rather suggested than made, your Committee will proceed to a brief examination of the grounds on which the refusal to surrender the fugitives, is supposed to be justified.

The first ground taken by Governor Dunlap, assumes, that the affidavit submitted to him, does not specify the fact of which the imputed felony is predicated, but merely suggests the commission of a felony, without enabling His Excellency to determine, whether it aimed at the subversion of the government, or affected the life, liberty or property of individual citizens, and that there is no specification of time, place or the manner of its commission. The second ground is, that the commission of the larceny, is not positively charged, but that the larceny, is believed by the deponent to have been committed; and maintains that such an affidavit would not authorize a Magistrate to issue his warrant of arrest, or justify the detention of an individual.

Your committee cannot well conceive that an affidavit so clear in its specification of the particular offence—even with the minuteness with which the statute of Georgia defines it; and so direct and positive in charging the alledged fugitives with its perpetration, could have been the subject of mistake or misconception. Its language is positive and explicit, that they "did feloniously inveigle, steal, take and carry away" the slave, and not that the deponent had been informed, or believed they had done so.

The legal propositions insisted on by His Excellency, the Governor, in the grounds, on which his refusal is put, appear to your committee to be as untenable, as the assumption of fact in both, is gratuitous and palpable.

All who have the slightest knowledge of Criminal Law, cannot but be aware, that precision of statement, and particularly of averment, do not constitute requisites of any process or proceeding, that seeks merely the arrest, or detention of one suspected of crime, but that information on oath that a crime has been actually committed, and that there is cause and probability of suspecting the party against whom the warrant is prayed, is all that is usually, or can be legally, required.

Whatever opinion may be entertained of the sufficiency of the affidavit, or of the nature of the objections raised by Governor Dunlap, his successor Governor Kent, admits, that the grounds of his predecessor's refusal are removed by the indictment found, a copy of which accompanied the second demand which was made by Governor Gilmer.

He admits that the copy of the indictment found, "for stealing a man alledged to be a slave," as he is pleased to designate the charge, is sufficient evidence that the alledged fugitives from the justice of Georgia are charged with a crime but sees no evidence that they are fugitives from justice: and when their arrest is demanded as a right, claims for the Executive of Maine, the right to be satisfied of the existence of this fact, as one of the conditions of the demand. He suggests a doubt, whether an accusation or charge must not have been made before the flight, to authorize the demand, and feels but little doubt, that such was the chief intention of those who framed our Federal Constitution.

Is the demand a right? The right of a Foreign State or Kingdom, independent of treaty stipulations to require the surrender on demand, of those who have committed crimes in another Country, is a proposition, of which many distinguished writers on public law, maintain the affirmative, and some with equal claims to consideration the negative. But whatever may be the right amongst Foreign Nations, all concur that the impolicy of affording an asylum, and a refuge to fugitives from justice of other States, is undeniable. It is believed that most, if not all Foreign States, that have established commercial relations with others, have thought fit to provide for their security in this regard.

When it shall be remembered that our Federal Government, in its treaty with Great Britain in 1794, stipulated expressly for this right that the Constitution of the United States was intended "to form a more perfect Union, establish justice, and ensure domestic tranquility" between contiguous States;" and that that instrument imperatively declares the fugitive "shall, on demand, be delivered," your Committee cannot perceive, the propriety with which the right can be questioned.

That the suggestion, whether an accusation or charge should not have been made, before the flight of the offender, to authorize the demand, and require the surrender, is destitute of all claim to even plausibility, your committee will not pause to demonstrate.

Can, then, the refusal to cause the arrest and surrender of Philbrook and Killeran, find justification in the insufficiency of the testimony, to establish the fact that they had fled from the justice of Georgia?

Your Committee are of opinion that some evidence of his flight should accompany the demand of a fugitive from justice, so that it may appear, that the party demanded, has departed without having responded to the imputed crime, or endured its punishment in the State, whose laws are alleged to have been violated, but they can not entertain a doubt, that merely *prima facie* evidence of the fact, is all that in any case can be required, or in most cases could be produced. That the flight was with the motive or purpose to evade punishment, or to elude justice, is a fact that is susceptible of only presumptive proof, and rarely could be otherwise established, than by proof, that a crime had been committed, and that its perpetrator had gone without the limits of the State, having jurisdiction of the offence. But the affidavit charges the flight of these individuals, directly and positively, and receives confirmation from the return of the officer, charged with the execution of the warrant, in the county of Chatham. The Constitution, and the Act of Congress, in providing for the arrest and removal of fugitives from justice, intends summary and ministerial proceedings, and does not contemplate judicial investigation for ascertainment of the fugitive's guilt. The evidence which shall accompany the demand, is prescribed by the Supreme Law. It is intended to show *prima facie*, that the party is guilty, that there is probable cause to believe him guilty, such as would upon a warrant, justify his commitment for trial.

If this be the purport and effect of the evidence, in the form prescribed, it appears to your committee that the right to demand the removal of a fugitive, is undeniable, and the duty to cause the arrest and surrender, imperative.

Your Committee will not here, refrain from allusion to a fact which may afford some illustration of the course which the Executive and Legislative Departments of Maine, have seen fit to pursue, in respect to the demands which have been made, of the surrender of the alledged fugitives from the justice of Georgia. After the refusal of Governor Dunlap, and after the action of the Legislature of Georgia on the subject, the Legislature of Maine enacted a Law, that when the surrender of a fugitive from justice shall be demanded of the Executive of that State, "and the Governor shall be satisfied, on investigation of the grounds of such demand, and that the same is made conformably to law, and ought to be complied with, he shall issue his warrant under the seal of the State authorizing the agent who should make such demand, either forthwith or at such time as shall be designated in the warrant, to take and transport such offender to the line of this State."

That this statute intends by the Executive Department of Maine, inquiry into the guilt of the fugitive, and a determination of the expediency of ordering his surrender whether he be innocent or guilty, although demanded conformably to law, its term as well as its history, may well render probable. If this be its just interpretation, well may the Governor of Maine, call the right to demand a fugitive from justice, a question.

But if this construction be incorrect, and the right to make the demand unimpaired by the statute, it will be perceived, that the warrant of arrest must be executed by the *agent* of the State whose Chief Magistrate makes the demand, and that the Governor of Maine, may authorize the arrest either forthwith, or at such times, as may be designated in the warrant. The difficulties which such agent would at any time, experience in making an arrest, in a Foreign Jurisdiction, especially with a warrant designating a remote day for its execution, added to the chances of escape which it holds out, would, in most cases, make it utterly impracticable. However incompatible with the Supreme Law, your Committee may deem this Statute of Maine, illustrated as it is by the conduct of her Executive Department, they are constrained to regard it, as indicating the settled determination of that State, that no citizen of hers, shall ever answer in a Southern tribunal, for an offence against the right to certain property, to which her **POLICY AND PEOPLE**, are most cordially hostile.

The facilities which the Federal Constitution affords to citizens of the United States, who are inimical to slavery, of abducting and inveigling slaves from their owners, and the temptation to embrace those facilities, which is suggested by such impunity, as the authorities of Maine have provided for her citizens presents a conjuncture; which the least timid, and the most prudent among us, may well deem full of peril to the rights of the South. When the safeguards of the Federal Constitution shall become ineffectual and illusory, then indeed, the period has arrived, when the States of the South must take care that their citizens sustain no detriment. Let us tell our brethren of the North mildly, but resolutely, that if they did introduce slaves amongst us against our remonstrance, they shall not remove them against our consent, and that whilst we tolerate no impairment of our title to our property, in the Halls of the Federal Legis-

lature, we will, also, permit no State to convert itself into a city of refuge, for those who invade it as felons.

Your Committee recommend the adoption of the following Resolutions:

Resolved, That it is the duty, as well as the right, of any State, to insist on the faithful observance of the Federal Constitution, by each State in the Union.

Resolved, That to define crimes and felonies within its jurisdiction, is an incident to the sovereignty of each State, and that no other State can question the exercise of that right.

Resolved, That to demand the surrender and removal of fugitives from justice, is, by the Constitution, a right; and the arrest and surrender a duty; that the denial or impairment of this right, is inconsistent with the constitutional obligations of a State, and subversive of the peace and good government of the other States.

Resolved, That the right has been impaired, if not denied, by the authorities of Maine, and that this State will never consent, that any State shall become an asylum for those who are fugitives from the justice of other States.

Resolved, That this State will make common cause with any State of this Confederacy, in maintaining its just rights, under the guaranty of the Constitution of the United States; and should the obligations of this instrument be disregarded by those whose duty it may be, to enforce them, it will take counsel of its co-States of this Confederacy, having similar interests to protect and similar injuries to redress, in devising and adopting such measures, as will maintain, *at any hazard*, these rights, and that property, which the obligations of the compact of Union—cancelled as they then will be, as to us—have failed to enforce.

Resolved, That the Executive of this State, be requested to transmit to the Executive of the several States, to be laid before their respective Legislatures, to the President of the United States, and to our Senators and Representatives in Congress a copy of the above Report, and of these Resolutions.

Resolved, That the House do agree to the Report. Ordered, that it be sent to the Senate for concurrence. By order

T. W. GLOVER,

Clerk House Representatives.

IN SENATE, December 20, 1839.

Resolved, That Senate do concur. Ordered, it be returned to the House of Representatives. By order

WILLIAM E. MARTIN,

Clerk Senate.

EXECUTIVE DEPARTMENT,

October 23, 1840.

SIR:

I have the honor, in obedience to a resolution of the last General Assembly of Virginia, to transmit a preamble and resolutions adopted by that body in reference to a demand made by the Executive of this State on the Executive of the State of New York, for the surrender of certain fugitives from justice, and to request that they may be laid before the Legislature of your State.

With distinguished consideration,

I have the honor, Sir,

To be your obedient servant,

THOMAS W. GILMER.

To His Excellency,

The Governor of Delaware.

Preamble and Resolutions relative to the demand by the Executive of Virginia, upon the Executive of the State of New York, for the surrender of three fugitives from justice.

The committee to whom was referred so much of the Governor's message and accompanying documents as relates to his demand upon the Executive of New York for the surrender of three fugitives from justice, have had the same under consideration and agree to the following

REPORT:

In July last the Executive of Virginia made a demand upon the Governor of New York for the surrender of Peter Johnson, Edward Smith and Isaac Gansey, attached to the schooner Robert Center *then* in New York, who were duly charged by affidavit regularly made before Miles King, mayor and justice of the peace for Norfolk, with having feloniously stolen and taken from John G. Colley a certain negro slave Isaac the property of said Colley. The Governor of New York refused to comply with the demand, and assigned as his reasons for the refusal, that the right to demand and the reciprocal obligation to surrender fugitives from justice between sovereign and independent nations, as defined by the law of nations, include only those cases in which the acts constituting the offence charged are recognized by the universal law of all civilized countries, that the object of the provision in the Constitution of the United States relative to the demand of fugitives from justice was to recognize and establish this principle in the mutual relations of the States as independent, equal and sovereign communities; that the provision applies only to those acts which, if committed within the jurisdiction of the State in which the persons accused is found, would be treasonable, felonious or criminal by the laws of that State; that no law of New York at this time recognized, no statute admitted, that one man could be the property of another, or that one man could be stolen from another; and that con-

sequently the laws of this State making the stealing of a slave felony did not constitute a crime within the meaning of the constitution.

Your committee have bestowed upon each of these propositions the reflection which their importance demanded; and that reflection has brought them to very different conclusions from those arrived at by the Governor of New York.

A citizen of one nation is permitted to enter the territory of another upon the tacit condition that he shall not violate her laws. If he does violate them he may be punished according to those laws, if apprehended while he is within their jurisdiction. If he escape and take refuge in his own country or any other State he may be demanded as a fugitive from justice.

Whether such demand ought to be made, and if made, should be complied with, is a matter to be judged of by the respective authorities making and upon whom the demand is made, each for itself. The lesser offences are usually connived at, and in such cases the State, whose laws have been violated, is satisfied when the offender has departed beyond its limits. So the State upon whom the demand is made may in some cases refuse to comply with it. Where the offence was of a trivial nature it might decline to comply; and in such case the demand if made would rarely be insisted on. When the offence was one created by tyrannical laws leading to oppression or persecution, or where the mode of trial was to be inhuman or inquisitorial, it would be under the most solemn obligation to refuse to comply. But the State in exercising its acknowledged right of judging for itself, would do it under the highest responsibility. If it exercised its right indiscreetly and refused improperly to surrender a criminal whose surrender had been demanded, it would become itself a participator in his guilt and give just cause of war. The cases in which fugitives from justice ought to be demanded by one power and surrendered by another, under the laws of nations, have never been specifically defined. It would be very difficult to define them; and it is perhaps better that each case should be judged of by its own circumstances.

But in the opinion of your committee, it is not necessary to pursue farther this branch of the subject. In their opinion, the case which they are considering does not arise under the law of nations, but under the Constitution of the United States; and they cannot acquiesce in the proposition advanced by the Governor of New York, that the provision of the constitution is but a recognition of the established principles of the law of nations. They entertain the opinion that that provision is an *extension*, and not merely a recognition of the principle of the law of nations. The only difficulty upon this point originates in a doubt whether the Governor of New York has not restricted too much the principle regulating the conduct of independent nations in this particular. A distinguished jurist of his own State, in a solemn judicial decision has said: "It has been suggested that theft is not a felony of such an atrocious and mischievous nature as to fall within the usage of nations on this point. But the crimes which belong to this cognizance of the law of nations are not specifically defined; and those which strike deeply at the rights of property, and are inconsistent with the safety and harmony of commer-

cial intercourse, come within the mischief to be prevented, and within the necessity as well as the equity of the remedy. If larceny may be committed, and the fugitive protected; why not compound larceny, as burglary and robbery, and why not forgery and arson? They are all equally invasions of the right of property, and incompatible with the ends of civil society. Considering the great and constant intercourse between this State and the provinces of *Canada*, and the entire facility of passing from one dominion to the other, it would be impossible for the inhabitants of the respective frontiers to live in security, or to maintain a friendly intercourse with each other, if thieves could escape with impunity merely by crossing the territorial line. The policy of the nations and the good sense of individuals, would equally condemn such a dangerous doctrine." (*4 Johnson's Ch. Reports*, 113.)

Your committee will not argue the proposition whether the Governor of New York has not stated the principle of the law of nations, on this point, too broadly. But, in their opinion, it is certain that he has either stated it too broadly, or that he is wrong in supposing that the provision of the constitution relating to the surrender of fugitives from justice is but a recognition of the law of nations. Your committee will not, as they well might, insist that the Governor of New York is wrong in both propositions; but they, with due deference, insist that he is clearly wrong in the last. That the 2d clause of the 2d section of the 4th article of the Constitution of the United States, is not a mere recognition, but an extension of the principle of the law of nations relating to the demand and surrender of fugitives from justice, is equally clear, in the opinion of your committee, whether we refer to the letter or the spirit of that section.

There was great reason for restricting by the law of nations as much as possible the class of cases where one State might demand and another would be required to surrender fugitives from justice. In every country of Europe the criminal laws have been rude and imperfect. This may be said whether we judge of them from their conformity to truth and justice, the feelings of humanity and the rights of mankind, or by comparing them with the civil jurisprudence of the same countries. The inhumanity and mistaken policy of most of these codes need not be pointed out. With some of them suspicion was the evidence, and the rack the mode of trial. There was, therefore, great reason for caution on the part of every nation, lest its citizens might be dragged abroad to be tried by foreigners, in modes of trial to which they were unaccustomed, for imaginary or arbitrary offences. But when our constitution was adopted there was no reason for any such caution with regard to the rights and duties, in this particular, of the several States composing this confederacy. In each of them, even before the adoption of the constitution, crimes were accurately defined, and penalties were neither arbitrary nor uncertain; all accusations were public; trials were in the face of the world; torture was unknown, and every delinquent was judged of by his peers, against whom he could form no exception even of personal dislike. That constitution was adopted by those States in order to form a more perfect union; to establish justice; ensure domestic tranquility; provide for the common defence, and promote the general welfare. And by its

provisions, which are the supreme law of the land, it guarantees to every State in the union a republican form of government. It provides that the trial of all crimes, except in cases of impeachment, shall be by jury; that *such trial shall be in the State where the crime was committed*; that no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury; that no person shall be subject, for the same offence, to be twice put in jeopardy of his life or limb, nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; that excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishment inflicted.

In a Constitution formed under such circumstances, with such objects, and containing such provisions, one would not expect to find a clause specifying the cases where the demand of a fugitive from justice might be made by one State upon another, which could only be justified by a doubt of the justice, humanity and clemency of the different parties to it. On the contrary, one would look in such a clause for an expression of the greatest confidence, by each of the States as parties, in all the rest in these particulars. Nor can your committee believe that a clause in such a Constitution, securing to one State the most unlimited right to demand, and imposing upon another the most unqualified duty to surrender fugitives from justice, would impair the security of civil liberty. And such a clause your committee believes the 2nd section of the 4th article to be. The second paragraph of that section is in these words: "A person charged in any State with *treason, felony or other crime*, who shall flee from justice and be found in another State, shall on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime." The words treason, felony and crime are common law terms. The common law was the law of the land in each of the States which were parties to the Constitution, and the terms of it were familiar to its framers. They must, therefore, be taken to have been used in their common law sense. Your committee will not stop to enquire into the meaning of the terms treason and felony in the Constitution; they will confine such enquiry to the word crime, that being the most comprehensive term used. Blackstone defines a *crime* thus: "A crime or misdemeanour is an act committed or omitted in violation of the public law either forbidding or commanding it." He goes on to say: "This general definition comprehends both crimes and misdemeanours, which properly speaking, are mere synonymous terms." Misdemeanour is generally used in contradistinction to felony, and misdemeanours comprehend all indictable offences which do not amount to felony, as perjury, libels, &c.

Your committee flatters itself that it has shown already that the 2nd section of the 4th article of the Constitution of the United States is not a mere recognition of the principle of the law of nations, regulating the right to demand by one nation and the duty to surrender by another, fugitives from justice; but that that clause is much more comprehensive, and was designed as between the States of this Union, to provide a more perfect remedy than was afforded by the law of nations.

But if a further argument was necessary to enforce this view of the subject, it might be derived from the 1st paragraph of this very 2nd section of the 4th article. That paragraph is in these words: "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." The first paragraph of this section secures to the citizens of each State all the privileges and immunities of citizens in the several States; and the second paragraph but enforces correlative obligations and duties. Thus are the privileges and obligations of the citizen made reciprocal. The citizen of one State, while he is within the jurisdiction of another, is entitled to all the immunities of a citizen of that State; but if he violate her laws, he is subject to the same punishment.

If any doubt should still exist as to the correctness of this position, it would be removed, in the opinion of your committee, by the proceedings of the convention which framed the Constitution, in relation to this clause.

"The original articles of confederation contained a clause in the following words:

"If any person guilty of, or charged with treason, felony, or other high misdemeanour in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the government or Executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offence."

"In the convention of 1787, the committee to whom were referred the proceedings of the convention, for the purpose of reporting a Constitution, reported a draft, in which the fifteenth article was as follows:

"Any person charged with treason, felony, or high misdemeanour in any State, who shall flee from justice and shall be found in any other State, shall, on demand of the Executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of the offence."

"When the draft was before the convention, on the 28th of August, 1787, it was moved to strike out the words, 'high misdemeanour,' and insert the words, 'other crime;' which motion passed in the affirmative."

And your committee will add that there has been a late decision in New York sustaining this view.

In the matter of Clark, (9 *Wendall*, 212,) the then Governor of New York and the chief justice of the State, in conformity with these views, both decided, that a person who was charged with a misdemeanour only, in one State, and had fled into another, ought to be delivered up upon the demand of the Executive of the State within which the offence was alleged to be committed. And the misdemeanor charged in that instance, was not one which was recognized as such by the universal law of all civilized countries, but at common law amounted only to a breach of trust. This decision was made after the most elaborate argument and investigation.

The 2d section of the 4th article of the constitution as thus construed, is just such a provision as the convenient administration of justice demanded. Each State having confidence in the justice and clemency of the others, nothing forbade, and convenience required that an offender who had committed a crime in one State no matter where found, should

be removed to that State for trial. Most likely, there would be found the evidence of his guilt; there the laws which he had violated would be best understood, and most perfectly administered; and above all, the character of his accusers more properly appreciated.

In the opinion of your committee the next position assumed by the Governor of New York is as untenable as the first, to wit: That the second section of the fourth article applies only to those acts which, if committed within the jurisdiction of the State in which the person accused is found, would be treasonable, felonious, or criminal by the laws of that State. If the construction contended for by the Governor of New York be the proper one, then the provision in the constitution was unnecessary. "The jurisdiction of every sovereign State extends to the whole of its territory and to its own citizens in every part of the world. The laws of a nation are rightfully obligatory on its own citizens in every situation where these laws are really extended to them. The principle is founded on the nature of civil union. It is supported every where by public opinion, and is recognized by the writers on the law of nations. Rutherford in his second volume (page 180) says: "The jurisdiction which a civil society has over the persons of its members affects them immediately, whether they are in their territories or not." (*Chief Justice Marshall's speech in the case of Jonathan Robins.*) If the provision, securing the right to demand a fugitive from justice, was only to operate where the laws of New York were violated, then it was superfluous, as New York might enact a law providing for his punishment if apprehended within her territory, no matter where the offence was committed. And in accordance with this principle, the Legislature of that State has enacted a statute punishing offences committed by its citizens without her territory. (2 R. S. 698, § 4.) That the clause was not designed to provide only for the case of a citizen of one State taking refuge in any other State than the one of which he was a citizen, is admitted by the Governor of New York himself. "It has long been conceded," he says, "that the citizens of the State upon which the requisition is made are liable to be surrendered as well as citizens of the State making the demand."

The correctness of the position taken by your committee is sustained also by a solemn judicial decision of New York. In the matter of Clark, chief justice Savage declares: "With the comity of nations we have at present nothing to do, unless perhaps to infer from it that the framers of the constitution and laws intended to provide a more perfect remedy; *one which should reach every offence criminally cognizable by the laws of any of the States*; the language is treason, felony or other crime; the word crime is synonymous with misdemeanour, and includes every offence below felony punished by indictment as an offence against the public."

But admit that your committee is wrong in this; restrict the clause as much as is contended for; admit that a former Governor of New York was wrong; that the chief justice of that State was wrong, and that the present Governor is right—admit all this, and your committee humbly submits, that the answer of the lieutenant-governor of Virginia to the Governor of New York, on this head, is conclusive. He says: "Is it true

that the offence committed by Peter Johnson, Edward Smith and Isaac Gansey is not recognized as criminal by the universal law of all civilized countries! They are charged with *feloniously stealing* from John G. Colley, a citizen of this State, property which could not have been worth less than six or seven hundred dollars. And I understand stealing to be recognized as a crime by all laws human and divine." To this the Governor of New York replies: "It is freely admitted that the argument would be at an end if it were as clear that one human being may be the property of another, as it is that stealing is a crime. On the contrary, however, I must insist, with perfect respect, that the general principle of civilized communities is in harmony with that which prevails in this State, that men are not the subject of property, and of course that no such crime can exist in countries where that principle prevails, as the felonious stealing of a human being considered as property."

The Governor of New York thus resolves the whole controversy into the question whether slavery can legally exist; and whether slaves are to be regarded as property by the northern States of this confederacy, in their intercourse with the southern. In this view of the subject it assumes a consequence which it would not otherwise possess, and which demands of the General Assembly that it should speak in a manner that cannot be misunderstood.

That one human being may be the property of another, and that laws making him such have been recognized by the universal consent of all civilized nations, is a proposition which cannot be denied. Your committee does not recollect a solitary civilized nation of modern times which has not, within the nineteenth century, recognized slaves as property. Not to swell this report by an enumeration of other instances, your committee will refer to the case of Great Britain—a nation more fastidious, and your committee might add, more fanatical upon this subject than any of the other nations of the earth. It has only been within a few years that she has abolished slavery within her own jurisdiction; and in a late treaty with this country she recognized them as property in the most emphatic manner, by making pecuniary satisfaction to the owners of such as were abducted by her forces during the late war. But what is still more to the purpose, every State in the Union except Massachusetts, at the time of the adoption of the constitution, tolerated slavery, and admitted that one man could be the property of another. Indeed it has only been within a few years that New York has abolished slavery within her own limits. Until that time, even by her own laws, one man might be the property of another. The States not only in their separate individual capacity recognized property in slaves, but in the most solemn manner, in their collective capacity, in the adoption of the federal constitution, did they declare that recognition. That constitution not only recognizes slavery, but it guarantees and protects the master's right of property in his slave. In proof of this your committee need only refer to the third paragraph of the 2d section of the 4th article of the constitution. But for that clause a slave who should escape from his master into a free State would become free and could not be reclaimed. Considering the facility of escape from many of the slave States to the so

called free States, this provision was a most efficient protection to us in the enjoyment of our property. But your committee will not further press this view of the subject, as it is already familiar to the public mind.

It has been shown that at the adoption of the constitution slavery existed in every State which was a party to it except one. It was recognized and guaranteed by that constitution itself, which was the act of all the States. Is it competent for one party, by abolishing slavery thereafter within her own jurisdiction, so as to affect it in other States as to destroy it as a subject of theft, and thereby, without the consent of the other parties, change her duties under the constitution. Surely one party cannot directly or indirectly vary or impair the compact without the consent of the other. Had this question arisen shortly after the adoption of the constitution, even upon the principles of the Governor of New York, there could have been no difficulty as to his duties. Then slaves were property in New York; and the Governor says that if one man could be the property of another, and thus become the subject of theft, the argument is at an end. Was it competent for New York by any act of her own, without the consent of the other parties, to modify or change her duties under the compact, and to relieve herself from the discharge of those duties under which she was acknowledgedly placed by its provisions at the time of its adoption? Can such a proposition be insisted on?

In this connexion it is proper to enquire what laws existed in Virginia, in relation to the stealing of slaves, at the adoption of the federal constitution. The same laws which are now in force in Virginia were in force then. Our statute contains two provisions upon this subject. The first is in these words: "If any person or persons shall hereafter be guilty of stealing any negro or mulatto slave whatever, and be thereof lawfully convicted, whether the said slave or slaves so stolen shall have been taken out of or from the actual or immediate possession of the owner or owners of such slave or slaves, or shall have been elsewhere found, he or they shall be adjudged guilty of felony, and shall undergo a confinement in the penitentiary for a period not less than three nor more than eight years." (1. *R. C. page 427.*) The other provision of our statute is in these words: "Whosoever shall hereafter carry or cause to be carried, any slave or slaves out of this commonwealth, or shall carry or cause to be carried, any slave or slaves out of any county or corporation within this commonwealth, into any other county or corporation within the same, without the consent of the owner or owners of such slave or slaves, or of the guardian of such owner or owners, if he, she or they be a minor or minors, and with the intention to defraud or deprive such owner or owners of such slave or slaves, shall be adjudged guilty of felony, and subject to prosecution as in other cases of felony, and upon conviction thereof shall be punished by fine not less than one hundred nor more than five hundred dollars, and shall also be imprisoned in the jail or penitentiary house for a period not less than two nor more than four years; which fine and imprisonment shall be fixed and ascertained by a jury." In the next section of the act, it is further enacted, "That not only all those who shall willingly and designedly carry away slaves as aforesaid, but all masters

of vessels who having a slave or slaves on board their vessel, shall sail beyond the limits of any county with such slave or slaves on board, shall be considered as carrying off or removing such slave or slaves, within the true intent and meaning of this act." (1 R. C. 428.) This statute was passed as early as 1753; and the only change which has been made in it consists in the substitution in 1799, of confinement in the penitentiary, in place of "death without benefit of clergy" as the punishment for the felony created by it. Let it not be said that these laws are harsh. They are less sanguinary than they were at the adoption of the constitution. But if they be so, citizens of other States need not come unless they choose, into Virginia; and if they do they need not violate her laws and incur their penalties.

Thus stood the matter at the adoption of the federal constitution. Did Virginia and the other southern States understand that the northern States, by abolishing slavery within their limits, would take the felony of stealing a slave out of the operation of the 2d section of the 4th article of the constitution? If they had so understood it, would they have agreed to the adoption of the constitution?

If there was one feeling, more than any other, which marked the conduct of southern men at the time of the adoption of the federal constitution, it was extreme jealousy and distrust of the northern and eastern sections of this union on the subject of slavery. The proceedings of each of the conventions, south of the Potomac, which adopted the constitution, demonstrate this too clearly for doubt. All must admit, that no constitution would have been acceded to by a solitary southern State, which did not contain the amplest guarantee of property in slaves. The caution which our southern statesmen manifested on this subject was set down, at the time, to the score of idle fears and ungenerous jealousy. But among the numerous instances in which they discovered a sagacity and wisdom almost more than human, not one was more remarkable than this. With a sagacity which partook of prescience, they described the dangers with which we are at present environed, and they provided against them by provisions in the constitution itself, as far as they could be relied upon, and by a reservation of all the means of protection which unimpaired sovereignty can afford when these should prove ineffectual.

The southern States demanded that a clause should be inserted in the constitution, providing for the capture of fugitive slaves. Could men who required a provision of that sort, have been guilty of the inconsistency and absurdity of agreeing to a constitution under which any one of the distrusted States could produce a condition of things in which, although there would be an obligation to send back to his bondage, the slave who had fled from his master to gain his liberty, yet the felon who should steal him from this very master, might go acquit? Such fatuity might be looked for in madmen, but not in a body of statesmen, unequalled in the history of the world for their cautious wisdom.

In the opinion of your committee, if the construction contended for by the Governor of New York, was justified by the letter of the constitution, (as it clearly is not,) it would yet be a palpable violation of its spirit, and render that constitution *a fraud* upon a portion of the parties to it.

The positions of the Governor of New York, when carried to their legitimate results, lead to consequences of a most frightful character, and which, as it seems to your committee, could not have been duly weighed by him. The Governor of New York says, it is no offence to steal a slave, because one man cannot be the property of another, and cannot, therefore, be the subject of theft. If, for these reasons, it be no offence to steal a slave and carry him to New York, it would be none to steal him and carry him to Louisiana. Surely, in such a case, it would make no difference whether the thief steered north or south after committing his robbery. The consequence is, if a citizen of New York were to come into this State, inveigle a cargo of our slaves on board his vessel, under the pretext that he meant to take them to some 'land of liberty,' and should carry them to Louisiana and sell them in the New Orleans market, and should thereafter take refuge in New York, he would be free from arrest, and could not be made to expiate his crime. And without wishing to make any unjustifiable attack upon the citizens of any State of this Union, your committee would be wanting in candour, if they expressed a doubt that such a case, if the course of the Governor of New York should be persevered in, would be of probable and frequent occurrence. There are bad men in every country who will commit offences when they can profit by it, and do it with impunity. But what is still more probable, (if the course of the Governor of New York be acquiesced in,) is, that those deluded enthusiasts at the north, who, in pursuit of something they know not what, are spending thousands and thousands in efforts which they must see, if they be not blinder than any one, except a fanatic, ever yet was, can never accomplish their object, will attempt to make those efforts practically efficient, by coming into our State and making it a labour of *virtue* to *steal* our slaves and convey them to a more galling bondage than they now suffer, in the northern States.

Suppose one of those northern fanatics, who believing that the shedding of the blood of the wives and children of southern slaveholders would be but an acceptable offering in the eyes of God, should come among us, and after inciting our slaves to insurrection, and aiding and abetting them in it, should escape into New York, consistency would compel the Governor of New York to refuse to deliver him up for trial and punishment. He would say one man cannot be the property of another. These negroes therefore were held in illegal bondage, and the person who aided them in their effort to throw it off only performed a meritorious action.

Your committee do not wish by these remarks to excite idle fears. This general assembly do not represent a timid people. But the abhorrent consequences flowing from the positions of the Governor of New York, if carried to their legitimate results, tend to demonstrate the unsoundness of those positions themselves.

The most painful circumstance attending this controversy with a sister State, originates in the conviction which forces itself upon the mind of your committee, that the Executive of N. York has taken his extraordinary course, either under the influence of the fanatical feelings of the northern abolitionists, or with a view of conciliating those enemies of the domestic tranquillity of this country. The distinctions of the Governor

of N. York are impracticable, and will rarely be applicable to any other case than one similar to that under consideration. The common law of England is the law in every State of the Union except one. The statutory crimes and felonies, in them all, are very nearly of the same character. There is scarcely an article, except slaves, which is property in one State, that is not property, and the subject of theft, in all. The untenable distinction therefore of the Executive of N. York, seems to have been taken with a single view of protecting the depredators upon our slave property; a species of property to which we adhere with a stronger tenacity than such as originates only in a calculation of its value.

Your committee lament the course of the Executive of N. York, and they trust that it will not be persevered in. They lament it not more on account of the interests of this State, than of N. York. They lament it because it brings the existence of this Union into jeopardy.

It is the pride and glory of our country to be an asylum for the persecuted and oppressed of every nation and every clime. But should any State of this Union erect herself into a place of refuge for the thieves and robbers who might escape from the offended justice of any of her sister States, she would sully that glory and render herself unworthy of that sisterhood which should be her pride. And the country may rest assured that in such an event Virginia will take proper measures to extricate herself from such an unholy alliance!

Your committee now approach the only part of their duty, the discharge of which has given them any difficulty. What is the proper remedy in this case? The means of redress and protection which are within the reach of Virginia are ample. The only difficulty which your committee has had has been in selecting one consistent with the relations imposed upon the members of this confederacy by the constitution. A variety of remedies have been proposed:

1st. An appeal to the Supreme Court of the United States.

2nd. An appeal to the Congress of the United States so to amend the statutes heretofore passed upon that subject, as to authorize the demand in the cases contemplated to be made upon the circuit judge of the United States, having jurisdiction in the State where the fugitive may be found.

3rd. The appointment of inspectors to inspect all vessels trading to the north, to see that no slaves are secreted.

4th. The requirement from all citizens of New York coming into Virginia, security for their good behaviour.

5th. A solemn appeal to New York herself to redress our wrong and to do us justice.

There are objections to all of these remedies, but something to recommend most of them.

1st. An appeal to the supreme court, in the opinion of your committee, is entirely out of the question.

In the first place, in the opinion of your committee, the supreme court has no jurisdiction. The case is in the nature of a national demand made by one State upon another; and not such a "*case in law and equity*" as

comes within the provision of the constitution. There is nothing of "*meum et tuum*" involved in the controversy. The question cannot conveniently "assume a legal form for forensic litigation and judicial decision." "By extending the judicial power to all *cases in law and equity*, the constitution has never been understood to confer on that department any political power whatever." (*Chief Justice Marshall.*) Besides this the remedy would be ineffectual. If successful in this case even, it would afford no protection for the future. But would it be successful in this case? Your committee cannot express the belief that it would. As a mere judicial opinion of the duties of the Executive of New York, most probably it would be unheeded. We have seen the Governor of New York disregarding the decisions of the supreme court of his own State; and it is not probable that he would show a greater deference for the decision of the federal judiciary. Besides, how could the judgment of the court be enforced? Your committee cannot recommend any course which might and probably would bring the authorities of the federal government and of the States into collision. But above all, the wish of Virginia is that New York should herself, freely and magnanimously do us justice. We would prize but little that justice which she should be forced reluctantly to yield us.

2d. To the second remedy proposed, your committee has also decided objections, and it cannot withhold the expression of its regret that Georgia, with whom Virginia will make common cause, should recommend it.

In the first place, the surrender of a fugitive from justice is properly an Executive duty. The Executive is at the head of the civil and military authority. It holds and directs the force of the State. When therefore a surrender is to be made, the Executive can best discharge the duty. Besides, it being at the head of the State, it is especially its province to determine in what cases a citizen is to be delivered up to be removed to another State for trial. If any change of the law is to take place upon this subject, it must be a general one; and your committee is averse to a change by which the decision of the question whether the citizen of a State shall be surrendered as a fugitive from justice, shall be transferred from the chief civil and military officer of the State to the federal judiciary. In a case involving the liberty of the citizen, the supreme authority of the State is the proper tribunal for its decision. In addition to this it might be urged with much force, that the provision of the constitution itself contemplated that the duty of surrendering a fugitive from justice should be discharged by the Executive of the State to which he had fled. It is true, the provision is silent as to the tribunal upon which the demand is made; but it provides that the fugitive is to be delivered up "on the demand of the Executive authority of the State from which he fled;" and the inference is strong that the clause contemplates that the demand is not only to be made by the Executive of the State from which the fugitive had fled, but to be made upon the Executive of the State in which he had taken refuge. There was as great or greater reason for requiring that the demand should be made upon, as by, the Executive. And the act of Congress passed shortly after the adoption of the constitution is in accordance with this view.

Besides, the change proposed would add another to the list of cases, already too long, in which the State and federal authorities may come into collision. There may be cases, where no State would permit a citizen to be surrendered, as a fugitive from justice, by the federal judiciary. And in some of them, resistance would be interposed, when it would never have been thought of if the surrender had been ordered by the State authority. And in the opinion of your committee, no practical result would be produced by such a change; for in all exciting cases the State courts will be called upon in any event to adjudge the case finally.

But above all, your committee is averse to sending this subject into Congress, and thus giving the abolitionists the long-wished for opportunity of denouncing in the National Legislature an institution of such peculiar character and paramount importance, and of franking their incendiary effusions to the four quarters of the Union. We have always denied that slavery was a fit subject of congressional discussion, and your committee cannot recommend any course which will bring that subject into debate there. And your committee is strengthened in this view by witnessing the exultation which the abolitionists manifest at the prospect of this subject being introduced by ourselves in this form.

3d. The proposition to appoint inspectors. This has much to recommend it. In the first place, the remedy is specific to the wrong. It is clear of all constitutional difficulty. The principle upon which such a law would be founded has been frequently recognized. In point of time first in the recognition of the validity of quarantine regulations, and last in the law punishing the transmission of incendiary publications by mail. But it is liable to objections. To bring it, perhaps, within the constitution, it would have to be general. In such an event the law, which would be harassing and vexatious, would operate equally upon those who had wronged us, and those who had not. Besides, it would be difficult to enforce it in an effectual manner. A vessel might be inspected one hour, and the next take a slave on board and be off. This would be the case particularly in the navigation of our long rivers.

4th. The requirement of security for good behaviour from the citizens of New York. This would be perfectly just in itself, and might produce desirable results. But your committee will not recommend it at this time, as it is liable to many objections. In the first place its constitutionality might be questioned. Although it is true, that the constitution is a compact between the States; and although it is also true, that when such a compact is broken by one party, it ceases to be binding on the rest, yet we ought not *now* to take this ground—we may be driven to it in the end. But your committee will not take it for granted that New York will persevere in her unconstitutional course. Let us give her every opportunity to retrace her steps, and not render an amicable adjustment of our difficulties impossible, by acting as if we considered the constitution no longer binding upon us, because it had been broken by her.

5th. A solemn appeal to New York to review her course and render us justice. The objection to this is, that New York having in one instance, at least, before this, failed to discharge her duties as a member

of this Union, in taking effectual means to protect us from the attacks of her citizens upon our domestic institutions, in a manner to meet our just expectations, has deprived herself of the right to be met in the amicable spirit which this course would indicate. But the Governor of New York, in his late annual message, has brought this whole subject to the attention of the Legislature of that State; and your committee is unwilling to believe, that the State, in its sovereign capacity, will sanction the course of her Executive.

It is true, that the Governor of New York takes the ground, that the subject is one that appertains to the Executive department. He says: "The duties of that department, in such cases, are prescribed by the constitution of the United States, and not by the constitution and laws of N. York." Nevertheless, as he has brought the matter to the attention of the Legislature, and expressed a deference for it, the probability is, that he would acquiesce in any disposition which it should make of the subject. And your committee is fortified in this opinion, by the fact that the Governor of New York, in his correspondence with the Executive of this State, declared "that as an executive officer of that State, he was bound to regard, with very great deference, and the argument must be conclusive, which should prevail with him, to act in opposition to a legislative exposition of his duties."

Your committee will not discuss the question whether this is a matter about which the State Legislatures can act at all. There are many difficult questions involved in it which need not be solved. It may be insisted, that this is a question arising under the Constitution of the United States, with which the State Legislatures have nothing to do. On the other hand, it may be contended that the State Legislatures possess *the exclusive* right to legislate upon this subject, and that the provision of the constitution merely imposes a duty upon the States, but vests *no power* in the federal government, or any department of it, except the *judicial* power of declaring and enforcing the rights secured by the constitution. The third ground might be taken, that the power of legislation was concurrent in Congress and the State Legislatures. Your committee will not undertake to decide these questions; but it cannot bring itself to doubt but that the State Legislature may act in a manner, not contravening the constitution and laws of the United States, to bind the Executive of the State.

Let it not be said that by conceding the right of the State government to legislate upon the subject, we concede a power which may be exercised in a manner to impair our rights under the constitution and laws of the U. States. It does not follow that because the State Legislatures may co-operate in securing our rights under the constitution and laws of the U. States, it may legislate in derogation of them.

For these reasons, your committee are disposed to await the action of the Legislature of New York; and they are the more disposed to this course, as there is no occasion for haste. The slave which was stolen in this instance has been recovered. No private justice is delayed. Nothing is involved in the controversy but a principle; an important one it is true, but one which will not be jeopardized by the delay proposed. In the mean

time your committee recommends that the Executive of this State be requested to renew his correspondence with the Governor of New York; to apprise him of the importance we attach to the subject; to communicate our proceedings to him, and respectfully request that he will bring those proceedings to the attention of the Legislature of his State.

The subject which your committee have had under consideration is one in which the whole of the slaveholding States are equally interested with Virginia. Your committee therefore recommend that the Governor of this State be requested to open a correspondence with the Executive of each of these States, informing them of the importance which Virginia attaches to this subject, communicating our proceedings in relation to it, and asking their co-operation in all proper measures of redress, which in the event that New York shall decline to do us justice, we may be called upon to adopt.

The people of Virginia have not witnessed the controversy, somewhat similar to this, in which Georgia is involved with Maine, without taking in it the deepest interest. Virginia is prepared to make common cause with Georgia, or any other slaveholding State, in a similar controversy.

It is true that the grounds taken by the Governor of Maine are much less exceptionable than those assumed by the Executive of New York; but in the opinion of your committee not less untenable. Your committee will not extend this report to establish by argument a proposition, which has already been demonstrated by others, and which will not be controverted by any unprejudiced mind. But the very variety of indefensible expedients resorted to by the authorities of some of the northern States to avoid the discharge of their constitutional duties goes the more clearly to demonstrate the deep rooted hostility of those States to our domestic institutions, our peace and prosperity.

The patience of the south has already been too severely taxed, and we once for all, without bravado or threat, in the language of a distinguished senator of New York, warn the non-slaveholding States "that they may find when it is too late that the patience of the south, however well founded upon principle, from repeated aggressions will become exhausted."

Your committee do not apprehend that the cause of the moderation which they recommend will be misunderstood. We are too clearly right to be rash. Fortunately Virginia's character for chivalry is not so doubtful that she must be rash in order to seem to be firm.

Your committee cannot close this report without expressing in high terms its cordial approbation of the conduct of the Executive of Virginia in relation to this controversy with New York.

Your committee recommend the adoption of the following resolutions:

1. *Resolved*, That the reasons assigned by the Governor of N. York for his refusal to surrender Peter Johnson, Edward Smith and Isaac Gansey, as fugitives from justice, upon the demand of the Executive of this State, are wholly unsatisfactory; and that that refusal is a palpable and dangerous violation of the constitution and laws of the United States.

2. *Resolved*, That the course pursued by the Executive of N. York cannot be acquiesced in, and if sanctioned by that State and persisted in

it will become the solemn duty of Virginia to adopt the most decisive and efficient measures for the protection of the property of her citizens, and the maintenance of rights which she cannot and will not, under any circumstances, surrender or abandon.

3. *Resolved*, That the Governor of this State be authorized and requested to renew his correspondence with the Executive of New York, requesting that that functionary will review the grounds taken by him; and that he will urge the consideration of the subject upon the Legislature of his State.

4. *Resolved*, That the Governor of Virginia be requested to open a correspondence with each of the slaveholding States, requesting their co-operation in any necessary and proper measure of redress which Virginia may be forced to adopt.

5. *Resolved*, That the Governor of Virginia be requested to forward copies of these proceedings to the Executive of each State of this Union, with the request that they be laid before their respective Legislatures.

Agreed to by the House of Delegates, February 24th, 1840.

GEORGE W. MUNFORD, C. H. D.

Agreed to by the Senate, March 17th, 1840.

A. HANSFORD, C. S.

EXECUTIVE DEPARTMENT,

November 12th, 1840.

SIR:

I have had the honor already to transmit to your Excellency a copy of certain proceedings of the General Assembly of Virginia, in relation to the refusal of the Governor of New York to surrender certain free negroes on the demand of the Executive of this State. These fugitives from justice were charged with having stolen within the jurisdiction of Virginia, a slave, the property of a citizen of this State, and with having fled to the State of New York. By one of the resolutions of the General Assembly of this State, I am instructed "to open a correspondence with the Executive of each of the slaveholding States, requesting their co-operation in any necessary and proper measure of redress which Virginia may be forced to adopt." I forebore to address your Excellency on this subject, until I had again and again endeavored to induce the Executive of New York to retract a position which is deemed utterly untenable, and destructive of the clear, acknowledged constitutional rights of the other States. The final and deliberate purpose of the Governor of New York to adhere to so gross and dangerous a perversion of the federal constitution, having been at length announced to me, I have now no alternative, and in compliance with the resolution of the General Assembly, must invoke on behalf of Virginia, and of every slaveholding State, the earnest and effectual consideration by your State of a subject which so nearly and vitally affects our common interests.

The report and resolutions which have been communicated to your Excellency will apprise you of the general views entertained in reference to this controversy, by the last General Assembly of this State, and by the Governor of New York. Fortunately for the slaveholding States, the question involved has been so distinctly and emphatically settled by the plain terms of the federal constitution, that it is impossible for the ingenuity or the prejudices of the human mind to deny or evade our just demand, without doing manifest violence to that sacred instrument. The slaveholding States stand now precisely where they stood when the constitution was submitted by the convention of 1787, and ratified by all the States, claiming the same rights and no more, which every State then readily conceded to us; and it seems to me that the question which has been forced on us by the refusal of the Governor of New York to abide by the constitution, is one on which we can have little to apprehend from the justice and patriotism even of the non-slaveholding States. It is not a question whether slavery ought originally to have been introduced, or should continue to exist in this country. If it were, many of the States whose policy on this subject differs from our own, could not fail to recollect their agency in introducing the present system of slavery, and the very recent periods at which some of them, and particularly New York, have abolished it within their own borders. The question is, whether the constitution shall continue to afford to the slaveholding States, that protection which was expected by us and designed by all the States. It is well known that, though most of the States held slaves at the period when our Union was formed, yet the subject of our slave population was the chief and most perplexing difficulty with the framers of the constitution. This was then, as it is now, one of those subjects where it is easier to feel than to reason, where misguided passion may meditate and accomplish more mischief than the judgment can redress, where the sacred names of philanthropy and religion may be invoked by demons to cover the blood-stain of their impious and cruel designs.

The federal constitution has been voluntarily ratified by each of the States, and its provisions and all laws made in pursuance of them, are the supreme law of every State. This instrument as a compact between the States, permitted the importation of slaves from foreign countries for a specified time, and fixes the maximum rate of impost duties which could be levied on them by congress. That time expired in 1808, though the States had generally ceased to avail themselves of its stipulated right long before. Still the right was guaranteed to each of the original States by the letter of the constitution.

The second section of the first article of the federal constitution recognizes slaves as an element of taxation and representation. The second section of the fourth article contains but three provisions, which are as follow:

“1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

“2. A person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on de-

mand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labour may be due."

Here the right of the master to his slave as property is distinctly recognized, not only in the State where the slave "is held to service or labour," but for the purpose of reclaiming and recovering him, in any other State to which the slave may escape. The federal constitution does most distinctly and unequivocally recognize the existence of slavery in the United States; and Congress, by their act of February 1793, have provided specific means for the security of the master's rights throughout the States.

The Governor of New York has refused to surrender these fugitives from justice on the demand of Virginia, because they are charged with having stolen a slave, and because slavery is not now recognized by the laws of New York. With the same propriety and for the stronger reason, he might, and no doubt would, (if the case had been left by the act of Congress within the sphere of his official discretion,) refuse to permit a fugitive slave to be recovered by his master within the jurisdiction of New York. In fact the principles assumed by the Governor of New York in this case, would lead to the subversion of the federal compact, and leave each State in its intercourse with the others at perfect liberty to prescribe for itself and its co-States any rule which its caprice or prejudice might dictate. If the federal constitution had ceased to be the supreme law in so essential a particular, our domestic institutions and our property are exposed to perils against which we have no adequate legal defence, either as it regards the incursions of the States or of the federal government. The construction which absolves one State, or any department of the federal or State government from its obligation to obey the constitution, necessarily absolves all other States and all other departments. The State and federal judiciary of New York, its Senators and Representatives, in Congress, the Judiciary, the Representatives, the Executives of other States, are no more bound to obey the constitution, than is the Governor of New York. If the State of Virginia has no right to demand the surrender of a fugitive who has stolen a slave here and sought refuge in the State of New York, because slavery is not recognized by the laws of New York, the owner of a slave can have no right to recover his property there, and the slaveholding States are exposed to all the burdens of our federal compact, without deriving any equivalent benefit, to all the dangers of a delusive alliance, without the means of self-protection which have been surrendered for its sake. It is in vain for us to be told that the State of New York is prepared to acknowledge our perfect right of property in our lands and chattels, and that the thief who steals a hat or pair of shoes will be surrendered to answer the criminal accusation under our laws, while he who steals or spirits away our slaves, shall be permitted to do so with impunity, under the protection of that State.

The question which lies at the foundation of all the social relations between the States, is not, what measure of justice may be vouchsafed to us by the arbitrary pleasure of any State, but whether the rights and the remedies secured by our compact of union, and prescribed on the paramount authority of all the States, shall continue to prevail.

It cannot be maintained that the constitutional rights of the slaveholding States have not been recognized by the laws of New York. They are necessarily recognized by each State of the Union so long as the federal constitution continues to be "the supreme law of the land." If the Governor of New York admits that instrument to be valid and binding on the citizens and officers of his State, he cannot deny that the right of Virginia to make this demand is perfect, although the fugitives are charged with stealing a slave. He must succeed in establishing the authority of his State as paramount to the constitution of the United States, or he must admit that a law which the citizens of that State have ratified in convention as their supreme law, and which he and every other State officer has sworn to support as such, does recognize slavery, so far at least as to give to this State the right to demand the surrender of a fugitive charged with stealing a slave. And this is the whole extent of our controversy; for Virginia has not attempted to prescribe any new rule of social relation to New York, nor to interfere in any manner with those which she may have prescribed for herself. It is insisted that the federal constitution has conferred on Virginia the right to make this demand, and imposed on New York the obligation to comply with it, and it remains to be seen whether that State can occupy the position in which she is involved by the course of her chief magistrate, whether as a member of the Union, she shall participate in its blessings without sharing its responsibilities and its burdens.

Virginia is not without ample means of redress for all the wrongs which may be anticipated. She does not appeal to the States possessing a common interest on this subject with herself, from any distrust of her cause, or from any wish to involve others in controversy on her account. She desires to shrink from no peril which threatens her alone, nor to avoid her just share of that which endangers the rights of any member of the Union. If it had been her object merely to vindicate her own rights, she could have done so by precipitating the question to extremes, without consultation with her co-States. Had she followed the example of the chief magistrate of New York, and disregarded all constitutional obligations on this subject, she would have had no doubt of the sympathies, though she might not have deserved the succour, of those to whom she now appeals. But the Constitution of the United States and the incalculable benefits of our union are too dear to every Virginian to be abandoned while there remains a hope of their preservation; and it has been deemed respectful to those States which are exposed to the same dangers, and which claim the same rights as ourselves, to submit our controversy to their calm reflection, that they may advise us if we have mistaken their constitutional rights and our own, or aid us by their counsel and co-operation in our effort to re-establish the just and constitutional relations of the States.

It may be asked, by what means shall this be effected, and why has

Virginia asked you to co-operate in any necessary and proper measure of redress which she may be forced to adopt, without indicating the character of the measures which are contemplated? It is because Virginia does not regard this question as her own, but as involving principles of the utmost consequence to all the States, that she desires to confer with her sister States as to the mode and measure of redress, instead of committing herself and them by action, the necessity of which she is anxious, if possible, altogether to avert. She desires to be assured by your authority that she has not mistaken her own rights and yours, and to obtain the benefit of your agency in effectually vindicating them.

It may be asked, why this appeal is made only to the slaveholding States. It is answered, that unless there were a necessity to invite the non-slaveholding States to meet us in convention, as co-arbiters of this controversy, it would be needless to ask their counsel or co-operation in regard to a subject on which they may be supposed to feel no other than a general interest as members of the Union. The expectation is still confidently indulged, that reason alone will be found adequate to re-establish the principles and letter of the constitution in this essential particular, and we cannot with propriety, ask that those who have no immediate interest in the question, should furnish arguments for us who have. Virginia has forborne to invite the co-operation of the non-slaveholding States, from no want of confidence in their devotion to the Union, and to the principles of mutual and just concession in which it has been founded. While she could not fail to be gratified by the voluntary sanction of their judgment in favor of our rights under the constitution, she has not desired to embarrass them, nor to commit herself by an appeal to their authority. Besides, this is a question on which all the States have continued from 1787 to the present time, to concur in the conclusions established by the constitution and maintained by Virginia, and it might be deemed disrespectful to presume that any State, even New York herself, would sanction the dangerous fallacies of Governor SEWARD. But two instances are remembered in which Executive officers of the States have hesitated to comply with the requisitions of the act of Congress, where the peculiar interests of the southern States were involved, while it is a source of much satisfaction to know, that as yet, no State has deliberately sustained their heresies. The Legislature of Virginia have therefore deemed it sufficient to lay this general subject before the non-slaveholding States, without inviting their immediate co-operation. I have accordingly communicated the proceedings of our General Assembly to all the States.

I am not instructed by the Legislature to suggest any specific line of policy as likely to be adopted by this State, or to be recommended to you. Common interests and common dangers require that there should be mutual confidence and concert between us. Should the State of New York, or any other State, persist in this arbitrary denial of our rights, you are apprised by the resolutions of our Legislature, that the State of Virginia does not intend to submit to so dangerous and palpable a violation of our compact. We desire to know whether those States which, like ourselves, have peculiar interests involved in this question, concur in our convictions of right, and in our resolution to maintain them.

There is no difficulty in finding means for our defence. The difficulty is, in being convinced that any portion of our countrymen will drive us to resort to them. There can be no more auspicious occasion than the present, for the slave holding States to demand an explicit understanding as to their constitutional rights, and to terminate forever the experiments which mischievous spirits have been allowed to make on our property and our peace. If there is any question connected with southern interests which can be met with calmness and composure, with solemn deference for the established principles of abstract justice and constitutional law, by the whole American people, it is surely this. If the appalling dangers and glorious triumphs of which our Union has been the witness, can inspire no reverence for the past, will the sacred names of justice, fidelity, patriotism and religion, avail nothing for the future? Has the maniac yell of fanaticism silenced all these? If it be so, it is time that the painful truth were known to all, and that we may no longer lean on a broken reed, which will only pierce our sides.

I have been encouraged, however, to hope for a more cheering result. I have thought that this question was destined to arrest the serious attention of the States, and to revive the feelings and reflections which gave rise to our happy form of union, to remind us of the sacrifices and concessions which established our national independence and prosperity, and to teach our countrymen that there is danger of losing the substance of the liberties now enjoyed, by grasping at the shadow of universal emancipation. If I am mistaken in this, Virginia may still derive some consolation from the reflection, that the danger was one which she did not seek and could not shun.

The Legislature of New York, it is believed, have not concurred in the views of her Executive, and though the subject was submitted to them at their last session, they failed to express any opinion directly on the subject of this controversy. I should infer nothing unfavorable from this, but for the passage of an act by that body, after the subject was before them, giving or designing to give the right of trial by jury to slaves arrested in that State on the claim of their owners, and imposing very serious obstacles to the recovery of this species of property, and very severe penalties on the unsuccessful assertion of the master's rights. A similar statute of that State, it is believed, has been heretofore annulled by the State judiciary, as contravening the federal constitution, and the act of Congress of 1793.

The adoption of retaliatory measures by the slaveholding States, if this denial of our rights is persevered in, would probably arrest the evil, and lead to a speedy adjustment of these questions. But as too early a resort to such means might probably preclude a dispassionate recognition of our rights, and as we cannot distrust the justice of our demands, and ought not to anticipate a want of fidelity in our countrymen to a constitution, which they like ourselves have sealed with their blood, and sanctioned by their oaths, Virginia is reluctant to follow the example of the Governor of New York, and consider our federal compact at an end. It remains to be seen whether the expression of one common feeling and one resolution on the part of the slaveholding States, will hereafter pre-

vent some such necessity. It is very evident that the single infraction of the constitution which has occurred in this instance, if not redressed, may lead to the total subversion of those amicable and intimate relations which that instrument was designed to establish between the States, and that in their intercourse with each other they will be exposed, under the construction of Governor SEWARD, to all the inconveniencies and all the dangers to which foreign and hostile nations are subject.

I have the honor, sir, to request that your Excellency will bring this subject to the consideration of the Legislature of your State, and to offer the assurance of the distinguished esteem, &c.

With which I am,
Your ob't serv't,

THOMAS W. GILMER.

To His Excellency

The Governor of Delaware.

STATE OF NEW YORK.

EXECUTIVE DEPARTMENT, }
Albany, May 20, 1839. }

His Excellency, C. P. Comegys,
Governor of the State of Delaware.

SIR:

I have the honor to transmit a copy of a Law of this State, passed at the recent session of the Legislature, entitled "An Act to authorize the arrest and detention of fugitives from justice from other States and Territories of the United States."

It is the opinion of the Legislature of this State that the general welfare would be promoted by the enactment of similar laws in the several States and Territories. I respectfully submit the subject to your Excellency's consideration.

I have the honor to be,
Very Respectfully,
Your ob't serv't,

WILLIAM H. SEWARD.

AN ACT

To authorize the arrest and detention of fugitives from justice from other States and Territories of the United States.

PASSED MAY, 6, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The officers respectively specified in section first of title second, of chapter second, of part fourth, of the Revised Statutes, shall have power to issue process for the apprehension of a person charged in any

State or Territory of the United States, with treason, felony, or other crime, who shall flee from justice, and be found within this State.

§ 2. The proceedings shall be in all respects similar to those under title second, chapter second, part fourth of the Revised Statutes, for the arrest and commitment of persons committing offences within this State.

§ 3. If from such examination it shall satisfactorily appear that such person has committed a criminal offence and is a fugitive from justice, such magistrate by warrant, reciting the accusation, shall commit such fugitive from justice to the common jail, there to be detained for such time to be specified in said warrant, as the said magistrate shall deem reasonable to enable such fugitive to be arrested, by virtue of the warrant of the Executive of this State, issued according to the act of Congress, upon the requisition of the Executive authority of the State or Territory in which such fugitive committed such offence: unless such person shall give bail, as in this act is provided for: or until he shall be discharged according to law.

§ 4. The person thus arrested may give bail in such sum as by the magistrate shall be deemed proper: conditioned that he will appear before the said magistrate, at such time as to the said magistrate shall seem reasonable, and will deliver himself up to be arrested upon the warrant of the Executive of this State.

§ 5. The magistrate before whom such person shall have been examined, and committed, shall immediately cause written notice to be given to the District Attorney of the county where such commitment takes place, of the name of such person, and the cause of his arrest, the said District attorney shall immediately thereafter cause notice to be given to the Governor of the State or Territory, or the States Attorney, or to the presiding judge of the criminal courts, of the city or county of the State or Territory having jurisdiction of the offence so charged to have been committed by such person, to the end that a demand, in pursuance of the Act of Congress, may be made for the arrest and surrender of said person.

§ 6. The person thus arrested, detained, or bailed, shall be discharged from such detention or bail, unless at or before the expiration of the time designated, in the warrant of commitment, or in the condition of the bail bond he shall be demanded or arrested by such warrant of the Executive of this State.

§ 7. It shall be the duty of the magistrate to make return to the next Court of General Sessions of the peace of the county, of his proceedings in the premises: it shall be the duty of the said Court of Sessions to inquire into the cause of the arrest and detention of such person, and if such person is in custody, or the time for his arrest as designated in the condition of the bail bond has not elapsed, the said Court of General Sessions, in its discretion, may discharge the said person from detention, or may order the said bail bond to be cancelled, or may continue his detention for a period beyond the time specified in the warrant of commitment, or may order new bail to be given conditioned for the surrender of the said person at a time shorter or longer than the time designated in the bail bond, taken by the said magistrate: and if said person is in custody may take bail, conditioned for his appearance before said court, to be

surrendered at such time as to said court may seem reasonable and proper.

§ 8. The Governor of this State shall transmit a copy of this law to the Executive of each of the States of the Union, to the end that reciprocal laws may be enacted by such States.

§ 9. This Act shall take effect upon the passage thereof.

STATE OF NEW YORK, }
SECRETARY'S OFFICE, }

I have compared the preceding with an original law of this State, deposited in this office, and do certify that the same is a correct transcript therefrom, and of the whole of said original.

GIVEN under my hand and seal of office at the City of Albany, the thirteenth day of May, in the year of our Lord one thousand eight hundred and thirty-nine.

JOHN C. SPENCER,
Secretary of State.

GEORGETOWN District of Columbia, }
August 4th 1840. }

*To His Excellency,
The Governor of the State of Delaware.*

SIR:

By the fourth resolution of the enclosed proceedings it is made our duty to transmit to the Governor of each State of this Union a copy of the resolutions and address adopted by the citizens of this town.

We have now the honor to enclose the same to your Excellency, and to beg that you will present them to the Legislature of your State at its next meeting, with a recommendation to the Legislature to adopt such measures as in their judgment the Constitution of the United States may require to authorize Congress to retrocede this portion of the District of Columbia to the State of Maryland.

We have the honor to be,

With great respect,

Your obd't. humble serv'ts.

H. ADDISON,
SAMUEL M'KENNEY,
W. REDIN.

TOWN MEETING.

GEORGETOWN, D. C., July 23, 1840.

The following requisition was inserted in the Georgetown Advocate on the 18th instant.

The citizens of Georgetown are respectfully invited to assemble in front of the Mayor's office on Monday evening at half past 7 o'clock, to take

into consideration the proper course to be pursued for the protection of their rights, and promotion of their interests in the present crisis.

John Marberry,	George Oyster,	Walter Smith,
Sam'l McKenney,	E. M. Linthicum,	Edw'd Cammack,
Clement Cox,	Sam'l Cropley,	William Laird,
W. H. Tenney,	R. Cruikshank,	J. Cogswell,
H. Magruder,	J. Mitchell,	W. S. Ringgold,
H. Addison,	John Pickrell,	Geo. Shoemaker,
Lewis Carberry,	Wm. Redin,	E. S. Wright,
Chas. C. Fulton.		

In pursuance of the above call, a numerous assemblage of the citizens took place on the evening of the 21st, at which meeting Colonel Cox, Mayor of the town, was appointed Chairman, and Samuel McKenney and Wm. Redin, Secretaries.

The following resolution was offered by Mr. Judson Mitchell, and unanimously adopted:

Resolved, That the Chairman appoint a committee of five, to prepare resolutions to be submitted to a meeting of the citizens to be held in the Lancaster School next Thursday evening, at half past 7 o'clock.

In compliance with the foregoing resolution, the Chairman appointed Samuel McKenney, John Marbury, William Laird, Henry Addison and Judson Mitchell.

On motion the meeting was then adjourned to meet next Thursday evening, at the Lancaster School.

At the time and place designated, the citizens again assembled.

Mr. McKenney stated to the meeting that Col. Cox, the former Chairman, would not be able to attend this evening, and moved that Henry Addison be appointed Chairman in his stead, which motion was adopted unanimously.

Mr. Redin read the proceedings of the former meeting, whereupon

Mr. McKenney from the committee appointed for the purpose, submitted the following resolutions and address to the people of the U. States. The Address was read to the meeting by William Laird, Esq.

1st. *Resolved*, That the surrender of the rights of self-government by the People of the District of Columbia to the people of the United States, to enable them to carry into practical operation the plan of government devised by the Constitution of the United States, was a great personal and political sacrifice, and merited a kind, liberal and generous consideration and return, but has been repaid by a majority of the present Congress, with indignity, insults, wrong and oppression; of which it becomes us to speak with temperate, but, at the same time, with indignant reprehension, and to which no citizen of the District of Columbia, having any interest in its prosperity can patiently submit.

2nd. *Resolved*, That the people of the District, in common with the people of the States, are of right free, and equally with the latter entitled to the benefit of the laws suited to promote their happiness and welfare—that the Congress of the United States has refused to the people of the

District, laws by them deemed absolutely necessary to their happiness and prosperity, and such as exist in every State in this Union, and have thereby failed to discharge their solemn duty, wantonly and wickedly exposing the people of this District to ruinous embarrassment and distress.

3rd. *Resolved*, That we trace the whole of the wrongs and evils of which we complain, to the subjection of the people of this District to the exclusive legislation of Congress—the members of which being chosen by strangers are without the knowledge of our wants, or sympathy with our condition, and we are convinced that we cannot be contented and prosperous, so long as so unjust and unreasonable a mode of government is allowed to continue.

4th. *Resolved*, That the only remedy for the evils which we now suffer, and the only mode of securing permanent and general prosperity to our town, is retrocession to Maryland, and with a view to effect a measure so indispensable to our interests, the following address to the citizens of the United States at large, and of the State of Maryland in particular, be adopted by this meeting, and be signed by the President and Secretaries, and printed under their direction. And that a copy be forwarded to the Governor of each State, with a request that he will lay the same before the Legislature of his State at their next meeting.

AN ADDRESS

To our Fellow Countrymen throughout the Twenty-six States of the Union, and to Maryland in particular:

We, the citizens of Georgetown, in the District of Columbia, in town meeting assembled on this 23d day of July, 1840, have resolved to address you in the following terms and with the following statements:

A provision of the Constitution grants to Congress the power “to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States.” We are thus left entirely at the mercy of the Legislature of the Union, without a Representative on the floor, without a voice in their counsels—dependent altogether on their will and pleasure, on their wisdom and justice, for action, beneficial or otherwise, operating upon our interests, and immediately effecting our prosperity and happiness.

We, a commercial and trading community, for a long period have had Banks amongst us, those indispensable prerequisites for mercantile operations and facilities. The law chartering the one we now have, was signed by James Madison, and laws rechartering it were once signed by James Monroe, and twice by Andrew Jackson. Previously to the expiration of the charter of this Bank on the fourth current, a memorial, numerously signed by the citizens, was presented to Congress, praying in the most respectful terms for a recharter, and stating the fact that the institution was perfectly able and willing to resume the payment of specie on its notes as soon as the neighboring Banks of Virginia and Maryland paid the same on theirs. A petition was also presented by the Bank here for

a recharter, to include as a feature of it, the immediate resumption of a specie payment on all its notes. Nevertheless, our prayer for a recharter, as well as the prayer of every one of the other five Banks of the District for the same, was rejected, and nothing whatever granted to the Banks but the privilege, and a specific time wherein, to close up their concerns, thus leaving the whole District without banking institutions, and this through the votes and influence of members of the Senate who insist on the destruction of all Banks as a policy of the Administration.

No accusation of improper conduct has been alledged against the Bank here, or against any one of the other District Banks—not a doubt expressed as to its abundant ability to meet promptly and satisfactorily all its liabilities. It stands upon a footing equal to any similar institution in the land.

In times past too, it came forward boldly and generously to the relief of the Government, in the day of its need, when it was pressed on all sides, and the helping hand by no means freely offered. Yes, fellow countrymen, this very Bank, now so unceremoniously incapacitated for further action, for further usefulness, issued its liabilities from time to time to the extent of upwards of six hundred and eighty thousand dollars in aid of the Government—three hundred and twenty thousand dollars of which was for the provision, equipment, &c. of your armies in the last war, and one hundred and ten thousand dollars of that three hundred and twenty in order to forward on the gallant army under Gen. Jackson, to strike the triumphant and decisive blow at the battle of New Orleans. And why are our charters taken from us? Why are we, helpless as is our situation, and without power of redress, inflicted with injuries and oppressions, and subjected to experiments unknown in the surrounding States, unknown in any State of this Union where the ballot box is open—where the power to resist wrong is living and active—where there is a summoning unto judgment—where the legislators can be brought to the bar of public opinion and held to a strict accountability.

We, the people of this town, have exercised the little liberty which is left us. We have availed ourselves of our constitutional right—have expressed and published our honest convictions and mature judgments in regard to public men and public measures—have acted as men born to the heritage of freedom, and a free government ought, under all circumstances, ever to act. For this we have been persecuted and punished; for this the rod of revenge has been laid upon our backs; and for this we have been “beaten with many stripes,” and without mercy.

We proclaim not these things in the language of fancy; they are words of truth and soberness, for the fact has been openly avowed, and stands embraced in expressions uttered by a leading Administration member on the floor of your Representative Hall.

Fellow countrymen, we are of right, heirs of the same soil and same freedom as yourselves. We spring from the same origin. The blood of the Revolutionary Fathers which flows in your veins, flows equally in ours. The privileges and blessings of independence secured to you through their energies and exertions, were equally intended to be secured to us. Yet, we are bondsmen in the land of freedom. We are an op-

pressed people under the ruthless hand of tyranny in the midst of a Republic—denied the common chartered rights that exist in every State, in every city and town throughout this extended Union. We desire to make it known to the people of this Republic that we ascribe the wrongs and injuries we complain of, and the oppressions under which we peculiarly suffer, to that principle in our system of government, which, under the Constitution of the United States, subjects us to the exclusive legislation of Congress, and that we are convinced that from this source evils will continue upon us until a change be made in our mode of government. Powerless ourselves, we call upon you, who have power, to take the matter into your serious consideration. We solemnly believe and feel that we have a right to call. We beseech you, therefore, through the action of your Senators and Representatives, to relieve us from this condition. Give to us the immunities of American citizens? Give to us to share in the realities of a Republican Government? Give to us a voice and a vote? As lovers, as defenders, as promoters of freedom yourselves, release us from our degrading bonds?

To Maryland we would the more especially address ourselves. She surely will not, she cannot turn a deaf ear to the prayer of her offspring. We call upon her then in the name of affection—in the name of justice and mercy—in the name of liberty—in the name of all that man can hold sacred and dear on earth, to come to our rescue. Strike off the chains from our limbs; pluck the deep grief from our hearts; and as you unconsciously gave us away to endure a pilgrimage of deprivation and suffering, receive us back under your fostering and protecting care, to revive again, to awake anew unto life and hope under more balmy years of prosperity and peace.

We are oppressed, and would be free. We have no right to a representation in any Legislature—a right inestimable to all men; are governed by men who have no interest in our affairs, no community of sympathy in our wants or wishes, who but too often legislate for us with an aim to the promotion of their own political views, or to illustrate their own political opinions, utterly regardless in what manner or in what degree our interests are effected. We are governed without a knowledge of what is conducive to our own happiness, thus we are governed unjustly. We are governed purely on party and personal grounds, as operating throughout the Union, therefore we are governed tyrannically. In an evil hour for us our connection was severed. We have now neither name or station—neither friend or protector. Give us a name even that we may live—give us a protector who will know our rights and who will dare to defend them. Take us back we pray unto our own home—give us a lot and portion with your citizens. Grant us we earnestly beseech you to share the fate and fortune, the weal and woe, of yourself, of our parent, of just and generous Maryland.

The question was taken *seriatim* upon the resolutions and address.

The first resolution was adopted with but one dissenting voice. And the other resolutions with but two dissenting voices. The address was unanimously adopted.

Mr. Clement Cox moved the following resolution which was adopted:

Resolved, That if upon further reflection the committee should deem it advisable to embody more at large in their report, the grievances of which the people of the District have a right to complain, they are hereby empowered to do so.

It was resolved that the proceedings of the meeting be published in the town paper, and other papers of the District.

The meeting then adjourned *sine die*.

HENRY ADDISON, Chairman.

S. McKENNEY, }
W. REDIN. } Secretaries.

WASHINGTON CITY, Sep. 20, 1840.

SIR:

The late convention of delegates from various sections of the District of Columbia, including the City of Washington, charged me, as their chairman, with the duty of transmitting to you their remonstrance against the abuses of the power of exclusive legislation over this District, as exercised by the now ruling majority in Congress; and of requesting you officially to communicate this remonstrance to the two branches of your State Legislature, at their next sessions, in order that they may take such measures thereon, as, in their wisdom, may be deemed just, under the circumstances stated in the remonstrance.

Considering that the Senators and Representatives of each State in Congress are responsible to their respective constituents for their conduct in legislating for the District of Columbia, just as necessarily and directly as for their conduct in any other department of legislation; and that upon the State Legislatures, as electors of the Senators, has devolved such authority of practical control and direction as is incident to the relations of elector and elected; the convention deemed it no less their duty than their right, to address their remonstrance both to the Legislatures and to the people of the several States.

I have therefore the honor to place in your hands this remonstrance, which you will find herewith enclosed; not doubting that the disposal of it, according to the request of the convention, will be compatible equally with the official duties of your station, as with your own inclination.

I am, Sir,
With all respect,
Your ob't serv't,

W. JONES.

His Excellency,
The Governor of Delaware.

The Remonstrance of the citizens of the District of Columbia, by their delegates in convention, to the people of the United States, and to the Legislatures of the several States, against oppressions, manifold and grievous, suffered from the misrule of the now ruling majority in Congress.

The Citizens of the city and county of Washington and the county of Alexandria, in the District of Columbia, by their Delegates in Convention Assembled, to the People of the United States, and their several Legislatures.

FELLOW-CITIZENS:—It is on no common occasion that we address you. Our feelings have been outraged, our rights trampled upon, and our interests sacrificed by men acting as your Representatives, and directly responsible to you for all their acts in that character. Deaf to the voice of justice, regardless of the most solemn constitutional injunctions, insensible to the common charities that bind man to man, seeking to promote their party interests, and to gratify their private passions, they have in the wantonness of an ephemeral power derived from you, dared to treat us as slaves.

From the unrighteous exercise of this power we appeal from them to you, from the servant to his master. Redress is, thank God, yet in your hands. The spirit of tyranny that would crush us has not yet, with success, raised its parricidal arm against you.

Hear, judge, and act upon our unvarnished statement.

With you we are the descendants of men who achieved their liberties against foreign tyrants with their blood; with you we are members of the same glorious confederacy which guaranteed these liberties by a Constitution established by the People of the United States, "to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty.

With you we bear the same burdens, and enjoy the same rights, subject to the exclusive legislation of Congress. Exclusive of what? Clearly of the States of which the District previously composed a part; State jurisdiction, as such, was displaced, and simply supplied by that of Congress. It was not intended, it could not be intended, without a monstrous political anomaly disgraceful to the venerable framers of the Constitution, to confer on Congress the sweeping powers of a despot. The powers conferred were indubitably, therefore, limited by the rights universally enjoyed by the whole People of the United States, and more especially by the safeguards and bulwarks provided by the Constitution itself. Within this sphere, Congress, taking the place of the State Legislatures who had ceded their jurisdiction, may rightfully act; beyond it every exercise of power is tyranny.

Under the inviolable safeguard of this broad ægis, had the rights of the People, over whom exclusive jurisdiction was ceded by the States to Congress, been placed, when the District of Columbia was established as the seat of Government, and the City of Washington founded: such were the

essential conditions of the compact of cession, necessarily implied and understood by the States who made the cession, by the Congress who accepted it, and by the People of the District who acquiesced in it. All the States and all the people of the States became virtual guaranties to the faithful and just fulfilment of those conditions; and as they retained in their own hands the plenary power and the efficient means of executing their duties as guaranties, through the control reserved directly to themselves alone over their own servants and representatives, to whom they chose to delegate this most important and responsible power of exclusive legislation; so they held that power and those means in sacred trust for the benefit of the People, over whom they sent delegated servants and representatives to exercise the power of legislation. When they bestowed upon the infant city, founded by themselves, the name of the most illustrious of the asserters and defenders of public liberty and independence, they raised a visible monument to his fame and virtues; but it had been no better than an opprobrious insult to both had it been set apart from all the wide limits of the Republic to be desecrated as the chosen seat of despotic and lawless power, or, what is practically the same thing, of unlimited and irresponsible legislation.

Citizens from the several States repaired to it in full confidence that their rights and interests would remain inviolate; nay, more, in the firm belief that those rights and interests would be the last to be invaded which were shielded by the collected wisdom and virtue of the nation. For a long tract of years they had no reason to complain of any disappointment to these golden hopes. They did not acquire wealth, but they were contented. Industry was crowned with its usual reward, the state of things was progressive and promised gradual improvement. Government, it is true, did not do many things which the people expected; but as its members, Executive as well as Legislative, were highminded men, of exalted character, there was little dissatisfaction; and our community formed a common family, over which simplicity, hospitality, and friendship presided.

Above all, a spirit of independence generally prevailed. The great men of that day, and among the foremost, after the Father of his Country, a Jefferson and a Madison, who had earned their eminence by their virtues and their talents, valued liberty too highly to deny to their fellow-men, and especially to those with whom they were in daily intercourse, its inestimable blessings. They would as soon have invited to their hospitable tables their own slaves as the vassals of a District crouching to Executive power and bereft of the proudest attributes of humanity. No; they who have not forgotten those illustrious men—and who that once knew them can forget them?—know that it was their pride and highest gratification to cherish, among all their fellow-citizens, a spirit of personal independence.

Such was the political school in which we were educated; in which the right to think for ourselves on all the measures of the Government, and to express those opinions among ourselves and diffuse them among the People, was respected as inherent in freemen, and inculcated as a paramount duty. There was nothing extraordinary in this. It was to be ex-

pected that the penman of the Declaration of Independence—which in its commencement declares: “We hold these truths to be self-evident, that all men are created equal; they are endowed by their Creator with certain *unalienable rights*; that among these are life, *liberty*, and the pursuit of happiness”—would practically illustrate the sublime precept he had propounded.

Our sons imbibed these sentiments from our lips, which were confirmed by a Monroe and an Adams, in whose hearts the holy fire of the Revolution glowed with undiminished force. They and their legislative coadjutors were the friends of the District. They did not signalize their friendship by favors—it was not expected that they would—but by the acts of justice. The District asked no more. Large sums of public money, indeed, have been expended within the District, but the objects on which they have been expended were principally for the accommodation and benefit of the members of the Government and the citizens of the whole Union or of the adjacent States.

Thus far our citizens maintained, without reproach or contumely, their erect political attitude. They felt and acted as freemen—thinking, judging, and expressing their opinions as citizens of the United States, on public men, and public measures, without rebuke.

But a new era was at hand. The tide of popular feeling raised to the Chief Magistracy a military chieftain. He came into power with no unfriendly feelings towards the District, but, falling into the hands of those who, for personal ends, as events showed, had advocated his election, a broad line of discrimination was drawn between our citizens; all were dismissed from office and confidence who did not surrender their judgments to the reigning powers, and their places filled, if not exclusively, principally, by men of whose personal merits, either generally or particularly, it becomes us not to speak; but of the notorious policy that dictated the selection of them for places of public trust, we may say that, as, in all instances their indispensable qualification, so, in too many, their sole qualification was a factious zeal for the existing Administration, or a blind and indiscriminate subserviency to the will of its chief. Political intolerance descended to the petty tyranny of social persecution. Every man, however retired his habits or unambitious his views, who did not proclaim his adhesion to this ignoble vassalage, was denounced as an enemy. It is scarcely necessary to add that the inevitable effect of this injustice was to subvert our social harmony, and, from being a united, to make us a divided people. Its further effects were soon seen in arresting improvements, in destroying confidence, and in the loss of a valuable portion of our citizens, who were driven to more propitious scenes for the exercise of their industry and talents.

The feelings of the most respectable portion of our community were shocked; alarm was substituted for confidence, but hope still remained—a reasonable hope, founded on the lofty and independent attitude of the two Houses of Congress. There we beheld, as we thought, a noble phalanx of virtue and talents, prepared to arrest impending evil. This, however, was but a fleeting allusion. The elements of a political storm were brewing, which, in its indiscriminate rage, was destined to menace with

destruction the proud charter of a nation's rights. If it has not yet accomplished this end, it has for a season, a long season, subverted the happiness and prosperity of the People. By a prodigal expenditure of public money, by the avowed and practised precept that the spoils belong to the victor, it has spread a corruption through the nation that threatens a total prostration of morals. The Executive seizures of the public treasure in the legal custody of the Bank of the United States, and the application of it to the gratification of political friends and the furtherance of party objects, have, by one fell blow, destroyed the currency of the country, and enlisted an army of sycophants whose life-blood is drawn from the vitals of the nation.

In beholding these scenes, we stood in two relations: in that of citizens of the United States, and citizens of the District of Columbia.

As citizens of the United States, we partook of the burdens common to all, and were entitled to a share of the benefits common to all. Any abuse of power felt by the people at large fell with equal weight on us. With you, fellow-citizens, we labored for our daily bread, and whatever took from you deprived us likewise of the fruits of our industry. We formed part of a great community, to whom a sound currency, ramified through all its departments, was as essential an element of prosperity as the blood that circulates in the veins is essential to the life and health and action of every member of the human body. Hence, on this vital subject, we feel as you felt. Our exertions to support our families and promote our interests were rewarded with blasted hopes.

As citizens of the district of Columbia, we held other relations to the Federal Government. Against the abuses of power and the infliction of wrongs, you had your own State Governments to look to. We were without any such resource. Against the lawless invasious of power you had your State citadels. We had no other refuge but in our *moral* power. Under these circumstances, it may be a matter of surprise that this power was not more promptly and effectually exerted. It is undoubted that, at this state of things, our murmurs, if not loud, were deep. But we had been accustomed to look upon the constituted authorities as a parental Government; we were, many of us, in habits of daily and friendly intercourse with its members; and, above all, we hoped for better times. Unfortunately these times have not come for *you*, much less for *us*.

The 18th of February last is a day memorable in our annals. On that day the people of Washington, and generally of the District, assembled in a strength never before witnessed. One common feeling seemed to pervade the whole community, with the exception, principally, of those connected with, or dependent on the bounty of, the Government. The zeal that brought them together was, in their proceedings, tempered with the calm dignity of freemen. The aggravated abuses of the General Government, and evils, if possible still greater, impending, aroused them, not to phrenzy, but to a resolute determination to express, as citizens of the United States, their opinions of public men and public measures. If they wanted—which surely they did not—any authority for the exercise of this constitutional right, they would have found it in the first article of the amendments to the Constitution, which provides that “Congress shall make

no law abridging the freedom of speech, or of the press, or the right of the People, peaceably to assemble, and to petition the Government for a redress of grievances;" and in the exposition of the Constitution by the enlightened authors of the *Federalist*, who, in the defence, say: "It ought also to be remembered that the citizens who inhabit the country at and near the seat of Government will, in all questions that affect the general liberty and prosperity, have the same interest with those who are at a distance; and that they will stand ready to sound the alarm when necessary, and to point out the actors in any pernicious project. The public papers will be expeditious messengers of intelligence to the most remote inhabitants of the Union."

This large assemblage of citizens, biassed by no imaginable interest more selfish than the instinct of self-preservation, or less comprehensive than the vital interests of their country, actuated by no possible motive less praiseworthy than the fearless and conscientious impulses of public spirit, and feeling the same interest in the great questions that affected the general liberty and prosperity, with those at a distance, did sound the alarm, and point out the actors in many pernicious projects; and more especially in one favorite destructive project which has since, under Executive dictation, become the law of the land. They went a step further, and dared recommend to you, as the only effectual remedy, the dismissal of MARTIN VAN BUREN and the election of WILLIAM HENRY HARRISON.

For the discharge of this constitutional duty we have been denounced and held up as fit subjects of punishment, we have been despoiled of our rights; common justice has been denied us; our interests have been sacrificed, and our character impeached, but the very men, and in the very place, provided by the Constitution for the protection of those interests and that character.

Now, fellow-citizens, when you contemplate our peculiar position, you must be sensible that nothing but the dictates of commanding duty could have prompted us to sound this alarm. So far as our pecuniary interests are involved, we have every reason for conciliating those at the head of affairs. Our social relations to them, the benefits which they have the power to bestow or withhold, the habitual respect in which we have heretofore held them, all unite to attach us to them. Powerful must be the cause that can break these ties, and convert our natural regard into political hostility. Look into your own breasts, and you will find that cause. It is because we are American citizens, more devoted to the cause of liberty than to our sordid interests, that we spurned the insidious snares that encompassed us. We claim no exclusive merit for our conduct; we have only done our duty; we have acted towards you as we have no doubt you would have acted towards us under like circumstances.

But the time was to come, and it has now arrived, when we were to feel the lash for not sacrificing our principles to the infatuated policy of the Executive. We have been visited with the vengeance of misrule, and laid under the menace of other such visitations, in points the most vital to any community that has grown and flourished in a land of law and liberty, and under every encouragement by which equality of rights, se-

curity of person and property, and all the freedom of individual action compatible with regular polity, can stimulate the faculties of civilized man to enterprise and industry. First, in the very foundations of trade and commerce; in the very elements essential to the life of every branch of meritorious enterprise and honest industry; essential to the prosperity of all the intimately related and mutually dependent professions and callings of every citizen striving for wealth, or competence, or subsistence; whether employed in commerce, in agriculture, in mechanic trades, or in the operative labor necessary to all, and equally deserving with all, of protection and encouragement: so far affecting the interests and well-being of this entire District. Secondly, in matters more immediately affecting the city of Washington, but of little less importance to every citizen of the Union, whose duty, business, or pleasure, may draw him to the seat of Government; to which a free, convenient, and safe concourse of citizens from all quarters of the Union entered largely into the original design of the establishment. That city has been attacked, in its most indispensable privileges, with a blow, accidentally frustrated for the present by a too eager overreaching of its mark, but to be in no long time mended and renewed with a surer aim. The attempt has been boldly made, and bitterly persevered in, and is yet to be made the test of party strength and predominance, to reduce to abstract subserviency the freedom of its chartered elections, and to prostrate all its powers of conservative police over subjects in which safety to the lives and properties of man, woman, and child, indweller or sojourner within its bounds, calls for a municipal police the most searching and effective—a police restraining the nightly and disorderly meetings of *slaves*.

As to the first, you all know, fellow-citizens, how universally and through what a long tract of our history the system of banking has been incorporated with the essence of public and private finance, and pervaded all pecuniary transactions, public and private, in the affairs of the American People.

Banks, and the banking system generally, have but recently become objects of indiscriminate and unmeasured denunciation with the party who have selected them for their most favored and prominent topics. The exciting causes of provocation against those institutions are but the reaction of the policy most ardently pursued by the very party who, now, that they see and feel the failure, which all political forecast and experience had foreseen and foretold from the first, of financial projects built on the glan of giving the largest expension and most exaggerated influence to those institutions, would now vent the overflowing of their disappointment in a war of obloquy and extermination against these same institutions; of which, whatever actual perversions or abuses there were, were the consequence of political experiments, injudiciously conceived and rashly tried, upon the established order and regular progression of affairs. Whatever excesses in the extension of the banking system, or perversions of its primary purposes, the last six years have witnessed, are clearly traced up to the scheme of converting it into a political engine, not of an enlightened or legitimate finance, but of an interested and narrow ambition. Varied, and desperate as varied, have been the expedients to shun or to re-

pair the mortifying discredit resulting from the palpable failure of these projects. After tampering with the currency in all modes but that of preserving or restoring its soundness; after the deposit and distribution of the public money had been changed and shifted till it has become difficult to say whether it be here, or there, or anywhere; after trials of such specifics as "specie-circulars" and the like inventions; the last resource seems to be a sort of crusade against banks and the banking system generally; and though the first fury of the crusaders has fallen upon us, there is no part of the country safe from their ravages, unless they can be dislodged from this the centre of their operations.

In advertng, as we are about to do, by way of illustration, succinctly to the history and progress of the banking system in this country, and to the agency of political men and legislative bodies, from the time of the Revolution to the present day, in establishing, extending, and consolidating the system, it is very far from our design to intimate any abstract opinion of our own, or to call upon you for any practical action in reference to questions that have been agitated in days past, or now raised, upon the constitutionality or expediency of this or that bank, or upon the original necessity and wisdom of the banking system in general, or upon its alleged vices and abuses now or at any former time: our sole purpose is to develop and illustrate the motives and objects of the men from whom we have suffered deep wrong, whose conduct we have a clear right to arraign before you, with a view to effect their dismission from power, or a stop to their misrule; and to place in a clear view the vast reach of the mischiefs necessarily resulting from their policy—mischiefs now visited with unmitigated severity on us, and sure, unless seasonably checked, to reach you, if not precisely in the same form, yet in the same degree, and from the same causes.

The establishment of the first bank in the Union was during our revolutionary contest, originating with Congress, and expressly sanctioned by several States; and it powerfully aided our glorious cause. It still survives in credit under the canopy of Pennsylvania.

After the adoption of the Constitution, among the first measures of the Government was the establishment of a Bank of the United States, with the approbation of the Father of his Country, after having most anxiously reasoned out and scrupulously weighed his judgment on the constitutionality and expediency of the measure. This institution, notwithstanding a powerful resistance originally presented to it on constitutional grounds, was universally recognized and used as an establishment of unquestioned validity and competency for all the purposes of its creation, by all the authorities, Executive, Legislative, and Judicial, of the United States and of the several States, throughout the whole of Mr. JEFFERSON's administration, and during the two first years of Mr. MADISON's, when it expired by the limitation of its charter. In addition to its practical recognition by all departments of the Executive Government, and their active co-operation in the exercise of its corporate functions, it received distinct *legislative* recognitions and confirmations during the Presidency of Mr. JEFFERSON, in two acts of Congress, approved and signed by him in 1804 and 1807, extending its powers and providing additional safeguards to its operations.

Near the close of the war, in Mr. MADISON's administration, the experience of that serious crisis in public affairs, so trying to the resources of the country, seemed to have supplied such demonstration of the indispensable necessity and importance of the institution as greatly to have diminished the theoretical objections to its constitutionality; insomuch that a bill chartering a new bank, with a capital of more than three times that of the former bank, passed both Houses of Congress, and was returned by the President with objections going exclusively to some particular provisions contained or omitted in the bill, and expressly "waiving the question of constitutional authority, as being precluded, in his judgment, by repeated recognitions under varied circumstances, in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation." At the next session of Congress, the year after the war, a second bill passed the two Houses of Congress, establishing the late Bank of the United States, with a capital of thirty-five millions; and this, being found clear of Mr. Madison's objections to the former bill, was approved and signed by him. This bank also, through the whole term of its existence, including seven years of President Jackson's administration, received as many and as unequivocal recognitions by all the authorities, Executive, Legislative, and Judicial, and as active co-operation of the Government in the exercise of its corporate powers, as the former bank. That President, in his first annual message to Congress, looking some six or seven years ahead to the expiration of the charter, and apparently anxious to provide in due season for that event, recommended the subject to the attention of Congress, with some not very distinct reference to certain objectionable provisions in the existing charter; and then for the first time broached the project of a bank on a far grander scale and far more *national* in its frame than had ever before been thought of—the project of "a *National Bank* founded upon the *credit* of the *Government* and its *revenues*." This project of a "National Bank," with more or less specifications of its nature and objects, and the necessity of seasonable and immediate attention to the question of rechartering the then existing bank, are reiterated again and again in his subsequent messages; in which, some time before his final breach with the managers of that institution, some symptoms of incipient dissatisfaction at their conduct begin to appear. In one of those messages, where he insists on the propriety of leaving the channels of circulation to be filled with the paper of *State banks*, and upon the efficacy of his "national bank" to check any possible exuberance in their issues, we have the first glimpse of the scheme, afterwards carried out with such consequences as we have all seen, for the adoption of the State banks into the special patronage of the Federal Government, and of setting them up as rivals, challenging superior utility and favor, to the Bank of the United States. In this scheme the banks of this *District*, though not named, are to be taken as necessarily included; and one of them was afterwards, of course, selected as a Government deposit bank. When some years afterwards, he found occasion to quarrel outright with the Bank of the United States, repeatedly and perseveringly impeached the legality and purity of its administration, and continually pressed upon

Congress hostile measures against it, he found both Houses of Congress, in one of which, at least, there was a decisive majority of his political party, generally thinking and acting with him in politics, yet steady and consistent throughout in support of the bank in all its official relations with the Government, as an institution surrounded by the most indefeasible of legal sanctions to its existence and its functions. President Jackson himself, in his most vehement denunciation of the administration of the bank, and in his most pressing instances to Congress for withdrawing the Government, as far as practicable, from all connexion with it, makes an express reservation of points wherein the charter should be found to have pledged the public faith to the bank; and so, admitting the competency of the charter to bind the public faith and tie up the hands of Congress, he admitted the irrepalable efficacy of the charter under the Constitution. The manifest convenience of the bank to the Government, and its utility to the People, he distinctly admitted; and the indispensable necessity of some "national bank" he uniformly insisted on; till he hit upon the new expedient of substituting State banks for all the purposes of bank machinery in the management of Federal revenue and finance, and the sole suppliers of all the paper circulation of the country, without the check of any national bank, which he once thought necessary to restrain their operations within safe limits.

The committee appointed by the House of Representatives in March, 1832, to investigate the condition and conduct of the bank, and inquire into alleged violations of its charter, the majority of which was composed of gentlemen from among the most zealous supporters of President Jackson's administration, and who had rather run ahead of him in open criminalations, though not perhaps in the known tenor of his private feelings towards the bank, conclude a voluminous and long labored report, teeming with charges of grave import against the bank directors, without recommending any action whatever upon those charges, but rather *inaction*; they content themselves with saying "that the bank ought not, *at present*, to be rechartered;" that it seems most judicious [contrary, as it seemed, to the whole tenor of the President's judgment and most pressing instances] not to *act* upon the question of re-chartering this institution, or of chartering any other national bank, *until* the public debt shall have been paid off, and the public revenue adjusted to the measure of Federal expenditures," thus treating the question of a recharter of the existing bank, or of a new charter to another, as one of mere expediency, depending on temporary circumstances. This report, in the course of two or three months, was answered by a bill more in accordance with the President's recommendations, passing both Houses of Congress, for the extension and continuance of the charter of the then existing bank, with some modifications. In the President's veto message, returning this bill with objections, he sets out with admitting that a Bank of the United States is "convenient to the Government and useful to the People," but that "*some* of the powers and privileges of the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the People;" and he then goes on to detail the particular provisions of the charter deemed liable to this objection. Every objection turns up-

on some particular feature of the actual charter; not one upon the principle of a chartered bank of the United States; so far from it, he says he never entertained a doubt that a Bank of the United States, competent to all the duties required by the Government, might be organized so as to comport with the delegated powers of Congress and the reserved rights of the States. One of his objections to the detail of the charter is, that it restrained Congress from chartering or rechartering banks in this *District* with a greater amount of aggregate capital than what the then existing banks in the District possessed; whereas he insists on the power granted by the constitution to charter banks there in any number and to any amount of capital, at the pleasure of Congress. In his next annual Message he, for the first time, intimates an official complaint, confined to a particular transaction, of the conduct of the bank; he then recommends a sale of the public stock in the bank, and suggests grave apprehensions as to the safety of the public deposits therein.

In the course of the session, the Committee of Ways and Means, to whom that part of the Message was referred, reported a bill for the sale of the stock, which was instantly *rejected* by the House; upon the other part of the Message, the same committee afterwards (in March, 1833,) reported a resolution "that the Government deposits may, in the opinion of this House, be safely continued in the Bank of the United States." This resolution passed the House by a majority of between two and three to one. In his next annual Message (December 1833,) he announced the fact of his having caused the removal of the deposits during the recess of Congress, and his reasons for doing so, in manifest defiance of the will of Congress, so recently and so unequivocally expressed; and why he took that course instead of the judicial remedy specifically provided by law for violations of the charter. In his next Message he reiterates his complaints against the bank, with increased earnestness, again recommends a sale of the stock, with a total repeal of all laws connecting the Government, directly or indirectly, with the bank, and the enactment of a law regulating deposits in the State banks. Not one of which recommendations did Congress ever adopt; but steadily, as far as depended on them, maintained inviolate all the original relations of the Government and the bank to the last day of its existence. On the removal of the deposits the House was silent, and the Senate passed resolutions condemning it; nor was any law passed regulating deposits in the State banks, or having any reference to such deposits, till after the charter of the Bank of the United States had expired. Then, indeed, they went on hand in hand with the then President and with his present successor, organizing a most extensive and complicated system, strictly connecting the General Government in its financial operations with the State banks, prescribing to them a system of discipline, and enlisting them into the service of the United States. Then, indeed, the *divorce* between Government and bank, of late so clamorously demanded, was as little thought of by the parties to this connexion as by new-married lovers in the honey-moon. In the same Message the President spoke with apparent exultation of the then experienced capacity and fitness of the State banks to serve all the purposes of the Government; of course including the bank at the seat of Govern-

ment selected for that purpose, and performing the duty in one of the most important positions.

The public deposits were accordingly distributed among the State banks, from the seaboard to the remotest west, with an official recommendation, tantamount to an instruction, from the head of the Treasury, to discount upon the credit of such deposits for the accommodation of the community. In the first year after this change in the system of deposits, about two hundred additional State banks and branches were created, and in the course of five years the number had amounted from five hundred and six State banks and branches to nine hundred and one, with more than a proportionate increase in the aggregate of bank capitals, according to the Secretary of the Treasury's last report to Congress.

Now, if there be any exclusive or supereminent merit, challenging the admiration and confidence of the country, either in a fixed bank-antipathy extending to all banks, or in a particular and unmitigable abhorrence of a Bank of the United States, and of any "national bank," as an unconstitutional and dangerous institution; and if the claim of merit in such particulars may prevail by way of atonement for wide-spread mischiefs to the community and to individuals, from any over zeal and haste to exterminate all such institutions, surely the party now laying claim to such merit may also claim it as original and exclusive to themselves; they share it not with any of their predecessors in the Executive or Legislative branches of the Government; far less with any of the great exemplars in whose footsteps they make it their glory and their boast to tread; not one of the Presidents, Washington, or Jefferson, or Madison, or Monroe, or Jackson, can pretend to divide the honor with them; and what is still more remarkable, their present selves may claim it equally to the exclusion and in derogation of their former selves; who, as unalterable records and indelible annals show, in no long time past, rested all their claims to public favor and confidence on a directly opposite line of policy, and were the most efficient agents in fostering and expanding, to the extreme limits, the very system and the very institutions they now make a merit of decrying and destroying. If there be any thing in the seeming paradox maintained by some ingenious and subtle minds, that true consistency consists in inconsistency, as being consistent with *existing*, not with past, *circumstances*, then certainly consistency is not the least of their merits.

Again: if it be true, as the recent denunciations of the predominant party infer, that this vast and unprecedented expansion of the banking system is a pernicious excess, fostering a wild spirit of speculation, and operating derangement of the currency and general embarrassment in every branch of business, then, the consequence, that these evils have followed the line of policy pursued by that same party, and by some of those in whose footsteps it is more peculiarly their glory and their boast to tread, is an induction of fact and experience not to be either resisted or enforced by argument. At any rate, it is clear that no part of the blame can be thrown on the banks of this District. They have remained stationary in number and in amount of capital for more than twenty years; or, indeed, have been rather diminished in both within that period. They have pre-

served a cautious and uniform tenor in their course of business that has stood the test of repeated and strict scrutinies.

The policy of chartering banks was adopted by the States at an early period of their history, and has ever since gone on hand in hand with the rapidly increasing commerce, wealth, and population of the country; till no point, from the seaboard to the far West, the seat of any trade or commerce, foreign or domestic, maritime or inland, was left without its bank or banks; and till the number, in 1834, amounted to five hundred and six, multiplied in the next five years to nine hundred and one: so indispensable have they been ever deemed by the American People to the prosperous pursuit of their business.

When Congress assumed the government of the District, in 1801, we had two banks, one established by Virginia at Alexandria, in 1792, the other by Maryland, at Georgetown, 1793; but none in the City of Washington. In the year 1811, on the application of its citizens, under the Presidency of Madison, and with his approbation, a bank was established at that place; and within a few years thereafter ten additional banks were incorporated within the District. The united capitals of these thirteen banks amounted to six millions of dollars, authorized for a population that did not at that time amount to thirty thousand. They all at first apparently flourished, and during the late war aided the Government by liberal loans. Their number and capitals were found to be excessive, and they have since, at the instance of their stockholders, been reduced to six in number, with an aggregate actual capital of about one million seven hundred thousand dollars, enjoyed by a population now little short of sixty thousand. It should, however, be remarked that, although the population of the District does not exceed this number, the District banks are to be considered as connected with, and in fact commercially appurtenant to, the surrounding country in Maryland and Virginia, embracing a population of at least one hundred and fifty thousand; making in all two hundred and ten thousand. As this constitutes about a seventieth part of the whole population of the United States, it follows that, according to relative numbers, our banking capital would be about five millions, whereas it does not amount to two millions.

These banks have invariably supported their credit, only yielding to the irresistible power of the banks in our great commercial cities in the suspension for a season of specie payments, and always resuming them with those banks; have conducted their concerns to the general satisfaction of the community; and are, from official statements, admitted to be at this time stronger and sounder than they have ever before been, and to be equally so with the best banks in the country.

They have enabled the traders of the District to purchase, necessarily for cash, the flour and other provisions, the tobacco, and timber, and fish, with a variety of other products that reach it through the Potomac and Chesapeake, and constitute the staple productions of some of the most fertile districts of Virginia and Maryland; to transport them, so far as they are not consumed among ourselves, to other places, such as Baltimore, Philadelphia, New York, and Boston, and receive in exchange foreign and domestic articles for our consumption. Of the extent to

which this commerce has been carried, some idea may be formed by the fact that the money collected by the banks within this District for persons in Baltimore alone, within a single year, exceeds four millions of dollars.

The charters of these six banks have been several times extended and continued, as the limited terms of their duration were successively about to expire, and always without hesitation, as a matter of course and of common justice: first from 1821 and 1822 to March 3, 1836; thence to July 4, 1838; and thence to July 4, 1840. This last extension, being in the time of the former general suspension of specie payments, was made on three conditions, all faithfully complied with:—1. Not to receive or pay any paper currency of less denomination than five dollars; 2. To redeem their five dollar notes in specie in the course of a month from the passing of the act; 3. To resume specie payments in full in the course of six months, or sooner if the principal banks of *Baltimore* and *Richmond* sooner do so.

That extensive branch of business, usually conducted by incorporated banks, and reaching in its manifold operations so many of the social relations and such important interests of the country, has been long deemed, and habitually looked to, by the *people* of every State and Territory, without exception, essential to the speedy development of our vast internal resources, and to the general advancement of the great interests of agriculture, commerce, and manufactures. Upon no measure of internal policy has the opinion of the People been more distinctly pronounced, or their will more active and efficient. They have taken the matter into their own hands, as one touching the interests and mingling in the concerns of the community at large, and of every citizen in particular. They have called into existence and yet will the continuance of such facilities to the convenient transaction of their private affairs as banks and a circulating medium supplied by banks afford. Even if the system were as vicious in theory and depraved in practice as the party now wielding the powers of the General Government insist; even if it deserved the unmeasured denunciations in which factious politicians seek pretexts, and very hollow and insincere pretexts, to gratify the selfish passions and subserve the narrow interests of party; still, what wise and conscientious statesman, what sagacious and comprehensive economist, no matter under what banner of political party he may range himself, but must perceive, at a glance, how utterly impracticable, and if practicable, how rash, empirical, and pernicious the attempt to destroy it entirely? It needs not the wisdom or sagacity of the practical statesman or scientific economist; the plain sense and palpable experience of the plain man, employed in the every-day concerns of life, are enough. He sees, as if embodied in his vision, and feels by anticipation, the sudden blight to every branch of productive industry, the lifeless stagnation to all the sources of public and private prosperity, sure to result from the reckless experiments of such hair-brained and obtrusive meddlers as aim at the sudden dissolution of the machinery of public and private finance, without any intelligible model or scheme for its reconstruction; their means and their ends all certainly destructive: whilst reconstruction is left to blind chance or to

the uncalculated progress of events, or, worse than all, to shallow projects and bungling contrivances of their own invention.

The more sober and impartial thinker may have observed, in the present organization of the system, many errors tending to abuse and actually producing abuse; yet calling for all practicable amendments and reforms, not for the total overthrow of the system itself; he would as soon pull down his house over the heads of himself and his family, because the roof leaked or the chimney smoked. The system, under the worst aspect it can assume, must be treated like some habitual or chronic infirmities of the human constitution; borne in patience, with such palliatives and gradual correctives as skilful and cautious hands may administer; not violently and suddenly torn from the complex frame of society, into which its manifold roots and all-pervading fibres are shot too deep to be extirpated without destruction to the vitals about which they are entwined. What power, short of naked despotism, dare now dictate to the People, unprepared with any substitute, the abolition of all existing banks; far more the utter extermination, root and branch, of the whole system of banking in every form and under every modification whatever; annihilating, with the system itself, uncounted millions of property, or what is available for the purposes of property, as possessing the essential attributes and uses of active and productive capital? By following out the practical consequences of such despotic prohibitions to individuals, it will be clearly seen into what manifold and minute details of social life they intrude; how tyrannically they visit us in our counting-rooms, our workshops, and our fields, and leave no private dealing between man and man, no recess of domestic life, free from their intrusive perquisitions: like the Egyptian plague of locusts, they infest our houses, bedrooms and beds, our ovens and our kneading troughs; they control the free will and free agency of the citizen in matters which all but the worst governments, the worst administered, have left to his free will and free agency; and arbitrarily take from him all judgment and discretion in the management of affairs, exclusively his own personal concern. Whether it be more convenient and advantageous to himself to receive payment for his goods; or for the products of his lands, or of his skill and industry, in a portable paper medium rather than in gold and silver or other more bulky commodity; whether he will employ his capital, skill, and industry in the trade of a banker (as regular and blameless a branch of business as any within the whole range of Commercial enterprise) rather than in that of a wholesale or retail merchant; whether he will invest his disposable funds in bank stock rather than in lands or other property; whether he will discount his note or bill and apply it to his present needs rather than wait for the regular day of payment; these are but some of the more obvious, and by no means the most important, of the private and personal concerns upon which such arbitrary prohibitions undertake to dictate to the citizen, and take away from him all choice and discretion. From this, it is but a short and easy step to the ancient law of Egypt, now obtaining among the Chinese, which dictates to each man what trade or profession he shall follow.

That the power, dictating these prohibitions, must be despotic in its

nature and tyrannic in its exercise; that the People, subject to its sway, must be miserable, and base as miserable if they tamely submit to it, you, fellow-citizens, require no argument to convince you.

It now remains for us to show you, fellow-citizens, that such an act of despotism, in its most tyrannic form, and to the most exaggerated extent, and with circumstances of most aggravated oppression and indignity, has been perpetrated upon us; that all our lately existing banks have been suddenly annihilated by a single blow; that we suffer not only from the negative act of a refusal to continue the charters of those banks, or to license any other in their place, but from the aggressive act of cutting up, root and branch, the whole trade and business of banking, in any form or under any modification whatever, in this District; that now the whole trade and business of banking, in all its modes and details, down even to the simple act of placing money on deposit in a bank vault, is declared positively unlawful, and rigorously prohibited under grievous penalties of fine, forfeiture, and imprisonment: lastly, that this act, however vindictively, or from whatever temporary motives, it may have been enacted against us specially, is nevertheless part and parcel of a general plan contrived by the same party, and intended, sooner or later, to be brought to bear upon you, by some device contrived to pierce the ægis of your State sovereignties; not indeed, with the open and naked force by which our prosperity and our most sacred rights have been assailed and cloven down, but by operations indirectly tending to the same end, and by which the opposing ramparts of State sovereignty may be mined and sapped under cover of pretexts drawn from the delegated powers of Congress.

Of this complaint we now proceed to the plain and circumstantial proof.

Early in the last session due applications were made to Congress for a further extension of the time limited to the continuance of the bank charters about to expire on the 4th of July last. Every exertion was made, by solicitations from without and by representations within, to have these applications disposed of in due season. But after the offence taken at the proceedings of the aforesaid meeting of citizens on the 18th of February, all business having any relation to the interests or wants of the District lay under a dead weight. Every effort of those members inclined to a conscientious performance of their duties as the delegated legislators for the District, to have its due portion of time and attention bestowed on its most urgent affairs, met with sullen neglect or active opposition from the majority. Some matters calling for scarcely a moment's consideration, and upon which there seemed, before the 18th of February, a common consent and general understanding that they were to be passed on as matters of course, lay ever after under a stern interdict. At last, when the session seemed to be approaching near its termination, and well-grounded apprehensions were felt that the business of the Territories and the Districts might be crowded out, a resolution was offered for setting apart some specified day or days for taking up the business relating to the Territories and the District; and a *division* of the *question* being called for, so much of the resolution as related to the *Territories* passed, and all that related to the *District* was lost. Now, as the Territories had local

Legislatures fully competent for all the purposes of local legislation in general, whilst the District was dependent on Congress alone for every act of local legislation, ordinary and extraordinary, the mark thus set upon it was so much the more conspicuous, opprobrious, and insulting—so much the more a violation of all moral and political justice, and of the most sacred and imperative duty.

It was not till near the close of the session, in the midst of the press and hurry usually attending that stage of the public business, that the subject of the District banks could be brought under consideration. The proposition for an extension of their charters was put in every form calculated to disarm, if not to conciliate, their most determined and thoroughgoing adversaries. Indeed, most of the forms into which it was moulded by amendments insisted on by its adversaries would have reduced the banks to a condition of inertness, with bare enough of life for a very brief span of languid existence. In one form a prolonged existence for eight months, in another, for twelve months, was proposed; in all, the most burdensome conditions were imposed, many of them evidently contrived so as to cripple the banks for any active and beneficial operation. Yet the banks and the community were anxious to obtain the boon of mere life on any, the hardest terms. In the most maimed and crippled state in which they could escape from the hands of their enemies, the banks might still have served some of the minor yet indispensable purposes of a commercial community; and some cheering hope of the future would have remained: but the proposition was finally rejected in every possible form in which it could be presented by its friends, or modelled by its enemies, and all the banks without exception, (even including one that had found itself in a condition to decline uniting with the others in the general suspension of specie payments,) were at once and indiscriminately swept from existence.

All that could be obtained was an act affording some necessary, and barely necessary, facilities for finally closing and winding up the outstanding concerns of the banks; for which purpose, and most strictly confined to that single purpose, their corporate capacity was continued for two years. But, in granting this boon, every possible avenue through which the *community* might derive any sort of advantage or the commonest convenience from the presence of the banks during that short interval, was studiously sought out, and industriously closed up. They were strictly prohibited not only from issuing or reissuing any bills, notes, checks, or *certificates of deposit*, but even from *receiving* of any person whatever other than a stockholder any money or other property on *deposit* under an obligation to *return* it. So, the citizens are forbidden the mere use of the bank vaults for the deposit or safe keeping of their money or effects; for, without “an obligation to *return* it,” it would be no *deposit*, in any sense, but a sheer gift and utter loss of the money or effects placed in the bank-vaults: it might as well be thrown into the sea.

But the disqualifying consequences to the people of this district from this course of legislation, oppressive and capricious as it is, reach far beyond the mere extinction of all our existing banks, without any provision for putting any thing in their place.

In the year 1817, when a considerable addition was made to the num-

ber of district banks and to the aggregate amount of bank capitals, Congress deemed it expedient to confine the whole trade and business of banking, in all its branches and details, to the incorporated banks, and accordingly prohibited both the *discounting* and the issuing of notes or bills, or any other securities, orders, or promises for the payment of money, by any unchartered banking company, or any *association, partnership, or company* of individuals, under penalty of fine from one hundred to five hundred dollars for each offence, with the addition of imprisonment from three to twelve months for signing, countersigning, or endorsing any such note, &c., with the loss of the whole amount of the note; and so stands the law to this day.

Now, taking all these acts of legislation together; what the majority in Congress refused to do, and what they did, at the last session, in connection with the general, known law of the land, previously enacted, and yet left in full force, and we have, as we have asserted, the complete, utter, and designed prohibition and extermination, root and branch, of the whole trade and business of banking in all its possible forms and details; the prohibition is not confined to the issuing of notes and bills for general circulation, but extends to the *discounting* of a note or bill; so that the simple act of taking an assignment of a note and paying to the holder the amount in money for which it is drawn, merely deducting the legal interest for the time it has to run, is within the prohibition, and subject to the penalty. We are thus forbidden resort, in any possible way, to our own enterprise and means for supplying the want occasioned by the extinction of all our existing banks—a want just as imperious in the present condition of society as the want of any other trade or profession.

It was said on the floor of the Senate, by way of justifying the rigor with which the banks were treated, that, when their charters were renewed in 1838 for two years, it was intended to be for the last time; and therefore, they should have been now prepared to wind up. Of this intention neither we nor, as we believe, the bank directors ever heard. But such an *intention* only makes the course of the majority in Congress so much the more inexcusable, and its oppression so much the more deliberate and cruel, not to the banks, but to the outraged *people*. With such an intention in their minds, the majority were so much the more bound to have provided against consequences by a well-considered and digested plan for securing to the people the indispensable advantages and facilities of banking in some form deemed more unexceptionable than the existing banks.

It was a sufficient, and, perhaps, a questionable stretch of power to have confined the trade and business of banking to the incorporated banks; but to prohibit and exterminate that entire branch of business in every form and modification of it, never before entered the head of any sane and honest legislator in such a state of society as the present. A law prohibiting the trade of a merchant, a carpenter, bricklayer, tailor, or shoemaker, or the professions of divinity, medicine or law, would be neither more absurd, nor more contrary to natural justice.

Now, fellow-citizens, look to yourselves. The State banks have been included in, indeed, made the principal butt of, all the most vehement de-