

ature, with commendable moderation, after arguing the case at length, and refusing thus the dangerous positions assumed by the Executive of New York, adopted among others, the following Resolutions.

2d. Resolved. That the course pursued by the Executive of New 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.

3d. 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.

4th. Requires the Governor to submit the case to the other States, and invite the co-operation of the slave-holding States.

In compliance with the foregoing third Resolution, Gov. Gilmer, on the 6th April, 1840, addressed the Executive of New York, and transmitted the proceedings of the Virginia Legislature. On the 15th of April, Governor Seward acknowledged the receipt of this communication; informed Governor Gilmer that he felt it his duty to submit the same to the Legislature of his State, and that his answer would necessarily be delayed until after its adjournment. This note was accompanied by a copy of Gov. Seward's Message, transmitted on the 11th of April, 1840, together with the proceedings of the Virginia Legislature, to the Legislature of New York. In this Message, Gov. Seward says, "the proceedings of the General Assembly of Virginia manifest a desire to obtain the sense of the Legislature." He commends to their consideration the said proceedings and the communication of Gov. Gilmer, and informs them that he will defer his reply in the hope that he may be aided by the wisdom of the Legislative Department.

Gov. Seward, in his communication of the 9th November, 1840, informs the Executive of Virginia, that no action was had upon the subject in the Senate; that it was referred to the Judiciary Committee in the House of Assembly, which, on the 14th May, made a Report, asking to be discharged from the further consideration of the subject, in which they said: "That on a careful examination of that correspondence, your committee cannot discover any occasion for the interposition of this House, even by way of advice. They believe the position taken by the Governor of this State to be sound and judicious, and that his exposition of the meaning of the Constitutional provision in question, is the only one that can be given consistently with the Sovereignty of the State and the rights of the citizens, while it is in strict conformity (!) with our Federal obligations to other States, and recognizes all the rights which is intended to be secured."

"The committee content themselves with the expression of their general concurrence in the views of the Executive because the subject is one which cannot be expressed with brevity, and because it has been examined and illustrated with distinguished ability. Conceiving that there is no occasion to submit any proposition to the house for its action, your committee ask to be discharged from the further consideration of the subject."

"The Committee" says Governor Seward, "is thereupon discharged."

The difficulty of obtaining this communication of the late attending Virginia's respectful appeal to the Legislature of New York, will be seen from the following statement of facts.

On the 6th June, 1840, Governor Gilmer, acknowledged the receipt of Governor Seward's communication of the 18th April, and informed him that as some time had elapsed, since the Legislature of his State was reported to have adjourned, he begged most respectfully, to recall his Excellency's attention to the subject of his former communication; to this, no reply was received. On the 13th of July, Governor Gilmer, again called Governor Seward's attention to the subject, and reminded him, of the duties assigned him by the General Assembly, (viz: to transmit copies of the correspondence, and request the co-operation of the slaveholding States.) On the 18th July, Gov. Seward replied, stating that he was spending some time at Auburn, for "the restoration of his health somewhat impaired by his confinement and occupation during the session of the Legislature;" and expressed the hope, to be able to bestow due consideration upon the subject of their correspondence, "very soon." Again, on the 14th August, Governor Gilmer, addressed the Governor of New York, and called his attention to their correspondence. On the 25th Sept. Governor Gilmer, again addressed Governor Seward, and among other things said, "I had the honor to address your Excellency on the 14th ult., acknowledging the receipt of your note of the 18th July, and as no answer has reached me, I am induced to apprehend that some untoward accident, has prevented the receipt of your communication or mine, I deem it necessary to advise your Excellency, of the necessity of bringing our correspondence to a close. I have postponed the execution of the duty assigned me, under the 4th Resolution of our General Assembly, indulging the hope, that your Excellency would

render it unnecessary for me to request the co-operation of the slave-holding States; as the time is approaching when the Legislatures of the States will convene, I am not at liberty much longer to defer a compliance with the 4th Resolution of our General Assembly. I cannot do so, however, without again soliciting your Excellency's most serious attention, to the demand which has been made by the State of Virginia, on the Executive of New York."

On the 29th September, Governor Seward acknowledging the receipt of this communication, informed Governor Gilmer, that he had prepared his reply to the communication of his Excellency, on the subject of the demand of certain fugitives from justice, and should transmit the same, as soon as it could be copied for that purpose." On the 23d October, Governor Gilmer again addressed Governor Seward, informing him that "he would be gratified, to hear from his Excellency, as soon as his reply could be copied."

On the fifth November, 1840, Gov. Gilmer, for the seventh time, addressed Governor Seward a note, in which he says: "I regret very much the necessity of troubling your Excellency again on the subject of our correspondence; but if you will advert to its progress and objects, you cannot fail to acquit me of any desire to precipitate your Excellency's judgment on the grave questions which are involved. Seven months have elapsed since I had the honor to communicate the Preamble and Resolutions adopted by the Legislature of Virginia, and to invite your Excellency's earnest attention to the subject. I have received repeated assurances of your readiness to comply with this request; and on the 29th September, you informed me that your reply to my communication of April last, had been prepared, and remained only to be copied. I informed you, on the 22d October, that your reply had not been received, and I am still awaiting it. I have forbore to execute the request contained in the fourth Resolution of the Virginia Legislature, until the last moment, because I was unwilling to take for granted, that any department or any officer of the Government of a sister State, would persist in adhering, deliberately, to the dangerous construction of our federal compact which your Excellency had assumed in your former correspondence. Your Excellency has been pleased to acknowledge this forbearance in very respectful terms; and I trust, after reminding you that the Legislatures of several of the States are already in session, it will not be deemed an Act of impatience on my part, to enquire whether the copy of your Excellency's reply has been completed."

On the 9th of November, Gov. Seward, of New York, for the first time, replied to Gov. Gilmer's communication of the 6th April, and the information quoted above, was contained in that reply.

According to the best judgment which can be exercised by your Committee, the course pursued by the Executive of the State of New York is condemned by the law of nations—is condemned by the Constitution of the United States—the compact formed upon conciliation and justice, for the common defence, mutual respect, amity and accommodation, and domestic tranquility of all the States—the treaty of friendship and alliance, offensive and defensive, among the confederating States, which modifies, controls and constrains for especial purposes, the law of nations, as between them.

The 2d Section 4th Article of the Constitution of the United States, secures for "the citizens of each State, the privileges and immunities of citizens in the several States." Protected under this section, and un molested by the authorities of Virginia, citizens of New York have, pursuing their craft, traded to and from the ports and bays of Virginia. Under cover of this privilege, three of them stole and carried away a negro, and when, under the stipulation of the second paragraph of the same section, these men are demanded by the authorities of Virginia, as felons and fugitives from justice, the Executive of New York replies—No! this State knows no such things as property in human beings—she does not recognise the act with which these men are accused, as a crime, and therefore she refuses to comply with your demand, and the solemn requisitions of the Constitutions and laws of the United States. When, in obedience to the injunction of the Legislature of his State, and in the spirit of friendly forbearance and remembrance, the Governor of Virginia renews the correspondence with the Executive of New York, the matter is referred by Governor Seward, on the 11th of April, 1840, to the Legislature of New York, by which his course was approved; for although their Committee, (H. of R.) was discharged, on the 14th May following, from the consideration of the subject, it was upon the express ground that "the positions taken by the Governor of that State were sound and judicious, and that his exposition of the meaning of the constitutional provision in question, was the only one that could be given, consistently with the sovereignty of the State, and the rights of the citizen."

In further illustration of the sentiment prevailing at the Capitol of New York, in respect to the demand of Virginia, it is remarked that on the 6th of May, 1840, was passed an Act by the New York Legislature, entitled "An Act to extend the right of trial by jury," the most important provisions of which are the following:

Sec. 1. Instead of the hearing provided by the first Article of Title I, and Chapter 9, of the Third Part of the Revised Statutes, to be had before a Court or Officer, upon the return of any writ of habeas corpus issued to bring up the body

of an alleged fugitive from service or labor, to which he is held under the laws of any other State, who shall have escaped into this State, the claim to the service of such alleged fugitive, his identity, and the fact of his having escaped from another State of the United States into this State, shall be determined by a jury."

The 2nd, 3rd, 4th, 5th, and 6th sections, prescribe the mode of proceeding. Section 7, provides that if the finding of the jury is in favor of the claimant, upon all the matters submitted, the Court or officer before whom such hearing shall be had, shall grant to such claimant or his agent, a certificate, "which shall authorize the person receiving the same to remove the fugitive thereina named, without any unnecessary delay, through and out of the State, on the direct route, to the State from which he fled."

Sec. 8. "If the finding of the jury be against the claimant, on any of the matters submitted to them, the person so claimed as a fugitive shall forthwith be set at liberty, and shall never thereafter be molested upon the same claim; and any person who shall thereafter arrest, detain, or proceed in any manner to retake such alleged fugitive upon the same claim, or shall by virtue of the same claim remove such alleged fugitive out of this State, under any process or proceeding whatever, shall be deemed guilty of kidnapping; and upon conviction, shall be punished by imprisonment in the State Prison not exceeding ten years."

Sec. 9. The District Attorney of the County in which any alleged fugitive from service or labor from another State, shall be proceeded against by any person claiming such fugitive, shall, upon notice of such proceeding, render his advice and professional services to such alleged fugitive, and shall attend, in his behalf, on the trial of such claim, and shall receive such compensation therefor, as shall be certified to be just and reasonable, by the Court or Officer before whom the proceedings shall be conducted; to be paid as part of the Contingent Expenses of the County. And in case of the omission of such District Attorney, to attend, or to render his professional services, the Court or officer before whom the proceeding shall be had, shall assign some Chancellor of the Supreme Court, in good standing, to conduct the defence of such alleged fugitive, and render to him the usual services of a counsel, for which he shall receive a compensation to be certified and paid, as heretofore provided in respect to the District Attorney.

Sec. 10. Every person so claimed as a fugitive, shall be entitled to subpoenas for his witnesses, from the Court or officer before whom the habeas corpus may be returnable, without any fee or charge therefor; and every Constable, Sheriff, or Marshal, to whom any such subpoena shall be delivered to be served, shall serve the same, and shall be allowed the same fees as for serving a capias in the Court of Common Pleas, to be paid as part of the contingent expenses of the County, in the event of a Jury summoned under this Act, determining in favor of the claimant.

Sec. 11. Provides for the "enforcing of subpoenas for witnesses, and compelling them to testify," and enacts, that "the fees of the Sheriff or Constable, for summoning the jury, and of the jurors, and of the officer hearing and trying any such claim, shall be paid by the claimant in all cases."

Sec. 12. No person shall be entitled, to a writ of habeas corpus to arrest a fugitive from labor or service, until he shall have delivered to the Court or officer to whom application for such writ shall be made, a bond to the people of this State, in the penal sum of one thousand dollars, with two sufficient sureties, inhabitants and freeholders of this State, to be approved by such Court or officer, conditioned to pay all costs and expenses that may accrue in the prosecution of the said writ, legally chargeable to such claimant, and also to pay weekly, the sum of two dollars to the person having such alleged fugitive in his custody, for the support of such alleged fugitive, so long as he shall remain in custody under such writ of habeas corpus, or be detained by the proceedings thereon; and also, that if any jury impeached under this Act, shall render a verdict against such claim, then, that such claimant shall pay all the costs and expenses of the proceedings, including those to which such alleged fugitive shall have been subjected, and in addition thereto, shall pay to such alleged fugitive the sum of one hundred dollars, and all damages which he may sustain. The bond shall be filed in the office of the Clerk of the county, and may be prosecuted by any person claiming any benefit from its provisions, in the name of the people of this State, but the people shall not be liable for any costs in such suit.

Sec. 13th and 14th immaterial.

Sec. 15. Authorises "the Constable or officer, before any such trial shall be had, on the application of the alleged fugitive, to grant a commission for the examination of witnesses out of the State, and authorises the adjournment of the hearing from time to time."

Sec. 16. No Judge or other officer of this State, shall grant or issue any certificates or other process for the removal from this State of any fugitive, or of any person claimed as a fugitive from service or labor, otherwise than in pursuance of the provisions of this Act; and every such Judge or other officer, who shall grant or issue any such certificate or other process, except in the manner prescribed in and by this Act, shall be deemed guilty of a misdemeanor, and liable to punishment therefor.

Sec. 17. Every person who shall, without authority of law, forcibly remove, or attempt to remove from this State, any fugitive from service or labor, or any person who is claimed, as such fugitive, shall forfeit the sum of five hundred dol-

lars to the party aggrieved, and shall be deemed guilty of the crime of kidnapping; and upon conviction of such offence, shall be punished by imprisonment in the State Prison, for a period not exceeding ten years.

Viewing the provisions of this Act of the Legislature of New York, in connexion with the refusal of the Executive of that State, to comply with the reasonable and duly authenticated demand of the Governor of Virginia, to deliver up the fugitives from justice in question, together with the reason assigned for such refusal, "that one man cannot be the property of another," and the determination of the Legislature, that "the positions taken by the Governor were sound and judicious," it seems to your committee to be too clear to admit of a doubt, that the then dominant party in the State of New York, have deliberately trampled under foot parts of the 2nd section of the 4th Article of the constitution of their country, and have wantonly, and arrogantly abrogated the faith solemnly pledged to her sister States, "to establish justice, and ensure domestic tranquillity."

Such also seems to have been the view taken of this transaction by the authorities of Virginia. Her councils have accordingly, at their last session, passed an "Act to prevent the citizens of New York from carrying slaves out of the Commonwealth, and to prevent the escape of persons charged with the commission of any crime," a copy of which is herewith submitted.

Such is the remedy which has been adopted by Virginia, in vindication of her rights, and in defence of the property of her citizens.

She has caused the correspondence, with the policy she has adopted, to be laid before the authorities of this State, for our examination and approbation, and has invited our co-operation.

What then, is it incumbent upon Carolina to do?

It is the unanimous opinion of your committee, that the action of this State should be indicated, in a character by the identity of her interests with those of Virginia. They accordingly recommend to the attention of the Senate the Bill already referred to.

Your committee beg leave further to recommend for the adoption of the Senate, the following Resolutions:

1. Resolved, That this Legislature view with regret and abhorrence the constructive meaning of the constitutional provision respecting "fugitives from justice," and "fugitives from service," asserted by the Executive and Legislative authorities of the State of New York, in the year 1840.

2. Resolved, That in the opinion of this Legislature, the forced and dangerous construction put upon the 4th Article of the constitution of the United States, and the arrogant pretensions to control its operation by the State of New York, as indicated by the positions of her Executive in the progress of the late controversy with Virginia, and the proceedings of her Legislature pending the same, should be repudiated and disavowed by every state in the Union, as destructive of the faith pledged in the Constitution, and ultimately subversive of that State Sovereignty, upon which they profess to be founded.

3. Resolved, That the Governor be requested to communicate to the authorities of Virginia, the high sense entertained by this Legislature, of their moderation and respectful forbearance in conducting the recent unhappy controversy with the State of New York—of the justness of the position assumed by Virginia, and the assurance of the hearty co-operation of South Carolina, in all proper measures to vindicate her rights as a State, and to protect the property of her citizens.

All which is respectfully submitted.
R. F. W. ALLESTON,
Chairman.

The following message was sent by the Governor of Georgia to the Legislature of that State at the time of its date.

EXECUTIVE DEPARTMENT,
Milledgeville, Dec. 1, 1841.

With my message of the 2d ult., I had the honor to communicate to you the copy of a correspondence with the Governor of New York, relating to a demand which I had made upon him, for the arrest and delivery of John Greenman, a fugitive from the justice of this State, charged with the larceny of a slave, upon the affidavit of Robert W. Flournoy. At a superior Court of Chatham county, held after the making of the affidavit by Mr. Flournoy, John Greenman was indicted for this offence by the name of Alanson Greenman, a name assumed by him, doubtless, to escape detection. To remove the difficulty and scruples of the Governor of New York, in relation to the sufficiency of the charge contained in the affidavit, I renewed the demand, based upon the indictment, a copy of which, authenticated as required by the Act of Congress, was transmitted. You will perceive, from the correspondence, a copy of which is herewith transmitted, that another pretext has been raised by Governor Seward for evading the performance of his constitutional obligations. It is pretended by him that the bill of indictment is defective, and he has undertaken the office of counsel for the accused, by taking untenable technical exceptions to the proceedings. I have answered them, as you will perceive, but I have been long since convinced that it is unnecessary to address either argument or reason to his understanding, or to remind him of the necessity of executing, in good faith, according to the letter and spirit, the wise provisions of the Constitution, by which the States are enabled in giving efficiency to their criminal laws, to maintain the peace and safety of society.

While he declines complying with my demand, on the ground of a pretended defect in the indictment, he indicates the intention, in no equivocal terms, should his objections to our judicial proceedings be overcome, to sustain his refusal on principles no less unwarranted by the constitution, than offensive to the people of this State.

There should be no longer delay in settling authoritatively the manner in which fugitives from justice are to be delivered, when they are found in another jurisdiction. Congress has the unquestionable authority, under the constitution, to regulate this matter, and it is clearly the duty of the General Government to cause fugitives from justice, who escape from the State in which the crime was committed, and are found in another, to be delivered up, upon the demand of the Executive authority of the State having jurisdiction of the offence. But inasmuch as the mode provided by Congress, for discharging this high obligation on the States, an essential to the safety of society, and the security of property, has proved inefficient, and as no disposition is manifested by the Federal Government to remedy the defect, the subject is of sufficient importance to justify a Convention of the States, to take into consideration.

But we should not defer, for a moment, the adoption of measures for our own safety. The regulation heretofore recommended by me, would ensure the safety of our property, and prevent all interference with our slave population. Any other constitutional measure, however, which your wisdom may suggest, as expedient and proper, for the attainment of these desirable objects, shall have my concurrence.

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CHARLES McDONALD.
REPORT OF THE POSTMASTER GENERAL.

POST OFFICE DEPARTMENT,
Dec. 1, 1841.

To the President of the United States:

In the discharge of the duty of reporting to you the condition of the General Post Office, I have to regret that my recent induction into office will prevent me from giving you that full development at this time so necessary to a clear understanding of the various and extended operations of a Department so important and interesting to every class of our fellow-citizens.

Unlike the other Departments of Government, which derive their support from the national Treasury, the General Post Office looks for the means to continue and extend its operations to the income derived alone from a successful administration of the laws prescribing its duties and privileges.

The General Post Office, at first almost the creature of administrative discretion, necessarily so remains, to a great degree, at the present time. In its infancy, it required the constant and vigilant superintendence of its head to direct its affairs in such a manner as to extend the sphere of its usefulness, commensurate with the increase and extent of population and business. Equal, if not greater, vigilance is demanded at the present day.

It is to be desired that, in the general administration of the Government, as little of discretion as possible should be left with those charged with public trusts; and I regret my acquaintance with the details of the Department, at this time, is so limited as not to qualify me to suggest more specifically those improvements in the laws pertaining to it, whereby much of that discretion, heretofore exercised, might be restrained and profitably regulated by legislative enactments. The propriety of these remarks will be fully demonstrated by a recurrence to the history of the Post Office operations, from their commencement to the present time.

In 1793, the whole number of post-offices in the United States did not exceed seventy-five; the number of miles of post-road, 1,475; the revenue, \$37,936; the expenditure, \$32,119. In 1840, it will be seen that the whole number of post-offices in the U. States was 13,488; the number of miles of post road, 155,739; the gross revenue for the same year was \$4,539,265, and the expenditure was \$4,739,110. The necessity of guarding, as far as practicable, by specific legislation, such an amount of income and expenditure, and the duties and liabilities of so many agents, must be apparent.

As has already been remarked, the original design in the establishment of the Post Office Department was that its income should be made to sustain its operations. That principle ought never to be abandoned. Whilst the Department should not be regarded as a source of revenue to the nation, it should never become an annual charge on the Treasury.

Upon assuming the discharge of the duties pertaining to the office of Postmaster General, my first object was to investigate its financial condition; and it becomes my duty to inform you that I did not find it in that prosperous state which the demands upon it require.

The income of this Department is always liable to be affected by the fluctuations of the business of the country. It is increased or depressed in proportion to the increase or depression of that business.

Besides this cause of fluctuation in its income, other causes of a reduction, more or less in every year, may be found in the increased facilities which the travel upon railroads and steamboats furnishes for the transmission of letters and newspapers by private conveyance; secondly, in the great extension, to say nothing of the abuse, of the franking privilege; thirdly, the recent establishment of what are called private expressers, upon the great mail routes of the United States; fourthly, in

the frauds practised up in the Department, in evading, by various devices, the payment of the postage imposed by law.—While all these causes operate to lessen the revenue of the Department, the expenses of transporting the mail are not affected or lessened by them; and I respectfully suggest whether the evils to which I have referred do not deserve the serious attention of Congress, so far as to call for some more specific legislation, whereby they may be removed or suppressed.

The total gross revenue of the Post Office for the fiscal year commencing on the 1st of July, 1840, and terminating on the 30th of June, 1841, was \$4,379,217 78; the total expenditure for the same time was \$4,507,234 89. In this year the expenditure exceeded the revenue by the sum of \$128,017 11. A statement of the expenditures, more in detail, will in due time, as required by law, be reported to Congress.

The precise income and expenditure of the General Post Office cannot be known in any one year, until the close of the fiscal year, and the settlements of all accounts have been completed. Consequently, any statement of expenditure and income, for the present year, is liable to the fluctuations and changes, always incident to the peculiar character of the service.

The expenditures and income of the Department for the current year may, upon estimate, be stated in round numbers as follows:

Total amount of revenue derived from postages, fees, and all other sources, : \$4,340,000

Expense of mail transportation, : 3,145,000
Commission to Postmasters, if the rates of per centage remain unchanged, : 1,015,000
Ship, steamboat, and way letters, : 30,000
Incidental expenses, including blanks, stationery, printing, &c. : 310,000

Total estimated expenditure, 4,490,000
Total estimated income, 4,340,000

\$150,000

Thus it will be seen that the probable amount of expenditure will exceed the amount of revenue, as estimated by \$150,000.

With this deficit presenting itself so palpably to my mind, I have endeavored to infuse into the administration of the service a rigid economy; yet, with all the savings which it may be possible to make by the most rigid economy, I am satisfied the expenditure cannot be reduced within the income, without either reducing the transportation of the mail below the just wants of the community, or in some other mode increasing the revenue of the Department.

To continue the present amount of service, and extend with it the growth and spread of our population, particularly in the West, the present revenue, with its former charges, is evidently inadequate; and a reduction of that service greatly below its present standard would have taken place, unless Congress should make an appropriation from the Public Treasury which I neither ask nor desire to see made.

Upon a view of all the circumstances, and with a perfect sense of the delicate responsibility assumed, I have felt myself imperiously called upon to exercise a power vested by the act of 1825 in the Postmaster General, and have re-adjusted the commission heretofore allowed to deputy postmasters. By this regulation a copy of which is annexed, there will be added to the next annual income of the Department about \$110,000. I thought it better to do this than either to ask Congress for an appropriation or to reduce the transportation of the mail below the just wants of the community.

When it is known that this reduction has been made to enable the Department to send intelligence among the People, by continuing and extending mail facilities, and not in a spirit of parsimonious economy, the liberal and enlightened of all sections will, I am persuaded, approve what has been done; and I will not allow myself to believe that those whom it most immediately affects will view it in an illiberal spirit.

Should Congress, however, not approve of this measure, they will have it in their power, before the order takes effect, to arrest its force; and will no doubt adopt the necessary measures to require the reduction of mail service, or to provide the means of paying the balance which will be due to contractors at the end of the year.

The annexed report of the Auditor of the Post Office Department, marked B, will exhibit the progress which has been made in the adjustment and liquidation of the accounts of postmasters since the 4th of March last.

It is to be expected that among 14,000 deputy postmasters (appointed generally without a personal knowledge of the individuals or their securities) there will be found some who will prove faithless to their trusts, and whose securities are not good for the amount due the department. In view of this, I have instituted a rigid inquiry, not only into the fitness and business qualifications of the postmasters, but the solvency of their securities, from which the best results may be anticipated. This operation, performed in part by the special agents of the Department, under the letter of instructions annexed, marked C, and the prompt settlement of the ac-