THE LIBERATOR
IS PUBLISHED
EVERY FRIDAY MORNING,
AT THE
ANTI-SLAVERY OFFICE, 21 CORNHILL.

ROBERT F. WALLCUT, GENERAL AGENT.

☞ TERMS—Two dollars and fifty cents per annum, in advance.
☞ Five copies will be sent to one address for TEN DOLLARS, if payment be made in advance.
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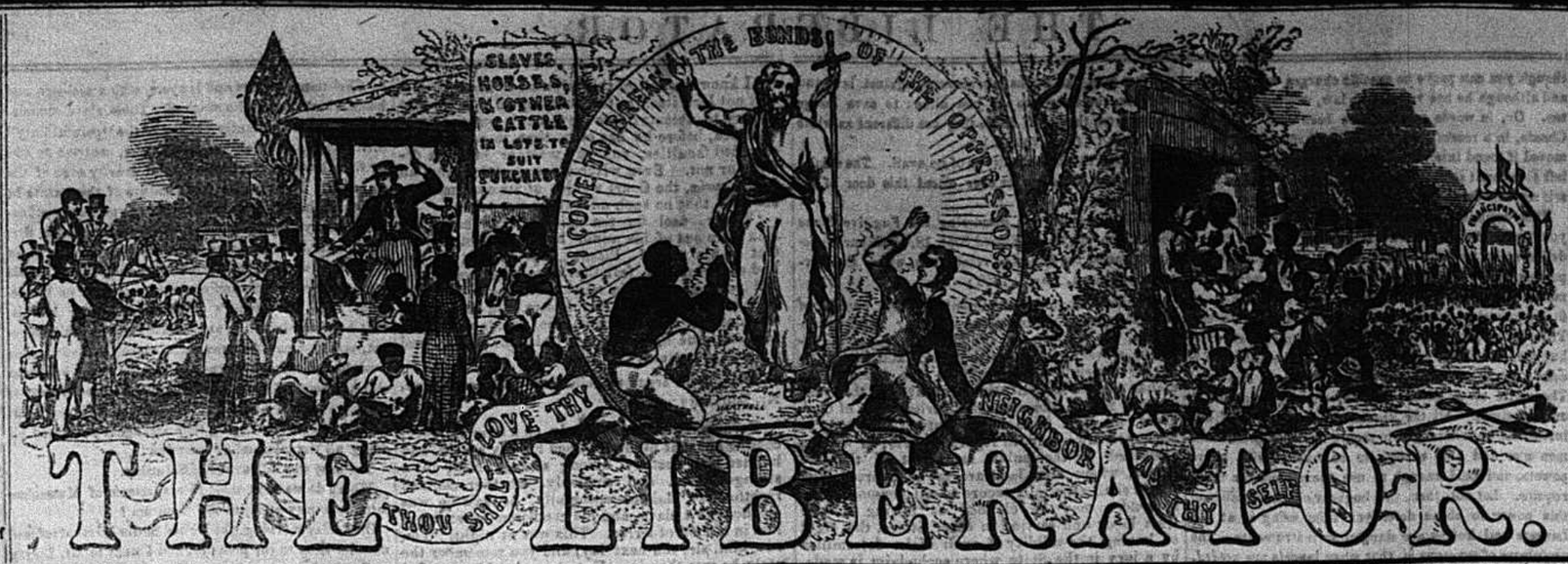
☞ In the columns of THE LIBERATOR, both sides of every question are impartially allowed a hearing.



No Union with Slaveholders!

THE U. S. CONSTITUTION IS 'A COVENANT WITH DEATH AND AN AGREEMENT WITH HELL.'

☞ 'YES! IT CANNOT BE DENIED—the slaveholding lords of the South prescribed, as a condition of their assent to the Constitution, three special provisions TO SECURE THE PERPETUITY OF THEIR DOMINION OVER THEIR SLAVES. The first was the immunity, for twenty years, of preserving the African slave trade; the second was THE STIPULATION TO SURRENDER FUGITIVE SLAVES—an engagement positively prohibited by the laws of God, delivered from Sinai; and, thirdly, the exaction, fatal to the principles of popular representation, of a representation for SLAVES—for articles of merchandise, under the name of persons . . . ?. In fact, the oppressor representing the oppressed! . . . To call government thus constituted a democracy, is to insult the understanding of mankind. It is doubly tainted with the infection of riches and slavery. Its reciprocal operation upon the government of the nation is to establish an artificial majority in the slave representation over that of the free people, in the American Congress; AND THEREBY TO MAKE THE PRESERVATION, PROPAGATION AND PERPETUATION OF SLAVERY THE VITAL AND ANIMATING SPIRIT OF THE NATIONAL GOVERNMENT.'—*John Quincy Adams.*

WM. LLOYD GARRISON, EDITOR.

Our Country is the World, our Countrymen are all Mankind.

J. B. YERRINTON & SON, PRINTERS.

VOL. XXV. NO. 9. BOSTON, FRIDAY, MARCH 2, 1855. WHOLE NUMBER 1076.

THE LIBERATOR.

ARGUMENT*

OF

WENDELL PHILLIPS, ESQ.,

BEFORE THE

COMMITTEE ON FEDERAL RELATIONS,

(OF THE MASSACHUSETTS LEGISLATURE,)

IN SUPPORT OF THE PETITIONS FOR THE REMOVAL OF

EDWARD G. LORING

FROM THE OFFICE OF JUDGE OF PROBATE,

FEBRUARY 20, 1855.

MR. CHAIRMAN, AND GENTLEMEN: The petitions offered you on any one topic are usually all in the same words. On the present occasion, I observe on your table three or four different forms. This is very significant. It shows they do not proceed from a central committee which has been organized to rouse the Commonwealth. They speak the instinctive, irrepressible wish of all parts of the State. It is the action of persons of different parties, sects and sections, moving independently of each other, but seeking the same object. Some persons have sneered at these petitions, because women are found among the signers. Neither you, Gentlemen, nor the Legislature, will maintain that women, that is, just one half of the Commonwealth, have no right to petition. A civil right which no one denies even to foreigners, will not certainly be denied to the women of Massachusetts. And is there any one thoughtless enough to affirm, that this is not a proper occasion for women to exercise their right? These petitions ask the removal of a *Judge of Probate*. Probate Judges are the guardians of widows and orphans. Women have a peculiar interest in the character of such Judges. He chooses an exceedingly bad occasion to laugh, who laughs when the women of the Commonwealth ask you to remove a Judge of Probate who has shown that he is neither a humane man nor a good lawyer. In the whole of my remarks, Gentlemen, I beg you to bear in mind that we, the petitioners, are asking you to remove, not a *Judge*, merely, but a Judge of *Probate*—a magistrate who is, in a peculiar sense, the counsellor of the widow and the fatherless.

The family, in the moment of terrible bereavement and distress, must first stand before him. To his discretion and knowledge are committed most delicate questions, large amounts of property, and very dear and vastly important family relations. Surely, that should not be a rude hand which is thrust among chords which have just been sorely wruug. Surely, he should be a wise and most trustworthy man, who is to settle questions, on many of which, from the nature of the case, there can, practically, be no appeal. His Court is not watched by a jury. It is silent and private, and has little publicity in its proceedings. He should therefore be most emphatically a magistrate able to stand alone: whose rigid independence cannot be overawed, or swayed by cunning or able individuals about him—one skillful in the law, and who, while he holds the scales of justice most exactly even, has a tender and humane heart—one whose generous instincts need no prompting from without.

Some object to the petitions that they ask you to do an act fatal to the independence of the Judiciary. The petitioners are asked whether they do not know the value and importance of an independent Judiciary. Mr. Chairman, we are fully aware of its importance. We know as well as our fellow-citizens, the unspeakable value of a high-minded, enlightened, humane, independent, and just Judge—one whom neither fear, favor, *affection*, nor hope of reward, can turn from his course. It is *because* we are so fully impressed with this, that we appear before you. Taking our history as a whole, we are proud of the Bench of Massachusetts. You have given no higher title than that of a Massachusetts Judge to Sewall, to Sedgwick, to Parsons. Take it away, then, from one who volunteers, hastens, to execute a statute which the law, as well as the humanity, of the nineteenth century, regards as infamous and an outrage. We come before you not to attack the Bench, but to strengthen it, by securing it the only support it can have under a government like ours—the confidence of the people. You cannot legislate Judges into the confidence of the people. You cannot preach them into it. Confidence must be earned. To make the name of Judge respected, it must be worthy of respect—must never be borne by unworthy men. It never will be either respected or respectable while this man bears it. I might surely ask his removal in the names of the Judges of Massachusetts, who must feel that this man is no fit fellow for them. The special reasons why we deem him an unfit Judge, I shall take occasion to state by and by. At present, I will only add, that it is not, as report says, merely because he differs from us on the question of slavery that we ask his removal. It is not for an honest, or any other, difference of opinion that we ask it; but, as I shall presently take occasion to state, for far other and very grave reasons.

I do not know, Gentlemen, what course of remark the remonstrant, or his counsel, may adopt; but I have thought it necessary to say so much, in order that they may understand our position, and thus avoid any needless enlargement upon our want of respect for the function or appreciation of the value of an independent, high-minded Judiciary. You will see, in the course of my remarks, that it is because this incumbent has sinned against that characteristic that we appear here.

Gentlemen, these petitions, though variously worded, all ask you to 'take proper steps for the removal of Edward Greely Loring from office'—'*proper steps.*' It is for the Legislature to decide what the 'proper steps' are.

In proceeding to remark on the proper method of procedure in this case, you will bear in mind that I, necessarily, perhaps, go over more ground than the progress of this discussion may show to have been necessary; because, of course, I must be entirely ignorant what ground the remonstrant, or his counsel, will take. I must, therefore, cover *all* the ground.

You are of course aware, Gentlemen, that originally all Judges were appointed by the King, and held their office as long and on such conditions as he pleased to prescribe. Some held as long as they behaved well—'*during good behavior*,' as our Constitution translates the old law Latin—*quamdiu se bene gesserint*; others held during the pleasure of the King—*durante bene placito*, as the phrase is. This, of course, made the Judges entirely the creatures of the King. To prevent this, and secure the independence of the Judges, after the English Revolution of 1689, it was fixed by the Act of Settlement, as it is called, that the King should not have the power to remove Judges, but that they should hold their offices '*during good behavior.*' They were still, however, removable by the King on address from both Houses of Parliament.

Hallam, in his Constitutional History, states, very tersely, the exact state of the English law, and it is precisely the law of this Commonwealth, also, in these words: 'No Judge can be dismissed from office, except in consequence of a conviction for some offence, or, *the address of both Houses of Parliament*, which is tantamount to an act of legislation.'—*Const. Hist., Am. Ed. p.* 597.

To come now to our Commonwealth. There are, as I have just intimated, two ways of removing a Judge, known to the Constitution; one is, by impeachment, and the other is, by address of the Legislature to the Governor. A Judge who commits a crime, whether in his official capacity or not, may be punished by indictment precisely as any other man may,—this principle may be left out of the question. A Judge, who, sitting on the bench, transgresses the laws in his official capacity, may be impeached by the House of Representatives before the Senate, as a Court of Impeachment, and removed.—*Mass. Const., chap.* 1, *sec.* 2, 8.

The petitioners do not ask you to impeach Judge Loring. Why? Because they do not come here to say that he has been guilty of *official misconduct*. To render a Judge liable to impeachment, he must be proved to have misconducted *in his official capacity*. I shall not go into the niceties of the law of impeachment. One would suppose, from the arguments of the press at the present time, and their comments on Mr. Loring's remonstrance, that a Judge could not be impeached unless he had violated some express law. This is not so. It has been always held, that a Judge may be guilty of *official misconduct*, and liable to impeachment, who had not violated any positive statute. It is enough that the act violates the principles of the common law. All authorities agree in this, and some would seem to lay down the rule still more broadly. (See Story's Const., Bk. 3, ch. 10, §796–8, and Chief Justice Shaw's argument when counsel against Prescott—Prescott's Trial, p. 180.) As the Constitution confines the process of impeachment to cases of *official misconduct*, and as we do not pretend that Mr. Loring, *sitting as a Judge of Probate*, has been guilty of any such, I pass from this point.

But the Constitution provides another form, which is, that a Judge may be removed from office by address of both Houses to His Excellency, the Governor. In the first place, gentlemen, let me read to you the source of this power. 'All Judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such, concerning whom there is a different provision made in this Constitution: provided nevertheless, the Governor, with consent of the Council, may remove them upon address of both Houses of the Legislature.' (Cons. of Mass. Chap. III. Art. 1.) '*Provided nevertheless*, the Governor, with the consent of the Council, may remove him upon the address of both Houses of the Legislature.' Now, gentlemen, looking on the face of that, it would be naturally inferred, that, notwithstanding his 'good behavior,' and without alleging any violation of it, a Judge could, nevertheless, be removed by address; that an 'address' need not be based on a charge of official misconduct,—that an 'address' need not be based on a charge of illegal conduct, in any capacity. This seems so clear that I should have left this point without further remark, if Mr. Loring had not placed upon your files a remonstrance against the prayer of these petitioners, which remonstrance (I will not occupy your time by reading it) is based upon the principle, that it would be a hard and unjust procedure, if either House should address the Governor against him, seeing that he has not violated any State law, or done anything that was illegal, or that was prohibited by the laws of Massachusetts, and alleging that he has only acted in conformity with the official oath of all officers of the State to support the Constitution of the United States. The defence of the remonstrant, as far as we are informed of it, is, that he ought not to be removed, because he has violated no *law* of Massachusetts. To that plea, gentlemen, I shall simply reply:—The method of removing a judge by 'address' does not require that the House or Senate should be convinced that he has violated any law whatever. Grant all Mr. Loring states in his remonstrance, that he has broken no law—that he stands legally impeccable before you; which, in other words, is simply to say that he cannot be indicted. If he had violated a law, he could be indicted. He comes to this House and says, in effect, 'Gentlemen, I cannot be indicted, *therefore*, I ought not to be removed.' The reply of the petitioners is, A man may be unfit for a Judge long before he becomes fit for the State prison. Their reply is (leaving for the time all question of impeachment) it is not necessary that a judge should render himself liable to indictment in order to be subject to be removed by 'address.' He can be removed (as my brother who proceeded me [SETH WEBB, Jr., Esq.] has well said) for any cause, which the Legislature, in its discretion, thinks a fitting cause for his removal. Even if he has not violated any law of the Commonwealth, written or unwritten, still he may be removed, if the Legislature thinks the public interest demands it. The matter is entirely within your discretion. My proof of this is, first, the language of the Constitution. The Constitution says:—'The Senate shall be a court with full authority to hear and determine all impeachments made by the House of Representatives against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices.' (Chap. I., Sec. 2, Art. 8.) Now, suppose it true, as some claim, that such *misconduct* must amount to a violation of positive law, that nothing short of that will justify impeachment. The mere fact that the Constitution provides another way, would be *prima facie* evidence that it meant to lay a broader foundation for removal; else, why *two* methods? If in his office he had outraged the laws of the State, he could be impeached. Is not one remedy sufficient? Why does the Constitution provide another? Because the people, through their Constitution, meant to say, 'We will not have judges that cannot be removed unless they violate a statute. We will provide, that in case of any misconduct, any unfitting character, any incapacity or loss of confidence, the supreme power of the Legislature may intervene and remove them.' If impeachment applies only to *official* misconduct expressly prohibited by statute, as seems to be claimed, then, from the existence of another additional method in the Constitution, one would naturally infer that this other power referred to misconduct *not* official, and *not* expressly prohibited by statute. In addition to the mere letter of the Constitution, and the inference from the fact of two powers being granted, we have the action of the Commonwealth in times past. I have not time for historical details, but the power of address, whenever it has been used in this Commonwealth, has been used to remove Judges who had not violated any law. Judge Bradbury was removed, I think, for mental incapacity, resulting from advancing age. Of course, intellectual inefficiency is not impeachable; it is not such 'misconduct or mal-administration' as renders a man liable to impeachment: but the Constitution, in order to cover the whole ground, has left with the Legislature the power to remove an inefficient Judge—a Judge who has grown too old to perform his duties.

But it happens that this clause of the Constitution has been passed upon,—not, indeed, by the Supreme Court, but, I may say, by equally high authority. It has been expounded by some of the ablest men the Commonwealth ever knew, and in circumstances which preclude the idea of prejudice or passion. It is fortunate for these petitioners, in regard to this claim of the power of the Legislature, (which it is said Mr. Loring's friends intend to deny, and which his remonstrance does practically deny)—it is fortunate for them, that in the Constitutional Convention of Massachusetts, in 1820, this clause of the Constitution was deliberately discussed. It was discussed, Gentlemen, not when there was a case before the Commonwealth, when men were divided into parties, when personal sympathy or antipathy might bias men's judgments, but when the debaters were in the most unimpassioned state of mind;—statesmen, endeavoring to found the laws of the Commonwealth on the best basis. The discussion was long and able. I shall read you the sentiments of different gentlemen who took part in that discussion, for this purpose,—to show you that this Legislature has an unlimited power of removal for any cause—whether the law has been violated or not—whether acts were done by a Judge in his official capacity or any other. Allow me to remind you, gentlemen, that there are two questions you are bound to ask. The first is, *Can* we remove a Judge who is not guilty of any *official misconduct*, or any violation of statute law, in any capacity? The second is, If we have the power, *ought* we to exercise it in the present case? 1st. Have we this power? 2d. Ought we to exercise it?

I propose to read you extracts from the speeches in the Mass. Conv. of 1820, to show that the Legislature has, in the judgment of our ablest lawyers and statesmen, an unlimited authority to ask the removal of Judges whenever it sees fit, and for any cause the Legislature thinks sufficient: that the PEOPLE, the original source of all power, have not parted with their sovereignty in this respect—did not intend to part with it, and did not part with it. When I have convinced you, if I shall succeed in convincing you, that you have this authority, I shall, with your permission, say a few words to enforce the other point, that you ought to exercise it according to the prayer of the petitioners.

'In the first place, I read the clause of the Constitution: 'The Governor, with consent of the Council, may remove them [judicial officers] upon the address of both Houses of the Legislature.' The Constitutional Convention which met in 1820, appointed a Committee to take this clause into consideration. That Committee consisted of Messrs. Story of Salem, (afterwards Judge Story, of the Supreme Court of the United States,) John Phillips of Boston, (Judge of the Common Pleas Court of Massachusetts, and President of the Senate,) Martin of Dorchester, Cummings of Salem, (Judge of the Common Pleas,) Levi Lincoln of Worcester, (afterwards Judge of our Supreme Court, and Governor of the Commonwealth,) Andrews of Newburyport, Holmes of Rochester, Hills of Pittsfield, Austin of Charlestown, High Sheriff of Middlesex county,) Leland of Roxbury, (afterwards Judge of Probate for Norfolk county,) Kent of West Springfield, Shaw of Boston, (Present Chief Justice of the Commonwealth,) Marston of Barnstable, Austin of Boston, (since Attorney-General of the Commonwealth,) and Bartlett of Medford—a Committee highly respectable for the ability and position of its members. Permit me to read a section of their Report, (p. 136:)—

'By the first article of the Constitution, any judge may be removed from his office by the governor, with the advice of the council, upon the address of a bare majority of both houses of the Legislature—the Committee are of opinion that this provision has a tendency materially to impair the independence of the judges, and to destroy the efficacy of the clause which declares they shall hold their offices during good behavior. The tenure of good behavior seems to the Committee indispensable to guard judges on the one hand from the effects of sudden resentments and temporary prejudices, entertained by the people, and on the other hand, from the influence which ambitious and powerful men naturally exert over those who are dependent upon their good will. A provision which should at once secure to the people a power of removal in cases of palpable misconduct or incapacity, and at the same time secure to the judges a reasonable permanency in their offices, seems of the greatest utility; and such a provision will, in the opinion of the Committee, be obtained by requiring that the removal, instead of being upon the address of a *majority*, shall be upon the address of *two thirds* of the members present of each house of the Legislature.'

'The Committee, you see, gentlemen, acknowledge that there is unlimited power; they think that power dangerous; they advise that it should be limited—how? Observe, even this Committee, although they say they think it dangerous, do not advise it should be stricken out; but they advise it should be limited by requiring a two-thirds vote, and this is all.

Remember, gentlemen, that I read the following extracts, not to show the opinion of this Convention as to the value or the danger of this power; I merely wish to show you that, in the opinion of the ablest lawyers of the State, the Constitution, as it then stood, (and *it stands now precisely as it stood then*,) gave to this Legislature unlimited authority to remove Judges, for any cause they saw fit; and that while all the speakers were fully aware of its liability to abuse, no speaker denied its unlimited extent, or proposed to strike the power from the Constitution. After that report had been put in, the Convention proceeded to take it up for discussion.

The first gentleman who joins, to any purpose, in the debate, is SAMUEL HUBBARD, Esq., perhaps, beyond all comparison, the fairest-minded as well as one of the ablest lawyers of the Suffolk bar; and, let me add, that after a life passed in the most responsible practice of his profession, he finished it on the bench of the Supreme Court. His testimony is the more valuable, because Mr. Hubbard thought this provision eminently dangerous. But he says:—

'The constitution was defective in not sufficiently securing the independence of judges. He asked if a judge was free when the Legislature might have him removed *when it pleased*. * * * The tenure of office of judges was said to be during good behavior. Was this the case, when the Legislature might deprive them of their office, *although they had committed no crime*? * * * No Justice of the Peace was allowed to be deprived of his office without a hearing, but here the judges of the highest court might be dismissed without an opportunity of saying a word in their defence.'

Then comes Chief Justice LEMUEL SHAW:—

'The general principle was, that they should be independent of the other persons during good behavior. What is meant by good behavior? The faithful discharge of the duties of the office. If not faithful, they were liable to trial by impeachments. But cases might arise when it might be desirable to remove a judge from office *for other causes*. He may become incapable of performing the duties of the office without fault. He may lose his reason, or be *otherwise incapacitated*. It is the theory of our government, that no man shall receive the emoluments of office, without performing the services, though he is incapacitated by the providence of God. It is necessary, therefore, that there should be provision for this case. But in cases when it applies, the reason will be so manifest as to command a general assent. It must be known so as to admit of no doubt, if a judge has lost his reason, or become incapable of performing his duties. As it does not imply misbehavior, if the reason cannot be made manifest so as to command the assent of a great majority of the Legislature, of two-thirds, at least, there can be no necessity for the removal. *By the constitution as it stands, the judges hold their offices at the will of the majority of the Legislature.* He confessed with pride and pleasure that the power had not been abused. But it was capable of being abused. If so, it ought to be guarded against. That could be done by requiring the voice of two thirds of each branch of the Legislature.'

Then comes WILLIAM PRESCOTT, a name well known here and the world over. He was a man of English make; taciturn, of few words, no diffuse American talker. He spoke little, but each word was worth gold. His rare civil virtues, great ability, and eminently judicial mind, added lustre to a name that was heard in the van of Bunker Hill fight.

'What security have they [Judges] by the constitution? They hold their offices as long as they behave well and no longer. They are impeached when guilty of misconduct. It is the duty of the House of Representatives, constituting the grand inquest of the Commonwealth, to make inquiry—for the Senate to try, and if guilty, to remove them from office. *There may be other cases in which they ought to be removed, when not guilty of misconduct in office, but for infirmity.* Provision is made for these cases, that the two branches of the Legislature concurring with the Governor and Council, may remove judges from office. He did not object to this provision, if it was restrained so as to preserve the independence of the judges. They should be independent of the Legislature and of the Governor and Council. But now, there is no security. The two other departments may remove them without inquiry—without putting any reason on record. It is in their power to say that the judges shall no longer hold their offices, and that others more agreeable shall be put in their places. He asked, was this independence?'

There may be 'other cases' in which they ought to be removed when not guilty of misconduct in office, but from infirmity. Is not that exactly what the petitioners claim? There being no misconduct in office, no violation of the precise statutes of the Commonwealth, comes the case described by Mr. Prescott, where a Judge ought to be dismissed for 'infirmity'—for we maintain that there was a cruel 'infirmity.' 'He did not object to this provision' if properly restrained, (that was the old Federalist; the man who never was inclined to trust the people too far; the man who was in favor of a strong government!)—'he did not object to this provision;' all he asked was a two-thirds vote.

Then comes Mr. DANIEL DAVIS, of Boston. You may not have known him, gentlemen; but those of us who are older, remember him as the Solicitor General for the Commonwealth of Massachusetts. He says:—

'If the resolution were before the Committee in a form which admitted of amendment, he would propose to alter it in such manner that the officer to be removed should have a right to be heard. No reason need now be given for the removal of a Judge, but that the Legislature do not like him.'

He did not deny the power, did not question its utility; all he wanted was, that the officer should be heard. 'No reason need be given, but that the Legislature do not like him.' Is not this unlimited power? The claim of Mr. Loring is, substantially, that you abuse your power, unless you charge, and prove, that he has offended against a statute 'in such case made and provided.' Mr. Daniel Davis says—'No reason need be given for the removal of a Judge, but that the Legislature do not like him.' That is his idea of the power of this Legislature.

Then comes Mr. HENRY H. CHILDS, of Pittsfield. I do not know his history. He did not want the Constitution changed at all; he did not ask even the two-thirds vote. Mr. Childs says:—

'It was in violation of an important principle of the government, that the majority of the Legislature, together with the Governor, should not have the power of removal from office. This power was in accordance with the principle of the Bill of Rights. It was imperative in the advocates of this resolution to show that it was necessary to intrench this department of the government for its security. They had not shown it; on the contrary, we were in the full tide of successful experiment. The founders of the Constitution intended to put the judiciary on the footing of the fullest independence, consistent with their responsibility.'

'This power was in accordance with the provisions of the Bill of Rights.' What are these? Section V. of the Bill of Rights reads thus:—

'All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.'

Mr. Loring knew under what conditions he was taking office. He knew this provision in the Declaration of Rights, that the people retain all power, and that all Magistrates, 'vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them,'—in office and out of it. Section VIII. says further:—

'In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.'

No man has a right to criticise here the manner in which the removal is effected. Let them go elsewhere than to this tribunal, if they say it is a bad power. The people retain the right, at such periods, and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life.

That is the principle of our Declaration of Rights. Mr. Childs says,—'The founders of the Constitution intended to put the Judiciary on the footing of the fullest independence, *consistent with their responsibility*.'—no more.

Then Mr. CUMMINGS, of Salem, afterwards Judge, rose. He says:—

'In this State, they cannot be removed on address of the Legislature, but with the consent of the Council. Was not this a sufficient guard! Another part of the Constitution protects them when accused of crimes. This provision is not intended to embrace cases of crime—it is only for cases when they become incompetent to discharge their duties. May not the people, by a majority, determine whether judges are incompetent?'

Mr. Loring says, 'Show me my crime!' Mr. Cummings says, 'This provision is not intended to embrace cases of crime.'

LEVI LINCOLN, of Worcester, comes next. He was then a Democrat,—since Governor, and Judge:—

'He was entirely satisfied with the constitution as it was. He had never heard till now, and was now surprised to hear, that there was any want of independence in the judiciary. He had heard it spoken of in charges, sermons, and discourses in the streets, as one of the most valuable features of the constitution—that it established an independent judiciary. He inquired was it dependent on the Legislature? It was not on the Legislature nor on the executive. No judge could be removed but by the concurrent act of four coördinate branches of the government—the House of Representatives, the Senate, with a different organization from the House, the Governor, and the Council. Was it to be supposed that all these should conspire together to remove a useful judge? But it was argued that future Legislatures might be corrupt. This was a monstrous supposition. He would rather suppose that a judge might be corrupt. It was more natural that a single person should be corrupt than a numerous body. The proposed amendment was said to be similar to provisions of other governments. There was no analogy—because other governments are not constituted like ours. It was said that judges have estates in their offices—he did not agree to this doctrine. The office was not made for the judge, nor the judge for the office; but both for the people. There was another tenure—*the confidence of the people.* It was that which had hitherto occurred here. Have we, then, less reason to confide in posterity, than our ancestors had to confide in us!'

Then follows Mr. DANIEL WEBSTER. He had recently come to the State. Joining the debate, he says:—

'As the constitution now stands, all judges are liable to be removed from office by the Governor, with the consent of the Council, on the address of the two houses of the Legislature. It is not made necessary that the two houses should give any reasons for their address, or that the judge should have an opportunity to be heard. I look upon this as against common right, as well as repugnant to the general principles of the government. * * *

'If the Legislature may remove judges at pleasure, assigning no cause for such removal, of course it is not be expected that they would often find decisions against the constitutionality of their own acts.''

These are Webster's words; and you will remember, Mr. Chairman, that the Constitution stands, in 1855, just as it stood when Webster was speaking. I cite the language to show what Mr. Webster understood to be the Constitution of Massachusetts—that you could remove a Judge without giving *any* reason—'at your pleasure'—without hearing him. Now, what does he propose to do? Does he propose to strike out that provision? No, Sir! he does not even propose a two-thirds vote:—

'In Pennsylvania, the Judges may be removed, 'for any reasonable cause,' on the address of *two thirds* of the two Houses. In some of the States, *three fourths* of each House is required. The new Constitution of Maine has a provision, with which I should be content; which is, that no judge shall be liable to be removed by the Legislature till the matter of his accusation has been made known to him, and he has had an opportunity of being heard in his defence.'

He says that the Constitution gives you the power to remove, and all he asks is, that before doing it, you should allow the Judge an opportunity to be heard.

The fact is, gentlemen, you have, according to Mr. Webster, the power to shut that door, and, without assigning any reason whatever, vote a Judge out of office, and send him word that he is out; the Constitution does not guarantee him any thing else than that, Webster wanted it amended; the Convention submitted a proposition for amendment; but the people declined to accept it. This absolute sovereignty of Massachusetts, which, ever since the colonies, had been held on to by the people, of that they were unwilling to yield a whit.

The debate continues, and Mr. CHILDS again joins in it:—

'The object in giving the power to the Legislature was, that judges might be removed when it was the *universal sentiment of the community that they were disqualified for the office*, although they could not be convicted on impeachment.'

Can you ask any thing more definite than that? Nobody denied it. 'The object of giving this power to the Legislature was, that Judges might be removed, when it was the universal sentiment of the community that they were disqualified for the office, although they could not be convicted on impeachment.'

Gentlemen, I would not weary your patience by long extracts; I am giving you only the general current of the discussion. The next speaker is JAMES TRECOTHICK AUSTIN,—the name of one who will not be suspected of being too favorable to the rights of the people; it is not often that I have an opportunity to quote him on my side. 'Nobody objects to this provision,' said Mr. Austin. There sat Prescott, Shaw, Webster, Story, Lincoln,—the men whom you look up to as the lights of this Commonwealth; but—'nobody objects to this provision'!

'Nobody objects to this provision. The House of Representatives is the grand inquest—they are tried by the Senate, and have the right of being heard. But the Constitution admits that there may be cases in which judges may be removed without supposing a crime. But how is it to be done by this resolution!—there are to be two trials, when for the greater charge of a high crime he has only one. It so obstructs the course of proceeding, that it will never be used. He would suppose the case, not of mental disability—*but the loss of public confidence.* He knew that such cases were not to be anticipated. But he would look to times when the principle might be brought into operation—when the judge, by indulging strong party feelings, or from any other cause, should so far have *lost the confidence of the community that his usefulness should be destroyed. He ought in such cases to be removed; but if witnesses were to be summoned to prove specific charges, it would be impossible to remove him. A man may do a vast deal of mischief and yet evade the penalty of the law—a judge may act in such a manner that an intelligent community may think their rights in danger, and yet commit no offence against any written or unwritten law.* Men are more likely to act in such manner as to render themselves unworthy to be trusted than so as to subject themselves to trial. The great argument for the amendment is, that it is necessary to secure the independence of the judiciary. He was in favor of the principle, but it had its limitations. While we secure the independence of the judges, we should remember that they are but men, and sometimes mere partisans.'

The remonstrant here says,—I have not touched a statute. Mr. Austin says,—no matter whether you have or not—'a man may do a vast deal of mischief, and yet evade the penalty of a law.' Then he says he has heard a great deal of the weakness of the Judiciary. He says the Judiciary is not weak. Should you chance to see the remonstrant here attended by eminent legal relatives and friends, you will remember this:—

'The Court were besides attended by a splendid and powerful retinue—the bar. They have great influence from their talents, learning, and *esprit du corps*, and as an appendage to the Court, they give them a great and able support. He did not admit that the judiciary was a weak branch of the government, but on the contrary, it was a strong branch.'

Then comes Judge STORY. If any body ever was, I may say, a little crazy on the subject of the independence of the Judges, it was the late able and learned Judge Story—at least, during the last half of his life. What does he say? He says:—

'The Governor and Council might remove them (Judges) on the address of a majority of the Legislature, not for crimes and misdemeanors, for that was provided for in another manner, but for no cause whatever—no reason was to be given. A powerful individual, who has a cause in Court which he is unwilling to trust to an upright judge, may, if he has influence enough to excite a momentary prejudice, and command a majority of the Legislature, obtain his removal. He does not hold the office by the tenure of good behavior, but at the will of a majority of the Legislature, and they are not bound to assign any reason for the exercise of their power. *Sic volo, sic jubeo, stet pro ratione voluntas.* (Thus I wish it; thus I order; let my will stand for a reason.) This is the provision of the Constitution, and it is only guarded by the good sense of the people. He had no fear of the voice of the people, when he could get their deliberate voice—but he did fear from the Legislature, if the judge has no right to be heard.''

That is the opinion of the learned Judge Story as to the power of the Legislature. 'I have no fear of the voice of the people,' says Judge Story. All he proposed was, that the Judge should have an opportunity to be heard. Then he states, with that exceeding simplicity for which the good Judge was remarkable, that 'for forty years past, it had so happened that the Judges had, except for a few years, always agreed with the party in power'!!!

What was the result of this discussion? The Convention proposed to the people—what! That no Judge should ever be removed without notice. The people voted on that amendment, voted NAY, and declined to insert it in the Constitution.

Now, gentlemen, what is my argument? Here is a debate on this clause, not by men heated with passion, not by men with party purposes to serve, but by men acting as statesmen, in the coolest, most deliberate and temperate mood—men of various parties, Whig and Democratic, of that day, and every one of them asserts, without a dissenting voice, that this provision is inserted for the purpose of giving the Legislature the power to remove a Judge, when he has not violated any law of the Commonwealth. In addition to this, gentlemen, I will read the remark of Chief Justice Shaw, when he was counsel for the House against Judge Prescott, of Groton, who was removed on impeachment, you will recollect, in 1821. On that occasion, Judge Shaw was counsel for the House of Representatives, and made some comments on this provision, which, as his opinion

*Printed from the phonographic report of J. M. W. YERRINTON, revised and enlarged by Mr. PHILLIPS.

has a deserved weight in matters of constitutional law, it is well to read here. He says:—

'It is true, that by another course of proceeding, warranted by a different provision of the Constitution, any officer may be removed by the Executive, at the will and pleasure of a bare majority of the Legislature; a will, which the Executive in most cases would have little power and inclination to resist. The Legislature, without either allegation or proof, has but to pronounce the *sic volo, sic jubeo*, and the officer is at once deprived of his place, and of all the rank, the powers and emoluments belonging to it. And yet, perhaps, this provision, (whether wise or not, I will not now stop to consider,) is hardly sufficient to justify the extraordinary alarm which has been so eloquently expressed for the liberty and security of the people, or to affix upon the Constitution the charge of containing features more odious and oppressive than those of Turkish despotism. The truth is, that the security of our rights depends rather upon the general tenor and character, than upon particular provisions of our Constitution. The love of freedom and of justice—so deeply engraven upon the hearts of the people, and interwoven in the whole texture of our social institutions—a thorough and intelligent acquaintance with their rights—and a firm determination to maintain them—in short, those moral and intellectual qualities, without which, social liberty cannot exist, and over which despotism can obtain no control—these stamp the character and give security to the rights of the free people of this Commonwealth. So long as such a character is maintained, no danger perhaps need be apprehended from the arbitrary course of proceeding, under the provision of the Constitution, to which I have alluded. But, Sir, we have never for a moment imagined, that the proceedings on this impeachment could be influenced or affected by that provision. The two modes of proceeding are altogether distinct, and in my humble apprehension, were designed to effect totally distinct objects. No, Sir; had the House of Representatives expected to attain their object, by any means short of the allegation, proof and conviction of criminal misconduct, an address and not an impeachment would have been the course of proceeding adopted by them.'

These well-considered and weighty sentences of Chief Justice Shaw show his idea of the extent of your power, and will relieve your minds of any undue apprehension as to the danger of its exercise.

The people of Massachusetts have always chosen to keep their Judges, in some measure, dependent on the popular will. It is a colonial trait, and the sovereign State has preserved it. Under the King, though he appointed the Judges, the people jealously preserved their hold on the Bench, by keeping the salaries year by year dependent on the vote of the popular branch of the Legislature. This control was often exercised. When Judge Oliver took pay of the King, they impeached him. (See Washburn's Judicial History of Massachusetts, 139, 160.) When the Constitution was framed, the people chose to keep the same sovereignty in their own hands. Independence of Judges, therefore, in Massachusetts, gentlemen, means, in the view of Mr. Childs, 'the fullest independence consistent *with their responsibility*.'

The opinions I have read to you derive additional weight from the fact, that all the speakers were aware of the grave nature of this power, and some painted in glowing colors how liable to abuse it was. Still, not one proposed to take it from you. The most anxious only asked to check it by requiring a two-thirds vote. This proposition the Convention refused to accept; the utmost the Convention would recommend to the people was, that the Judge should have notice and liberty to defend himself. Even this limitation on your power, the people refused to adopt. They were fully warned, and deliberately, on mature reflection, decided that it was safe and wise to entrust you with *unlimit*[illegible]*tion* in this respect. With such a page in our history, it is not competent for the press or the friends of Judge Loring to argue that no such power ought to have been given you, and that it is too dangerous to be used. The people alone have the right to decide that question, and *they have decided it.* When, after full deliberation, they gave you the power, they said, in effect, that occasions might arise requiring its exercise, and on such fitting occasions, they wished it exercised. Doubtless, gentlemen, this is a grave power, and one to be used only on important occasions. We are bound to show you, not light and trifling reasons for the removal of Judge Loring, but such grave and serious reasons, such weighty cause, as will justify your interference, and make this use of your authority strengthen rather than weaken the proper independence of the Bench.

Indeed, the power is in itself a wise, good, and necessary one, and should be lodged somewhere in every government. The Boston papers, in all their arguments on this point, take it for granted that the People are to be always under guardianship—that Government is a grand Probate Court to prevent the People—the insane and always under-age People—from wasting their own property and cutting their own throat. Not such is the theory of Republican Institutions. The true theory is, that the People came of age on the 4th day of July, 1776, and *can be trusted* to manage their own affairs. The People, with their practical common sense, instinctive feeling of right and wrong, and manly love of fair play, are the true conservative element in a just government. It is true, the People are not always right; but it is true also, that the People are not often wrong—less often, surely, than their leaders. The theory of our government is, that the purity of the Bench is a matter which concerns every individual. Whenever, therefore, guilt, recklessness, or incapacity, shield themselves on the Bench, by technical shifts and evasions, against direct collision with the law, it is meant that the reserved power of the People shall intervene, and save the State from harm.

It is easy to conceive many occasions for the exercise of such a power. How many men among us, by gross misconduct in Railroad or Banking Companies, have incurred the gravest disapprobation, and yet avoided legal conviction? Suppose such men had been at the same time Judges—will any one say they should be continued on the Bench? Yet, on the remonstrant's theory, it would be an 'abuse of power' to impeach or 'address' them off the Bench! Suppose a Judge by great private immorality incurs utter contempt—is drunk every day in the week except Probate Court day—shall he, because he is cunning enough to evade statutes, still hide himself under the ermine? Suppose a Judge of Probate should open his Court on the days prescribed by the statute, and close it in half an hour, as your Judge Loring did when he shut up the Probate Court of Suffolk on Monday, the 29th day of May, to hurry forward the kidnapping of Anthony Burns. Suppose some Judge should thus keep his Court open only five minutes each Probate day the whole year through. He violates no statute, though he puts a stop to all business; yet, according to the arguments of the press and the remonstrant, it would be a *gross abuse of power* to impeach him, or address the Governor for his removal, since he has violated no law!

Not such was the good old doctrine. In the Prescott case, Judge Shaw went so far as to contend that a Judge might not only be removed by address, but *impeached* for 'misconduct and mal-administration in office, . . . of such a nature that the ordinary tribunals would not take notice of or punish them, in their usual course of proceedings, and according to the laws of the land, and for which, therefore, the offender would not be indictable.' (*Prescott's case*, p. 180.)

You may think, gentlemen, that I have occupied too much time in proving the unlimited extent of your power. But it seems necessary, since the press which defends the remonstrant, and he also, though they do not in words deny your unlimited authority, do so in effect. They claim that you destroy the independence of the Bench, and *abuse* your power, if you exercise it in any case but a clear violation of law. This is a practical annihilation of the power. This claim loses sight of the very nature and intent of the power, which is well stated by Mr. Austin, when he says a Judge who has lost the confidence of the community, ought to be removed, though you can prove no specific charges against him, and although he has violated no law, written or unwritten. Or, in words said to have been used by Rufus Choate, in a recent case, 'A Judicial officer may be removed if found intellectually incapable, or if he has been left to commit some great enormity, so as to show himself morally deranged.'

This unlimited power, then, gentlemen, is one that you undoubtedly possess. It is one that the people deliberately planned and intended that you should possess. It is one which the nature of the government makes it necessary you should possess, and that, on fitting occasion, you should have the courage to use. True, it is a grave power. But what is all government but the exercise of grave powers? 'When the sea is calm, all boats alike show mastership in floating.' The merit of a government is, that it helps us in critical times. All the checks and ingenuity of our institutions are arranged to secure for us in these Halls men wise and able enough to be trusted with grave powers, and bold enough to use them when the times require. Let not, then, this bugbear of the liability of this power to abuse deter you from using it at all. Lancets and knives are dangerous instruments. The usefulness of surgeons is, that when lancets are *needed*, somebody may know how to use them and save life.

Has, then, a proper case occurred for the exercise of this power? In other words, ought you now to exercise it? The petitioners think you ought, and for the following reasons:—

First. When Judge Loring issued his warrant in the Burns case, he acted in defiance of the solemn convictions and settled purpose of Massachusetts—convictions and purpose officially made known to him, with all the solemnity of a statute.

In order to do him the fullest justice on this point, allow me to read a sentence from his remonstrance:—

'And I respectfully submit, that when, (while acting as a Commissioner,) I received a commission as Judge of Probate, no objection was made by the Executive of the Commonwealth or of any other branch of the government, to my further discharge of the duties of a Commissioner; nor at the passage of the act of 1850, when the jurisdiction aforesaid was given to the Commissioners of the Circuit Courts of the United States, nor at any time since, was I notified, that the government of Massachusetts, or either the Executive or Legislative branch thereof, regarded the two offices as incompatible, or were of opinion that the same qualities and experience which were employed for the rights and interests of our own citizens, should not be employed for the protection of all legal rights of alleged fugitives from service or labor under the United States act of 1850.

'I make these latter remarks only for the purpose of bringing respectfully to the notice and clear apprehension of your honorable bodies, the extreme injustice and want of equity that would be involved in the removal of a Judge from office, for the past discharge of other official duties not by law made incompatible with his duties as Judge; against his exercise of which no official objection had ever been raised; and which were created and imposed on him by that law of the land which is the supreme law of Massachusetts.'

Gentlemen, this is a mere evasion. He was made Judge of Probate in 1847. He then knew, as well as you and I do, that Massachusetts *did* regard the conduct of any one of her magistrates in aiding in the return of a fugitive slave as something disgraceful and infamous. He had solemn and *official* intimation of this. My proof is the statute of March 24, 1848, entitled, 'An Act further to protect personal liberty':

'SECT. 1. *No Judge of any Court of Record of this Commonwealth*, and no justice of the peace, shall hereafter take cognizance or grant a certificate in cases that may arise under the third section of an act of Congress, passed February twelfth, seventeen hundred and ninety-three, and entitled, 'An Act respecting fugitives from justice, and persons escaping from the service of their masters,' to any person who claims any other person as a fugitive slave within the jurisdiction of the Commonwealth.

'SECT. 2. No sheriff, deputy sheriff, coroner, constable, jailor, *or other officer of this Commonwealth*, shall hereafter arrest or detain, or aid in the arrest or detention or imprisonment in any jail or other building belonging to this Commonwealth, or to any county, city or town thereof, of any person, for the reason that he is claimed as a fugitive slave.

'SECT. 3. Any justice of the peace, sheriff, deputy sheriff, coroner, constable, or jailor, who shall offend against the provisions of this law, by in any way acting, directly or indirectly, under the power conferred by the third section of the act of Congress aforementioned, shall forfeit a sum not exceeding one thousand dollars for every such offence, to the use of the county where said offence is committed, or shall be subject to imprisonment not exceeding one year in the county jail.' [*Approved, March* 24, 1843.]

The intent of that statute is clear and unmistakable. It expresses the determined will of the Commonwealth, that no magistrate of hers shall accept from the United States any authority, or take any part, directly or indirectly, in returning fugitive slaves to their masters. It means to set a stigma on slave-catching in this Commonwealth. It thunders forth its command, that no officer shall hold the broad seal of the State in one hand, and reach forth the other for a slave-catcher's fee. This is the heart and gist of the statute. He that runneth may read.

Technically construed, it may be said only to forbid that a Judge, *acting as a Judge*, should issue a slave warrant; and it may be claimed that Mr. Loring did not transgress it, since he issued his warrant, not *as a Judge*, but as a slave commissioner. Technically speaking, this may be so, and an inferior Court of Justice would be bound so to regard it. But you are not sitting as *nisi prius* lawyers, bound by quiddling technicalities; you are statesmen, looking with plain, manly sense at the essence of things. Have you any doubt what Massachusetts intended when she enacted that statute? Have you any doubt that Mr. Loring knew what Massachusetts meant? Why does the Constitution give you this power of removing Judges by address? To meet just such cases as this; when some individual has violated the spirit and essence of a law, but cannot be technically held by impeachments. Remember what Mr. Austin says, describing just the case in the extract I have twice quoted from his speech in the Convention. If you allow yourselves to be diverted from the exercise of the power by such technicalities, you forget the very purpose for which it was given, and practically annihilate it.

It is not true, then, as Mr. Loring claims, that when he received his commission, 'no objection was made by the Executive of the Commonwealth, or of any other branch of the government, to his further discharge of the duties of a commissioner'—meaning the duty of catching slaves. The statute of 1843, then in full force and effect, was clear and official notice to him what 'objection' the Commonwealth had to the returning of slaves.

But it is said the statute was passed in 1843, and only prohibited officers from acting under the slave act of 1793; it cannot have any reference to the slave act of 1850, since this was not in existence in 1843; and Mr. Loring's action in the Burns case was under the act of 1850.

This is another technical evasion, but not as good even as the first; because, in the Sims case, (7 Cush., 285,) which Mr. Loring cites, Judge Shaw holds the act of 1850 constitutional, because it is so *precisely* like the act of 1793; and Mr. Loring, in his Burns' judgment, takes the same view. Now, if the two acts are so precisely alike that the constitutionality of one proves the constitutionality of the other, then they are such twins as to be both within the meaning and intent of our statute of 1843.

When the counsel of Sims and Burns wished to argue the unconstitutionality of the act of 1850, on the ground that it went far beyond anything judicially recognized in the act of 1793, then Judges Shaw and Loring find the two acts so much alike that the argument is unnecessary. When Mr. Loring's friends would defend him, then these two acts are so different, that our law of 1843 can apply only to the first! To plunge an innocent and free man like Burns into slavery, against law and evidence, these statutes are just alike: to save Judge Loring from the act of 1843, they are different as white and black! (See *Note A.*)

But even this technicality is of no avail. The official action of the State has for ever closed this door of escape.

While Congress was discussing the Fugitive Slave Bill, which was finally passed Sept. 18, 1850, our Legislature passed the following resolutions, which the Governor approved, May 1, 1850:—

Resolved, That the sentiments of the people of Massachusetts, as expressed in their legal enactments, in relation to the delivering up of fugitive slaves, remain unchanged; and inasmuch as the legislation necessary to give effect to the clause of the Constitution, relative to this subject, is within the exclusive jurisdiction of Congress, we hold it to be the duty of that body to pass such laws only, in regard thereto, as will be sustained by the public sentiment of the free States, where such laws are to be enforced, and which shall especially secure to all persons whose surrender may be claimed as having escaped from labor and service in other States, the right of having the validity of such claim determined by a jury in the State where such claim is made.

Resolved, That the people of Massachusetts, in the maintenance of these their well-known and invincible principles, expect that all their officers and representatives will adhere to them at all times, on all occasions, and under all circumstances. [*Approved, May* 1, 1850.]

Observe, the Commonwealth reäffirms the principle of her former *legal enactments*—that is, the act of 1843; and expects all her 'officers to adhere to them *at all times, on all occasions, and under all circumstances*.'

What shall we say now to Mr. Loring's claim, that neither when he received the commission as Judge of Probate, nor at any time since, was he notified 'by the Government of Massachusetts, or by the Executive or Legislative Branch thereof,' that slave-catching and bearing office under Massachusetts were incompatible? Are not these Resolutions substantially a reënactment of the statute of 1843, distinctly applying to the Fugitive Slave Bill of 1850, and officially warning all officers that the State expected them to abstain from taking part in the execution of that act, as much as the act of 1793?

Look at the case, gentlemen. A sovereign State issues her mandate, that no magistrate of hers shall aid in catching slaves. Seven years later, she solemnly reiterates the order, and directs her officers to remember it on all occasions. In open, contemptuous defiance of all this, one of her Judges adjourns her own Court, to hold one that dooms a man to bondage. The Legislature meet and talk of removing him. But the Judge, in a tone of indignant innocence, exclaims—'What! turn me out for a mere difference of opinion! Have I not evaded the law? If you remove such an innocent and law-abiding Judge as I am, you will destroy the independence of the Bench!' Yes, truly; that sort of independence that consists in defying the State in order to serve a party, or minister or the ambition of friends.

Some men allege that the same reasoning would condemn Judge Shaw for refusing to set Sims free, by *habeas corpus*, from the grasp of the claimant. But surely, he must be stone blind who sees no difference between a Judge, like Shaw, who, thinking he has no power to arrest the Slave Act when once in motion, refuses to interfere, and a Judge, like Loring, who actually sets the Slave Act in motion, and personally executes it! The statute of 1843 only orders our officers not to aid in catching slaves. It does not order them to prevent every body else from catching slaves. Loring actually hunted a slave, and sent him to Virginia. Shaw only declared himself unauthorized to prevent George T. Curtis from hunting fugitive slaves. Surely, there is some slight difference here.

In consenting, then, to act as a Slave Commissioner, while holding the office of a Probate Judge, Mr. Loring defied the well-known settled, religious convictions of the State, *officially* made known to him. The question was one of vital, practical morality of the gravest importance; one where justice was on one side and infamy on the other. He cannot complain if you consider this heedless or heartless choice of the infamous side, this open defiance, on so momentous a matter, sufficient cause for his removal.

My second reason is, that the very method of the trial of Anthony Burns shows Mr. Loring unfit to be continued longer on the Bench. I am not now dealing with the point that he *did* act; I have said that his mere acting in the case was a defiance of the Commonwealth; —but I now say, that the *manner* of his acting is another ground for which he ought to be removed, and shows him to be unfit for the office of a Judge.

Anthony Burns was arrested at 8 o'clock on Wednesday evening. He was hurried to the Court House, and concealed there within four walls. He was not allowed to see anybody but the slave claimant, the Marshal, and the Police. At 9 o'clock on Thursday morning, our Judge of Probate, Mr. Edward G. Loring, the Slave Commissioner, appeared in his court-room, with the slave claimant and his witnesses, the alleged fugitive, the Marshal, and the police. He proceeded to trial. Trembling, ignorant, confused, astounded, friendless, not knowing what to say or where to look, that unhappy man, Burns, sat, handcuffed, with a policeman on each side. The Commissioner proceeded to try him. By accident, Mr. Richard H. Dana, Jr., had heard such a trial was to be held, and had reached the court-room. By accident, another learned counsel, who sits by my side, (Charles M. Ellis, Esq.,) heard that such a scene was enacting, and hurried to the Court-House. I heard of it in the street, Mr. Theodore Parker was notified, and we went to the court-room. We found Robert Morris, Esq., already there. Mr. Morris, a member of the bar, had attempted to speak to Burns—the policemen forbade him. The melancholy farce had proceeded for about half an hour. In two hours more, so far as any one could then see, the judgment would have been given, the certificate signed, the victim beyond our reach. There sat the Judge of Probate, clothed in the ermine of Massachusetts; before him cowered the helpless object of cruel legislation, and the crushed victim of an inhuman system. Mr. Dana had moved the Court before to defer the trial; but the Commissioner proceeded to examine the witness. After a short time, Mr. Dana rose,—(he had no right to rise, technically speaking,—he rose as a citizen merely, not as counsel,)—and I read you what he said:—

'May it please your Honor:—I rise to address the Court as *amicus curiæ*, for I cannot say that I am regularly of counsel for the person at the bar. Indeed, from the few words I have been enabled to hold with him, and from what I can learn from others who have talked with him, I am satisfied that he is not in a condition to determine whether he will have counsel or not, or whether or not and how he shall appear for his defence. He declines to say whether any one shall appear for him, or whether he will defend or not.

'Under these circumstances, I submit to your Honor's judgment, that time should be allowed to the prisoner to recover himself from the stupefaction of his sudden arrest, and his novel and distressing situation, and have opportunity to consult with friends and members of the bar, and determine what course he will pursue.' * * *

'He does not know what he is saying. I say to your Honor, as a member of the bar, on my personal responsibility, that from what I have seen of the man and what I have learnt from others who have seen him, that he is not in a fit state to decide for himself what he will do. He has just been arrested and brought into this scene, with this immense stake of freedom or slavery for life at issue, surrounded by strangers—and even if he should plead guilty to the claim, the Court ought not to receive the plea under such circumstances.

'It is but yesterday that the Court at the other end of the building refused to receive a plea of guilty from a prisoner. The Court never will receive this plea in a capital case, without the fullest proof that the prisoner makes it deliberately, and understands its meaning and his own situation, and has consulted with his friends. In a case involving freedom or slavery for life, this Court will not do less.' * * * * * *

'I know enough of this tribunal to know that it will not lend itself to the hurrying off a man into slavery to accommodate any man's personal convenience, before he has even time to recover his stupified faculties, and say whether he has a defence or not. Even without a suggestion from an *amicus curiæ*, the Court would, of its own motion, see to it that no such advantage was taken.

'The counsel for the claimant says that if the man were out of his mind, he would not object. Out of his mind! Please your Honor, if you had ever reason to fear that a prisoner was not in full possession of his mind, you would fear it in such a case as this. But I have said enough. I am confident your Honor will not decide so momentous an issue against a man without counsel and without opportunity.' * * * *

Again, in his argument, alluding to the same scene, Mr. Dana says:—

'Burns was arrested suddenly, on a false pretence, coming home at night-fall from his day's work, and hurried into custody, among strange men, in a strange place, and suddenly, whether claimed rightfully or claimed wrongfully, he saw he was claimed as a slave, and his condition burst upon him in a flood of terror. This was at night. You saw him, sir, the next day, and you remember the state he was then in. You remember his stupified and terrified condition. You remember his hesitation, his timid glance about the room, even when looking in the mild face of justice. How little your kind words reassured him. Sir, the day after the arrest, you felt obliged to put off his trial two days, because he was not in a condition to know or decide what he would do.'

Mr. Ellis rose also, and protested against the trial. Gentlemen, what a scene! A man clothed in the ermine of Massachusetts has before him a helpless man, in the words of Mr. Dana, 'terrified, stupified, intimidated,' and begins to *try* him. If the Chief Justice of the Commonwealth should find the veriest vagrant from the streets indicted for murder by twenty-three jurors, and solemnly and legally set before him, he would not take upon himself to proceed to trial without the man had counsel—every lawyer knows this. And yet this man, who ought to have shown the discretion and humanity of a Judge, was proceeding in a trial so enormous and fearful that counsel coming in by accident felt urged to rise in their places and interrupt him, protesting, as citizens of Massachusetts, that this mockery of justice should not go on. You have a Judge of Probate that needs to have accident fill his court-room with honest men, to call him back to his duty. The petitioners say that such a man is not fit to sit upon the Bench of Massachusetts. Do we exaggerate the importance of the occasion? Let me read a single sentence from Dr. Channing:—

'This Constitution was not established to send back slaves to chains. The article requiring this act of the free States was forced on them by the circumstances of the times, and submitted to as a hard necessity. It did not enter into the essence of the instrument; whilst the security of freedom was its great, living, all-pervading idea. We see the tendency of slavery to warp the Constitution to its purposes, in the law for restoring the flying bondman. Under this, not a few, having not only the same natural but legal rights with ourselves, have been subjected to the lash of the overseer.

'But a higher law than the Constitution protests against the act of Congress on this point. According to the law of nature, no greater crime against a human being can be committed, than to make him a slave. * * * *

'To condemn a man to perpetual slavery is as solemn a sentence as to condemn him to death. Before being thus doomed, he has a right to all the means of defence which are granted to a man who is tried for his life. All the rules, forms, solemnities, by which innocence is secured from being confounded with guilt, he has a right to demand. In the present case, the principle is eminently applicable, that many guilty should escape, rather than that one innocent man should suffer; because the guilt of running away from an "owner" is of too faint a color to be seen by some of the best eyes, whilst that of enslaving the free is of the darkest hue.'

Dr. Channing would have all the forms and solemnities of justice, usual in cases where life hangs on the issue, rigidly observed, when a slave case is to be determined. Your Judge of Probate arrests a man at night; no one knows of it; at the earliest hour in the morning that a Court ever sits, he opens his Court; this poor, trembling, friendless victim, who hardly dared to look up and meet his eye, is brought before him, and he proceeds to try him. Strangers come in and say, he is too stupified to be tried. Still the Judge goes on, and they sit awhile, their blood boiling within them, till they feel compelled to rise and solemnly protest against this insult to all the forms of justice; and the Court, after the repeated protests of two members of the bar, at length consents to put off that trial, allow the unhappy man to recover himself, consult with friends, and decide what course to pursue.

Why, gentlemen, if a man has committed murder, and has been indicted by a jury, the statute provides that he shall have time allowed him to prepare for his defence, have a copy of his indictment, and a list of the witnesses against him, and when it is all done, the Supreme Court would not touch the case until they had assigned him counsel. They would fear to draggle their ermine in blood. But here is a Massachusetts Judge of Probate with whom it is but the accident of an accident, but the impudence of counsel, so to speak, that prevents such an outrage as Mr. Dana's protest describes. Now, your petitioners ask, in the name of Massachusetts, for a Judge who can be safely trusted in a private chamber with an innocent man.

I recal the scene in that court-room, while our hope that the Judge would postpone the case hung trembling in the balance. We were not sure that even the reiterated, indignant, unintermitted protests of these members of the bar would secure the postponement of that trial. Think of the difference in this case! You are trying Mr. Loring for continuance in his office. He comes here with all the advantages of education, wealth, social position, professional discipline, every thing on his side, and can choose when he will be tried. Around him are troops of friends. Influential journals defend his rights. But that poor victim—what a contrast! According to Dr. Channing, it was as much as life that hung in the balance. The old English law says that the Judge is counsel for the prisoners. There were no such promptings here as led the Judge to say, "I shall not try that man unless he has counsel, and all the safeguards and checks of a judicial examination." The hapless victim, too ignorant, at the best, to know his own rights or how to defend them, was then stunned by the overwhelming blow—by the arrest, and the sight of the horrible pit into which he was to be plunged. Over his prostrate body, this Massachusetts Judge of the fatherless and widow opens his court, and begins to hold the mockery of a trial. If you continue him in office, you should appoint some one,—some "flapper," as Dean Swift says,—some humane man, to wait upon his Court, and for the honor of the State, remind him when it will be but decent to remember justice and mercy, for he is not fit to go alone.

Do you ask us what course Mr. Loring should have adopted. We answer, the same course that any mere decent Judge would adopt in such a case. Here was a man arrested some twelve hours before on a false pretence, and kept shut up from all his friends. All this Mr. Loring knew, or was bound to know, since such has been the constant practice in all slave cases, here and elsewhere. The first duty of a just Judge was to tell the man, truly and plainly, what he was arrested for—see that his friends had free access to him, and fix some future day to commence his trial, leaving time sufficient to consult and prepare a defence. This is what the statutes of any civilized state ordain, in cases where even ten dollars are in dispute. The first word that William Brent, the witness, was allowed to speak on the stand in such circumstances, was the death-knell to any claim Mr. Loring might have to be thought a humane man, a good lawyer, or a just Judge. A statute which the whole civilized world regards as the most infamous on record, is executed by men who claim to be Christians, Judges and lawyers, with a violence and haste which doubles its mischief. These slave commissioners, while constantly prating of the "painful duty" their allegiance to law entails on them, contrive to add by their haste to the brutality and cruelty even of the slave act. Knowing the cruel nature of the statute he was executing, and the routine of lies and close confinement always found in slave cases, Mr. Loring's first duty, after his court was open, was to adjourn it for three days at least, taking measures that Burns should meantime see friends and counsel, to consult on his defence. All Mr. Loring's friends can say for him is, that he was only acting as all other slave commissioners act, and that no harm was done, since the Abolitionists came in and secured Burns a trial! As if the infamous slave prisons of Curtis and Ingraham were precedents for any court to follow! As if any man was proved fit to be a Judge, by alleging that strangers prevented his doing all the mischief he intended!

The case was adjourned to Saturday.

Where do we next meet this specimen of Massachusetts humanity and judicial decorum?

On Friday morning, the United States Marshal refused me admission to the prisoner, and I went to Mr. Loring at Cambridge, where he was, Law Lecturer at Harvard College, and asked him for an order directing the Marshal to allow me to see the prisoner. He sits down and writes a letter, authorizing me to cross that barrier and see Burns; and as he hands it to me, he says—"Mr. Phillips, the case is so clear, that I do not think you will be justified in placing any obstacles in the way of this man's going back, AS HE PROBABLY WILL"!! What right had he to think Burns would go back? He had heard only one witness; yet he says, "*The case is so clear, that I do not think you will be justified in placing any obstacles in the way of this man's going back*, AS HE PROBABLY WILL"!!!

Suppose, Mr. Chairman, that, in the case of Dr. Webster, after he had been indicted, but before he had been put on trial, the Chief Justice of the Commonwealth had said to Mr. Sohier, or any other of his counsel—'Sir, I do not think you will be justified in placing any obstacles in the way of this man's being hung, *as he probably will*'! What would be thought of the Judge who should proceed to try a man for his life, after expressing such an opinion on the case to be brought before him? Yet, such was the mood of mind of this Judge of Probate, that, without hearing argument or testimony—only the disjointed story of a single witness, interrupted by the protests of Messrs. Dana and Ellis,—the mere *disjecta membra* of a trial, —nothing,—he had so far made up his mind, that he could warn me from attempting to do any thing to save the man from the doom to which he was devoted, on the ground of the probability of his being given up.

'A judge who proceeds on half evidence will not do quarter justice,' says an old English essayist. What proportion, then, of justice, may we expect from a Judge who decides on no evidence at all?

I ask—I was going to say—the Judges of the Commonwealth of Massachusetts—men of fair fame and judicial reputation—whether a person of that temper of mind is fit to sit by their side? I ask any man who loves the honor of the Bench, who desires to see none but high-minded, conscientious, humane, just Judges, whether the petitioners who ask for the removal of such an individual are attacking or supporting the honor of the Bench of Massachusetts; its real strength and independence? It seems to me that we are cutting off a corrupt member, and securing for the rest the only source of strength, the confidence of the Commonwealth. The Bench is not weakened when we remove a bad Judge, but when we retain him.

Gentlemen, it is not in the power of this Legislature, respectfully be it said, it is not in the power of this Legislature to command the respect of this Commonwealth for a Bench on which sits Edward Greely Loring. You may refuse to remove him; but you cannot make the people respect a Bench upon which he sits. If any man here loves the Judiciary, and wishes to secure its independence, and its influence with the people, let him aid us to cut off the offending member.

Thirdly. Gentlemen, where is your Judge next heard of? He is next heard of at midnight, on Saturday, 27th of May, drawing up a bill of sale of Anthony Burns, which now exists, in his own hand-writing! Before the trial was begun, he sits down and writes a bill of sale:—

'Know all men in these presents—That I, Charles F. Suttle, of Alexandria, in Virginia, in consideration of twelve hundred dollars, to me paid, do hereby release and discharge, quitclaim and convey to Antony Byrnes, his liberty; and I hereby manumit and release him from all claims and services to me forever, hereby giving him his liberty to all intents and effects forever.

'In testimony whereof, I have hereto set my hand and seal, this twenty-seventh day of May, in the year of our Lord eighteen hundred and fifty-four.'

Gentlemen, suppose, while Dr. Webster sat in the dock, before the trial commenced, Chief Justice Shaw had summoned Mrs. Webster to his side, and said, 'I advise you to get a petition to the Governor to have your husband pardoned; I think he will be found guilty!' Why, he would have been scouted from one end of the Commonwealth to the other. Suppose a deed of land was in dispute, and before the case began, the Judge should call one of the claimants before him and say, 'I advise you to compromise this matter, for I think your deed is not worth a straw'! Who would trust his case to such a Judge? But here is a man put before a Judge, to be tried on an issue which Dr. Channing says is as solemn as that of life or death, and the Judge is found at midnight, with the pregnant intimation that that man must be bought, or he is not safe! What right had he to say that? Mr. Chairman, the case may have been so clear even then, before it was half begun, that every man in the Commonwealth, save one, would have been obliged to say that Burns was a fugitive; but there was one pair of lips that honor and official propriety ought to have sealed, and those were the lips of the Judge who was trying the case. Yet, he is the very man who is found babbling! He seemed to be utterly lost to all the proprieties of his position. Col. Suttle selling Burns on the 27th of May! What even legal right in Burns had Col. Suttle then to convey? None. No law knew of any. Yet the very Judge trying the case volunteers to suppose a title based on his own decision, which ought then to have been unknown, even to himself. Suffolk-Court House is turned into a Slave-Auction Block; and the Slave Commissioner, the trial hardly commenced, jumps upon the stand,—not needing to lay aside whatever judicial robes a Slave Commissioner may be supposed to wear!

Fourthly. The Commissioner knew how general was the opinion among lawyers, that a writ of replevin might be served after his judgment and before the affidavit of the claimant was made. He knew the anxiety of the friends of Burns to test the possibility of thus legally securing his release by Massachusetts law. But in the Commissioner's hot haste and obstinate determination to have every law except those of this Commonwealth obeyed to the letter, he arranged and conspired with Col. Suttle and the United States Marshal to have all the papers executed in such secrecy, and so exactly at the same moment, as to deprive Burns of all chance from this measure. How eminently worthy such plotting as this of a Massachusetts Judge! —of one who assures you that he has scrupulously obeyed the *laws of Massachusetts!*

Well, gentlemen, it is said,—I cannot state it on any thing but rumor,—that, as the crowning act of his unjudicial conduct, he communicated his decision to one party twenty hours before he communicated it to the other, so that Messrs. Smith, Hallett, Thomas, Suttle & Co., had time to send down into Dock Square and have bullets cast for the soldiers who were to be employed to assist the slave-hunter; had time to inform the newspapers in the city what they intended to do;—while Messrs. Dana and Ellis, counsel for the prisoner, were allowed to go to their homes in utter ignorance whether that decision would be one way or another. Where can you find, in the whole catalogue of judicial enormities, an instance when a Judge revealed his decision to one party, and concealed it from the other? If he thought it necessary, on any grounds of public security or from private reasons of propriety, to inform them what his decision was to be, he should have said,—'Gentlemen, I can meet you only in open Court, in the presence of counsel on both sides. I cannot speak to you, Mr. Thomas, unless Mr. Dana or Mr. Ellis is here. Call them, and then I will tell you what my decision is to be.' At four o'clock on Thursday, the Commissioner made known his decision to the slave-claimant's counsel; on Friday, at 9 o'clock, to Messrs. Dana and Ellis, and the world!!

What a picture! Put aside that it was a slave case; forget, if you will, for a moment, that he was committing an act which the Commonwealth says is *ipso facto* infamous, and declares that no man shall do it, and hold office. The old law of Scotland declared that a butcher should not sit upon a jury; he was incapacitated by his profession. The Commonwealth of Massachusetts, by the statute of 1843, says that any Slave Commissioner is unfit to sit upon the Bench. Mr. Loring cannot see it, although it was written and signed, reënacted and signed again,—although he was doing an act which the butchers of our city, to their honor be it said, would not sanction two days afterwards. He puts this man into a room, bewildered, terrified, unfriended, —so unfit for trial, that strangers deem it their duty repeatedly to protest against the proceedings of the Court. Having gone through that mockery of half an hour's trial, he takes occasion to express his deliberate opinion of what the result is to be to counsel. Having done that, he makes his conduct still more flagrant by drawing up a bill of sale of the man who was still on trial before him. There was but one man in the State of Massachusetts who could not have drawn that bill of sale, as I before said; yet *he* was the man to draw it! After that, he proceeds to collogue, to conspire, with one party, and tells them his decision twenty hours before he informs the other. Gentlemen, I submit to you, as a citizen of Massachusetts, that this is conduct unfitting for the Bench; that there is, not to speak of inhumanity, an utter unfitness to try questions of any kind, an utter recklessness of judicial character and regard for propriety in such conduct, that might cause the very stones in the street to rise and plead for the majesty of the laws against such a Judge. The petitioners say to you, that such a man is not fit to wear the ermine of the Commonwealth of Massachusetts. Do they say too much? I am to die in this city; many of the petitioners are to die here. Our wills are to go into his hands. Our children and widows are to go before him. We cannot trust him; and we ask you to remove him, under that provision of the Constitution which gives you unlimited power to remove a Judge who is unfit for the duties of his office.

It is not necessary, Mr. Chairman, that I detain you long on the charge that Mr. Loring 'wrested the law to the support of injustice, tortured evidence to help the strong against the weak, and administered a merciless statute in a merciless manner.' You have in your hands the able arguments of Messrs. Ellis and Dana, as well as that remarkable 'Decision which Judge Loring might have given,' originally published in the Boston *Atlas*. These make it needless for me to enlarge on the law points. Allow me, however, a few brief statements.

1st. It has been well said, that 'the statute leaves the party claimant his choice between two processes; one under its sixth section; the other under the tenth. The sixth section obliges the claimant to prove three points; (1) that the person claimed *owes* service; (2) that he has *escaped*; and, (3) that the party before the Court is the *identical one* alleged to be a slave.

The tenth section makes the claimant's certificate *conclusive* as to the first two points, and only leaves the *identity to be proved*.

In this case, the claimant, by offering *proof of service* and escape, made his election of the *sixth section*.

Here he failed, failed to proved service, failed to prove escape. Then the Commissioner allowed him to swing round and take refuge in the tenth, leaving identity only to be proved; and this he proved by the prisoner's confession, made in terror, if at all; wholly denied by him, and proved only by the testimony of a witness of whom we know nothing, but that he was contradicted by several witnesses as to the only point to which he affirmed, capable of being tested.'

2d. As to the point of identity. Col. Suttle proved that the person at the bar was his Anthony Burns by the testimony of one witness. Of this witness, it may be emphatically said, we knew nothing. He was never in the State before, and we hope he never will be again. He swore that Burns escaped from Richmond, March 24, 1854. To contradict him, six witnesses volunteered their testimony. They were not sought out; they came accidentally or otherwise into Court, and offered, unsolicited, their testimony, that they had seen the man at the bar in Boston for three or four weeks before the day of alleged escape. These were witnesses of whose daily life and unimpeached character ample evidence existed. Everybody knew them. Six to one! They were Boston mechanics and book-keepers; one a city policeman, one an officer in the regiment, and member of the Common Council. Surely, it was evident, either that the record was wrong, that the Virginia witness was wrong, or that this prisoner was not the man Col. Suttle claimed as his slave. Out of either door, there was chance for the Judge to find his way to release Burns. At any rate, there was reasonable doubt, and the person claimed was therefore entitled to his release. But no; Mr. Loring lets one unknown slave-hunter outweigh six well-known and honest men, tramples on the rule that in such cases all doubts are to be held in favor of the prisoner, and surrenders his victim to bondage.

Observe, gentlemen, in this connection, the exceeding importance of granting time to prepare for trial, the omission of which, on the part of Mr. Loring, I have commented on. If this case had been finished on Thursday, as it would have been but for the interference of others, these witnesses would not have been heard of till after Burns was out of the State. But after the two efforts of his counsel had succeeded in getting delay, till Monday, the facts of the case became known through the city, and, having heard them, these witnesses volunteered their testimony. Now, if the ascertaining of pertinent facts be the purpose of a trial, which it surely is in all Courts, except those of Slave Commissioners, the consideration I have stated is a very important one. Though Mr. Loring chose to disregard this evidence, it was due to the law and to the satisfaction of the community, that, even in his Court, it should be heard.

3d. But as to the sole point to be proved, under the tenth section, identity, he evidence Mr. Loring first relies on the confession of the poor victim when first arrested. No confession is admissible, when made in terror.

This confession was made at night—and even twelve hours after, Mr. Loring was forced himself to admit that the prisoner was so stupified and terrified he was in no fit state to be tried. Yet he admitted his confession made in a still more terrified hour. The only witness, also, to this alleged confession, was this same unknown slave-hunter, unless we count one of the ruffians who guarded Burns.

But if the confession be taken at all, the whole must be taken. Now, in this confession, sworn to by Col. Suttle's own witness, Burns said he did not run away, but fell asleep on board a ship, and was brought away. This statement being brought in by Col. Suttle's own witness, must be taken by this claimant as true. If it be cannot be allowed to doubt or contradict it. If it be true, then Burns was not a fugitive slave, and so not within the Fugitive Slave Law provisions. Our own Supreme Court has decided (see 7 Cushing, 298) that a slave, on board a national vessel with his master, by express permission of the Navy Secretary, who had been landed in Boston in consequence of Navy orders, against the wish of the master, and of course by no action of

the slave, could not be reclaimed. To be brought from a slave State is no escape, within the meaning of the law. If taken at all, the whole confession must be taken. If the whole be taken, then the claimant himself has proved that his alleged slave did not escape. If not taken in the whole, then it cannot be taken at all, not even under the tenth section, and then there is no evidence as to identity; and the whole case falls to the ground.

Surely, somewhere among all these wide gaping chasms in the claimant's case, this poor Judge, who pleads he was obliged to do infamous work and accept the case, might have found chance of escape, if he were a learned and humane man!

Mr. Loring contends that he was obliged to issue the warrant in consequence of the oath he took when appointed Judge of Probate, to support the Constitution of the United States. He says:—

'When I was appointed Judge of Probate, I was, by the authority of the people of Massachusetts, bound by an official oath to support the Constitution of the United States; this is to be done only by fulfilling the provisions of the Constitution, and of those laws of the United States which are constitutionally made to carry the Constitution into effect. And on the authority of the Supreme Judicial Court of Massachusetts, I confidently claim that in my action under the U. S. Act of 1850, I exactly complied with the official oath imposed on me by the authority of the people of Massachusetts.'

A simple illustration will show the absurdity of this claim. If the 'official oath' to the Constitution of the United States, which he says Massachusetts required him as Judge of Probate to take, really binds him to execute all the laws of the Union, in every capacity, then such execution becomes a part of his *official duty*, since it was as a Judge of Probate, and only as such that he took the 'official oath.' It follows, then, that if Marshal Freeman should direct Judge Loring to aid in catching a slave, and he should refuse, the House of Representatives could impeach him for *official misconduct*. I think no one but a Slave Commissioner will maintain that this is law.

Mr. Loring contends that he was bound to issue the warrant, holding as he did the office of Commissioner! Who obliged him to hold the office? Could he not have resigned, as many, young Kane of Philadelphia, and others, did, when first the infamous act made it possible that he should be insulted by an application for such a warrant? There was a time when all of us would have deemed such an application an insult to Edward G. Loring. Could he not have resigned when the application was made, as Capt. Hayes of our Police did, when called on to aid in doing the very act which Mr. Loring had brought like a plague on the city? Could he not have declined to issue the warrant or take part in the case, as B. F. Hallett was reported to have done in the case of William and Ellen Craft?

But whether he could or not, matters not to you, gentlemen. Massachusetts has a right to say what sort of men she will have on her Bench. She does not complain if vile men will catch slaves. She only claims that they shall not, at the same time, be officers of hers. Mr. Loring had his choice, to resign his judgeship or his commissionership. He chose to act as Commissioner, and, of course, took the risk of losing the other office whenever the State should rise to assert her laws. Nobody can complain that he is not allowed to hold a Probate Court one hour and a Slave Court the next. Certainly, it is not too much to claim for Massachusetts the poor right to say, that when the 'legalized robber,' 'the felonious slave-trader,' (these are Channing's words,) comes here, he shall not be able to select agents for his merciless work from those sitting on our Bench and clothed in our ermine.

One single line of this Remonstrance goes far to show the hollowness of all the rest:—'In this conviction, the Commissioners, *refusing all pecuniary compensation*, have performed their duties to the Constitution and the law.' If the 'pieces of silver' are clean, and have no spot of blood, why do all our Commissioners refuse to touch them? And why, when accused of executing this merciless statute, (all men seem to think it an *accusation*,) does each one uniformly plead in extenuation or atonement that he refused the fee? Is it any real excuse for doing an infamous act, that one did it for nothing? There is something strange in this. Ah, gentlemen, not all the special pleading in the world, not 'all the perfumes of Arabia, can sweeten' that accursed gold.

There is one paragraph in this remonstrance which deserves notice, as showing either great ignorance or great heedlessness in one who claims to sit on a Judicial Bench. Mr. Loring says:—

'In the year 1851, the act of Congress of 1850 was declared, by the unanimous opinion of the Justices of the Supreme Judicial Court of the Commonwealth of Massachusetts, to be a constitutional law of the United States, passed by Congress in execution of the 4th article of the Constitution of the United States, and as such the supreme law of Massachusetts (7 Cush. Rep. 285:) And in exposition of the subject, after reference to the nature of the Constitution of the United States, as a compromise of mutual rights, creating mutual obligations and duties, it was declared (p. 319:)

"In this spirit and with these views steadily in prospect, it seems to be the duty of all Judges and Magistrates to expound and apply these provisions in the Constitution and laws of the United States, and is in the spirit it behoves all persons bound to obey the laws of the United States, to consider and regard them."

'And this authoritative direction as to the duties of the magistrates and people of Massachusetts was given in direct reference to the 4th article of the Constitution of the United States, the U. S. Act of 1850, and the laws of Massachusetts, as they then were and have ever since been."

Observe the language: "It was declared" by the Court, of course, and it is an "authoritative direction as to the duties of magistrates." You conclude, gentlemen, as every reader would, and would have a right to conclude, this sentence, quoted from the 319th page of Cushing's Reports, is part of a decision of our Supreme Court. Not at all, gentlemen; it is only a note to a decision, written to be sure, by Judge Shaw, but on his private responsibility, and no more an "authoritative direction" to magistrates and people than any casual remark of Judge Shaw to his next door neighbor as they stand together on the sidewalk. In his decision in the Burns case, Mr. Loring refers to the Sims case, above cited, (7 Cushing, 285,) "as the unanimous opinion of the Judges of the Supreme Court of Massachusetts," and then quotes this same sentence as part of the opinion, terming it "the wise words of our revered Chief Justice in that case." Could this important mistake, twice made, on solemn occasions, be mere inadvertence? If he knew no better he seems hardly fit for a Judge. If any of his friends should claim he did know better, then, surely, he must have intended to deceive, and that does not much increase his fitness for the Bench.

Mr. Chairman, there is one view of the Burns case which has not, I believe, been suggested. It is this. Massachusetts declares that the fugitive slave is constitutionally entitled to a jury trial. It is the general conviction of the North. Mr. Webster had once prepared an amendment to the Fugitive Slave Act securing jury trial. A Commissioner of humane and just instincts, would be careful to remember that this Act made him both Judge and Jury. Now, does any man in the Commonwealth believe that a jury would have ever sent Burns into slavery with six witnesses against one as to his identity, and his confession as much in his favor as against him? Mr. Loring knows, this day, that he sent into slavery a man whom no jury that could be empannelled in Massachusetts would have condemned. I might add whom no Judge but himself, now on our Bench, would have condemned on the same evidence.

The friends of Mr. Loring, in the streets, tell us, it is hard to hold him accountable for this decision; that all the world knows he did not make it—powerful relatives and friends dictated it to him. Gentlemen, the apology seems worse even than our accusation. A man whose own heart does not lead him to be a slave-catcher, allow himself t be made the tool of others for such business! Besides, does this excuse prove him so very fit, after all, to sit on the Probate Bench? What if he should allow able relatives and friends to dictate his decisions there also?

Gentlemen, I have not enlarged, as I might have done, on the general principle that, without alleging special misconduct, the mere fact of Mr. Loring's consenting to act at all as a Slave Commissioner, is sufficient cause for his removal from the office of a Massachusetts Judge. To consent actively to aid in hunting slaves here and now, shows a hardness of heart, a merciless spirit, a moral blindness, an utter spiritual death, that totally unfit a man for the judicial office. No such man ought or can expect to preserve the confidence of the community, which is essential to his usefulness as a Judge. Neither can Mr. Loring claim that he had not full warning that such would be the case. To our shame we must confess, that the State has submitted to the execution of the Slave Act within her limits. But, thank God, we are justified in claiming that she submitted in sad, reluctant, sullen silence; that while she offered no resistance to the law, as such, she proclaimed, in the face of the world, her loathing and detestation of a slave-hunter. In the words of Channing:—

'The great difficulty in the way of the arrangement now proposed, is the article of the Constitution requiring the surrender and return of fugitive slaves. A State, obeying this, seems to me to contract as great guilt as if it were to bring slaves from Africa. No man, who regards slavery as among the greatest wrongs, can in any way reduce his fellow-creatures to it. The flying slave asserts the first right of a man, and should meet aid rather than obstruction. . . . *No man among us, who values his character, would aid the slave-hunter. The slave-hunter here would be looked on with as little favor as the felonious slave-trader*. Those among us, who dread to touch slavery in its own region, lest insurrection and tumults should follow change, still feel, that the fugitive who has sought shelter so far, can breed no tumult in the land which he has left, and that, of consequence, no motive but the unhallowd love of gain can prompt to his pursuit; and when they think of slavery as perpetuated, not for public order, but for gain, they abhor it, *and would not lift a finger to replace the flying bondsman beneath the yoke*.'

The Legislature, the press, the pulpit, the voice of private life, every breeze that swept from Berkshire to Barnstable, spoke contempt for the hound who joined that merciless pack. Every man who touched the Fugitive Slave Act was shrunk from as a leper. Every one who denounced it was pressed to our hearts. Political sins were almost forgotten, if a man would but echo the deep religious conviction of the State on this point. When Charles Sumner, himself a Commissioner, proclaimed beforehand his determination not to execute the Fugitive Slave Act, exclaiming, in Faneuil Hall, 'I was a man before I was a Commissioner!' all Massachusetts rose up to bless him, and say, Amen! The other Slave Commissioner who burdens the city with his presence, cannot be said to have lost the respect and confidence of the community, seeing he never had either. But slave-hunting was able to sink even him into a lower depth than he had before reached.

The hunting of slaves is, then, a sufficient cause for removal from a Massachusetts Bench. Indeed, I should blush for the State if it were not so. I am willing this case should stand forever as a precedent. Let it be considered as settled, that when a Judge violates the well-known, mature, religious conviction of the State on a grave and vital action of practical morality, having had full warning, such violation shall be held as sufficient cause for his removal. This principle will do no shadow of harm to the independence of the Bench. Mr. Chairman, as I have before remarked, the Bench is weakened when we retain a bad Judge, not when we remove him.

I am glad that the facts of the case are such, that we can remove Mr. Loring without violating in the least tittle the proper independence of the Judiciary; that Massachusetts can fix the seal of her detestation on the Slave Act by so solemn a deed, without danger to her civil polity. But, Mr. Chairman, I frankly confess, that if the case had been otherwise, if it had been necessary to choose between two alternatives, (while I value as highly as any man can an independent Judge,) better, far better, in my opinion, to have, for Judges, dependent honest men, than independent slave-catchers.

Dr. Channing, sitting in his study, says that 'no man among us who values his character, would aid the slave-hunter.' We ask you to remove from judicial office the man who has done it; done it unnecessarily, done it in hot haste, done it against law. We ask you not to have slave-hunters on the Bench of our old Commonwealth. Read Channing's last, dying words:—

'There is something worse than to be a slave. It is to make other men slaves. Better be trampled in the dust, than trample on a fellow-creature. Much as I shrink from the evils inflicted by bondage on the millions who bear it, I would sooner endure them, than inflict them on a brother. Freemen of the mountains! as far as you have power, remove from yourselves, from our dear and venerable mother, the Commonwealth of Massachusetts, and from all the free States, the baseness and guilt of ministering to slavery, of acting as the Slaveholder's police, of lending him arms and strength to secure his victim. . . . Should a slave-hunter ever profane these mountainous retreats by seeking here a flying bondman, regard him as a *legalized robber*. Oppose no force to him: you need not do it. Your contempt and indignation will be enough to disarm the 'man-stealer' of the unholy power conferred on him by unrighteous laws.'

This is the picture of a slave-hunter, which a dispassionate man leaves as his legacy to his fellow-citizens. Gentlemen we assert that such a man is not fit to sit upon the Bench. We have a right to claim that you shall give us honorable, just, high-minded, conscientious Judges—men worthy the respect and confidence of the community. You cannot have such, if you have men who consent to act as United States Slave Commissioners. You never can enact a United States Commissioner into respect. You may pile your statutes as high as Wachusett, they will suffice to disgrace the State, they cannot make a Slave Commissioner a respectable man.

We have, it seems to us, a right to ask of Massachusetts this act,—it being clearly within her just authority,—as a necessary and righteous expression of the feeling of the State. The times are critical. South Carolina records her opinion of slavery in a thousand ways. She violates the U. S. Constitution to do it, expelling Mr. Hoar from her borders, and barring him out with fine and imprisonment. Young Wisconsin makes the first page of her State history glorious by throwing down her gauntlet against this slave-hunting Union, in defence of Justice and Humanity. Some of us had hoped that our beloved Commonwealth would have placed that crown of oak on her own brow. Her youngest daughter has earned it first. God speed her on her bright pathway, to success and immortal honor! Shall Massachusetts alone be mute, when the world gathers to this great protest against a giant sin, to this holy crusade of humanity?

Say not, we claim something extreme and fanatical. We say only what the State enacted in 1843 and reiterated in 1850, that to be a Massachusetts magistrate and a slave-hunter are incompatible offices. Surely, the Nebraska outrage has not reconciled you to the Slave Power. We dare be as much opposed to slavery and slave-hunting now as we were before that insult. Tell the nation that Massachusetts throws no sanction around the Slave Law by allowing her officers to join in executing it. She marks her sense of its merciless nature, by refusing her broad seal to any one who upholds it.

Judge Loring says—"I only obeyed the United States law in returning the fugitive." Let Massachusetts say to him, "Do it! do it freely! do it as often as you please! Return a fugitive slave every day! But, when you do, remember you shall skulk through the streets like a leper from whose side every man shrinks. Remember, you shall hold no commission of mine. No, the humblest work that the lowliest official performs, since it is honest, is too holy to be polluted by you. We do not deny your right. It is, unfortunately, your right, as a citizen of the United States, to take your part in slave hunts; but the Commonwealth has, also, we thank God, still the right to say that her Judges shall be decent men, at least. Make your choice! You wish to be United States Commissioner?—be it; but no longer be officer of mine!" What! shall our Judges be men whose names it makes one involuntarily shudder to meet in our public journals?—whose hand many an honest man would blush to be seen to touch in the streets?

Indeed, Mr. Chairman, I do not exaggerate. Grant that Burns was Col. Suttle's slave, and what are the facts? A brave noble man, born unhappily, in a slave State, has shown his fitness for freedom better than most of us have done. At great risk and by great effort obtained he this freedom; but we were only free born. He hides himself in Boston. By hard work he earns his daily bread. With patient assiduity, he sits at the feet of humble teachers, in school and pulpit, and tries to become really a man. The heavens smile over him. He feels that all good men must wish him success in his blameless efforts to make himself more worthy to stand at their side. Weeks roll on, and the heart, that stood still with terror at every lifting of the door-latch begins to grow more calm. He has finished his day's work; and, under the free stars, wearied, but full of joyful hope that words could never express, he seeks his home,—happy, however humble, as it is his, and it is free. In a moment the cup is dashed from his lips. He is in fetters, and a slave. The dear hope of knowledge, manhood, and worthy Christian life, seems gone. To read is a crime now, marriage a mockery, and virtue a miracle. Who shall describe the horrible despair of that moment! How the world must have seemed to shut down over him as a living tomb! What hand dealt that terrible blow? This poor man, against mountain obstacles, is struggling to climb up to be more worthy of his immortality. What hand is it, that, in this Christian land, starts from the cloud and thrusts him back? It is the hand of one whom your schools have nurtured with their best culture, sitting at ease, surrounded with wealth; one, whom your commission appoints to protect the fatherless, and mete out justice between man and man. Men! Christians! is there one of you who would, for worlds, take upon his conscience the guilt of thus crushing a hapless, struggling soul? Is the man who could, in obedience to any human law, be guilty of such an act, fit to be a Judge over Christian people?

Gentlemen, the petitioners have no feeling of revenge toward Mr. Edward G. Loring. Let the General Government reward him with thousands, if it will. To us, he is only an object of pity. There was an hour when one man trembled before him,—when one hapless victim, with more than life at stake, trembled before this man's want of humanity and ignorance of law. That hour has passed away. To-day, he is but a weed on the great ocean of Humanity. To us, he is nothing: but we, with you, are the Commonwealth of Massachusetts; and, for the honor of the State, for the sake of Justice, in the name of Humanity, we claim his removal. We have a right to a Judiciary worthy of the respect of the community. We cannot respect him. Do not give us a man whose judicial character is made up of party bias, personal predilection, bad law, and a reckless disregard of humanity, and whose heart was too hard to melt before the mute eloquence of a hapless and terrified man,—do not commit to such a one the widows and orphans of the Commonwealth! Do not place such a man on a Bench which only able, and humane, and Christian men have occupied before! Do not let him escape the deserved indignation of the community, by the technical construction of a statute! The Constitution has left you, as the representatives of the original sovereignty of the people, the power to remove a Judge, when you think he has lost the confidence and respect of his constituents. Exercise it! Say to the United States,—'The Constitution allows the return of fugitive slaves. Find your agents where you will; you shall not find them on the Supreme or any inferior Bench of Massachusetts. You shall never gather round that infamous procedure any respectability derived from the Magistracy of the Commonwealth. If it is to be done, let it be done by men whom it does not harm the honor or the interests of Massachusetts to have dishonored and made infamous!'

Mr. Chairman, give free channel to the natural instincts of the Commonwealth, and let us,—let us be at liberty to despise the slave-hunter, without feeling that our children's lives and hopes are prejudiced thereby! When you have done it,—when you have pronounced on this hasty, reckless, inhuman Court, its proper judgment, the verdict of official reprobation, you will secure another thing. The next Slave Commissioner who opens his Court will remember that he opens it in Massachusetts, where a man must not be robbed of his rights as a human being merely because he is black. You will throw around this unfortunate victim of a cruel law, which you say you cannot annul, all the protection that Massachusetts incidentally can. It is in your power to-day to redeem the Judiciary of Massachusetts from the disgrace which this case has flung upon it. And, doing this, you will do something to prevent seeing such another sad week as that of last May or June, in the Capital of the Commonwealth.—Although you cannot blot out this wicked clause in the Constitution, you will render it impossible that any but reckless, unprincipled and shameless men shall aid in its enforcement. Such men cannot long uphold a law in this Commonwealth.

The petitioners ask both these things; claiming especially to have proved that you can do this work, and that, if you love justice or mercy, you ought to do it.

NOTE A. I am reminded that I might have pushed this argument further. The act of 1850 is styled—'An Act to *amend, and supplementary to*, the Act entitled 'An Act respecting Fugitives,' &c., approved Feb. 12, 1793.' It is, then, properly a part of the Act of 1793, and acting under it is not only substantially within the prohibition of our statute of 1843, but perhaps is, *in strict law*, included in that prohibition. At any rate, how do the statutes of 1793 and 1850 differ? In 1793, Congress enacted that certain State officers should be *ex-officio* slave-catchers. Massachusetts, in 1843, forbade her magistrates to accept the authority. In 1850, Congress makes it necessary that a man should have a separate commission to entitle him to catch slaves. Massachusetts reiterates her orders. In defiance of these, Judge Loring accepts a commission. Is the case not substantially within the meaning of the Act of 1843?

THE RIGHTS OF COLORED PEOPLE. In the case of a respectable colored woman, ejected from the cars of the Third Avenue Railroad, by the conductor, on account of her color, Judge Rockwell, of the Circuit Court, charged as follows:—

'That the Company were liable for the acts of their agents, whether committed carelessly and negligently, or wilfully and maliciously; that they were common carriers, and as such bound to carry all respectable persons; *that colored persons, if sober, well-behaved, and free from disease*, had the same rights as others; and could neither be excluded by *any rules of the Company*, nor *by force or violence*; and in case of such expulsion or exclusion, the Company was liable.'

The complainant obtained a verdict of $225, (half the amount claimed,) to which the Court added ten per cent. besides the costs.—*N. Y. Journal of Commerce*.

THE NEW YORK SLAVE CASE. The slave Sylvia, who landed at Rocketts, Virginia, a few days since, after a residence of twelve months in New York, and who was there arrested upon a charge of violating the laws of Virginia, which prohibit free negroes from coming into the State, has been discharged from custody, it having been shown that she was purchased upwards of a year ago by Mr. William Church, for the sum of nine hundred dollars, and that there was no law giving her a claim to freedom by reason of her twelve months' residence in New York. Mr. Wm. Church, who was arrested upon the charge of bringing her into the State, was discharged upon the same ground.

THE LIBERATOR.

No Union with Slaveholders.

BOSTON, MARCH 2, 1855.

CASE OF JUDGE LORING.

The following private letter may be of service in aiding some, who have a voice in deciding this case, to come to a correct conclusion concerning it, and is therefore submitted to our readers.

—

WAYLAND, Oct. 30th, 1854.

DEAR SIR:

I have understood that you are disposed to look with considerable, and, as it seems to me, undue indulgence upon the conduct of Judge Loring in the case of Anthony Burns. It is on this account that I take the liberty to suggest to you, as one of the most powerful and respected friends of the oppressed which Massachusetts can boast, some considerations which have impressed me in relation to that case.

In the first place, he holds a very responsible and lucrative magistracy under this Commonwealth, which ten years ago interdicted all her magistrates and ministerial officers from aiding in the arrest, detention and surrender of persons claimed as fugitives from injustice. But this Mr. Loring has a *whiprow*, (I might say it in more senses than one.) He lends himself to do the prohibited act in one capacity, and retains in another the ample salary and high trust conferred upon him by the prohibitor. His two-fold official capacity serves him as a house with two rooms served Gen. Harry Lee, of Revolutionary memory. It was built across the Maryland and Virginia line, and when a writ was to be served upon him for a debt in Maryland, he stepped into his apartment in Virginia, and vice versa. We shall see whether Mr. Loring can so evade.

But, waiving the objection grounded on so palpable a violation of the spirit of the prohibitory act, and supposing him to owe no duty or deference whatever to Massachusetts, why should he not have resigned an office, which involved the fiendish business of a slave-monger's catspaw and a kidnapper? These words are not hard, but rigorously correct and necessary. A man who voluntarily lends himself to hew down a human being to *three fifths* of a man, as our Constitution has it, or to *one half* of a man, as Homer describes it, stands precisely in the shoes of his employer. He takes all, without removing from his principal any, of the guilt and infamy. That a deed which could be avoided by simply relinquishing a *ten* dollar fee is voluntary, and would be so in a beggar, it requires no argument to prove.

But when a man's conscience has surmounted two such difficulties in the service of human-flesh-jobbers, he may be considered in good training to surmount any others. Let us see what other feats of high vaulting Commissioner Loring performed at their bidding.

He admitted in evidence the pretended confessions of the alleged fugitive. It is generally understood, and was not disputed in the trial of Burns, that the law and the magistrates of Virginia reject the confession of slaves; because, in the first place, slaves are not competent witnesses in any case where a *white freeman is concerned*; and because, in the second place, it is well known *there*, that in the terror, which threats and torture, or, in lieu of them, a look which expresses them, inspire, they are notoriously made to confess (or ''fess,' as Topsy says,) anything which the oppressor requires, or which they perceive that he desires. There is a propriety and decency in this quite honorable to the judiciary of that State. *They* do not admit a man to be a man, merely to render him competent to prove himself a slave!

Now, then, Mr. Loring was acting under Virginia law, which, for the purposes of reducing men to slavery, the Constitution of the United States has made the law of Massachusetts. The question then was, is 'service or labor due' from this prisoner to this claimant, according to the laws of Virginia? But, according to those laws, the confessions on which Mr. Loring himself tells us that the case turned, *would have been excluded*; therefore, it was not proved that 'service or labor was due.'

When, however, confessions are lawfully admitted, having been previously proved to have been uninfluenced by threats or promises, hope or fear, it is a most inflexible rule of evidence, that the *whole* shall be taken *together*. Burns' pretended confessions contained this, viz.: that he was employed in loading a vessel; that being weary, he fell asleep in the hold, without any intention of escaping, and thus was brought away. According to this, there was no 'escape,' and Burns was not a fugitive. Is was plainly a *casus omissus* in the U. S. Act, but a pliant and superservicable Commissioner virtually legislates to supply the omission in that diabolical law, by throwing out that part of the prisoner's confessions which was favorable to himself, in violation of an invariable and universal principle of law, sanctioned by the common sense and practice of all civilized nations.

It appeared by the evidence on the part of the claimant, that the alleged fugitive was not in *his* service at the time of the supposed elopement; and that said claimant was not even the absolute owner of him, inasmuch as 'the boy' was mortgaged to him by one person, and let for a term of time to another. The *possessory* right was therefore in the latter, and only a *reversionary* right in one or the other of the two former. Strictly, the service or labor had been sold and delivered, and belonged to the person to whom he was let. It could not be 'due' to either of the others, so long as the contract of hire subsisted; and when that expired, it would be due to the mortgagee or the mortgagor, according to the conditions of the mortgage and the acts, which might have been done, or omitted to be done, by one or both of these parties in the intermediate time. Here, then, was a double and triple reason (*trinodis necessitas*) why the decision should have been in favor of the prisoner. The man to whom his 'service or labor was due,' had made no claim; and the man who had made the claim, had only a future and contingent right, which might be foreclosed before the contract of hire expired, and thus he might have no future claim, as it was certain that he had none present.

I think that every reflecting man, and especially every lawyer, will admit that there was, to say the least, a reasonable doubt on each of these points, and if there was a doubt on either, it ought to have been fatal to the claimant; and this, I presume, was the reason why the Commissioner ignored both. In his written and published opinion, there was, as I recollect, no allusion to either, although both were raised and argued by the faithful and able counsel of the prisoner. The Commissioner appears to have profited by the jesuitical advice of Lord Mansfield to an inferior magistrate, a *relative* of his, to give his decisions peremptorily, and withhold his reasons, which, if disclosed, would often involve him in a great deal of trouble! If, on the whole case, there was any doubt or misgiving in the Commissioner's mind, he was bound by law to discharge the prisoner as much as in a case of life and death; and if there was no doubt, it was because his bias or his habits of mind prevented his seeing it, and made him shut his eyes, as some animals do before they smite.

In order to make out the identity of Burns with the alleged fugitive, it became necessary to prove that he escaped from Virginia *after* the *nineteenth* of March. 'Many witnesses' on the part of the prisoner, 'whose integrity,' says this slave-catching Commissioner, Law Professor and Judge of Probate, 'is admitted, and to whom no bias can be attached, and whose means of knowledge were personal and direct,' testified that they saw him in Boston, hired him, conversed and worked with him, as early as the *first* of March; and one of them produced an account-book, in which he had entered a memorandum of an agreement to hire the prisoner at or near that date. These witnesses were citizens of Boston, known to hundreds, who might have been brought to impeach them, if there had been the slightest ground for it. What was there to overthrow this massive evidence? Nothing but the testimony of one person from Virginia, whom nobody knew. I do not say that Mr. Loring was bound to discredit the one and believe the many; but I do say that this striking discrepancy threw doubt upon the case, and justified and required the discharge of the prisoner.

Thus, waiving the great constitutional objections to the fugitive slave law, there were four distinct grounds upon which a jury, or any independent and impartial legal mind, would have found in favor of freedom:—

1. The alleged confessions ought not to have been received.

2. If received, the *whole* should have been received.

3. The real owner of the 'service or labor' was the lessee, who had made no claim.

4. Or if the reversionary interest was such an one as could constitute the person to whom it might attach 'the party to whom service or labor was due,' still, there was further question, whether that person would be the mortgager or the mortgagee. The magistrate had no authority to *presume* anything in favor of either, but he was bound by law to presume in favor of liberty.

I do not think that Mr. Loring wilfully and corruptly perverted the law, or that he was influenced by that gross insult, the differential fee. What I believe is, that he is a gentleman easily swayed by the *nearest* influences; that he is one of those conservatives, (now, I trust, getting 'small by degrees and beautifully less,') who are penetrated with an habitual and profound reverence for established power and vested wrong, wherever they find them; who have breathed from their birth an atmosphere of servility to slave-breeders and human-flesh-jobbers; who have very little regard for the rights, interests or feelings of anybody out of their class or clique; and that since the passage of the fugitive slave law, he has especially belonged to a faction, *whose symbol is that servility*, and whose founder was its greatest incarnation.

Hoping that, upon full consideration, you may see cause to concur in relieving this little pluralist of *one* of his offices,

I remain, dear Sir, very truly yours,

* * *

HEARING IN THE CASE OF E. G. LORING BEFORE THE COMMITTEE ON FEDERAL RELATIONS. The second hearing before the Committee on Federal Relations, on the petitions for the removal of Edward Greely Loring from the office of Judge of Probate for Suffolk County, took place in the Representatives' Hall, Wednesday afternoon. As on the previous hearing, the Hall was densely packed in every part, by ladies and gentlemen anxious to listen to the proceedings.

At the opening of the session, Messrs. Robert Morris and Wendell Phillips and Rev. Theodore Parker were sworn; but we have not room this week for the merest abstract of their testimony. J. W. Ketchell, a slaveholder from Alabama, then addressed the Committee, the same *distinguished* individual alluded to in an article on our last page. The Committee were also addressed by Richard Hildreth and Amasa Walker. Mr. Ketchell again spoke, and was tersely replied to by Lewis Hayden. The Chairman of the Committee announced that the next hearing would be on Tuesday afternoon of next week, when Richard H. Dana, Jr. is expected to appear in opposition to, and Theodore Parker and J. A. Andrews in support of the petitioners.

GEN. HOUSTON. According to previous announcement, Gen. SAM HOUSTON, the Senator from Texas, delivered one of the regular course of Lectures on the subject of Slavery, at the Tremont Temple, on Thursday evening of last week, to a large audience. What he said on the occasion, our readers may learn by reading a very exact report of his speech, on our last page, which appeared in the *Evening Telegraph*. It was a stolid defence of slavery, as a necessity, and utterly devoid of all reason and principle—of course. To the disgrace of Boston, he was loudly applauded at the beginning and at the close of it. On Friday evening, he delivered a lecture, at the Temple, in defence of the Texas revolution; and a more shuffling and deceptive address was never listened to. For the particulars of his visit to Boston, we have no room this week.

☞ ANOTHER AND FINAL POSTPONEMENT. ☜ In order to secure the attendance of some speakers, whose absence on the occasion from the meeting would create great disappointment, it has been deemed advisable to postpone the NON-RESISTANCE CONVENTION, at WORCESTER, to SATURDAY and SUNDAY, March 24th and 25th, instead of March 10th and 11th. This postponement will be FINAL, and it is hoped the friends of 'peace on earth and good will to men' will make it the occasion for a strong rally. We trust nothing will occur to prevent our attendance. REMEMBER THE TIME NOW FIXED UPON.

ARGUMENT OF WENDELL PHILLIPS, ESQ. It will be seen, at a glance, that more than two pages of our present number are occupied with the Argument of Mr. PHILLIPS before the Committee on Federal Relations, in support of the Petitions for the Removal of EDWARD GREELY LORING from the office of Judge of Probate, February 20, 1855. It is one of those efforts which alone is worth the subscription price of THE LIBERATOR, and which time makes of great historical importance. It was listened to with profound interest and satisfaction by a densely crowded audience, and the universal sentiment seemed to be, that it covered the whole ground, and left nothing more to be said on the subject. It has been printed in pamphlet form, and may be obtained at the Anti-Slavery office, 21 Cornhill. Give it an immediate and wide circulation.

ANTI-SLAVERY TEA PARTY. An Anti-Slavery Tea Party is to be held in the Town Hall, at Concord, (Mass.) THIS EVENING, (Friday, March 2,) at which speeches will be made by Rev. T. W. Higginson, Rev. Mr. Hodges, Rev. Mr. Frost, Lieut. Gov. Brown, and John L. Swift, Esq. An occasion so attractive should draw a very large company together.

SLAVERY DEBATE IN CONGRESS.

On Friday evening of last week, a spirited and exciting debate took place in the U. S. Senate, on a bill 'to protect officers and other persons acting under the authority of the United States.' The Washington *Globe* says, in reference to the bill:—

'Its object is to protect persons who aid in the administration of the laws from vexatious suits at law, and with this view it provides that, if a suit be commenced or pending in any State court, against any officer of the United States, or other person, for or on account of any act done under any law of the United States, or under color thereof, or for or on account of any right, authority, claim or title, set up by such officer, or other person, under any law of the United States, and defendant shall, at the first term of such State court after such suit shall be commenced, file a petition for the removal of the cause for trial into the next circuit court to be held in the district where the suit is pending, or if there be no circuit court in such district, then to the district court invested with the powers of a circuit court next to be held in that district, and offering good and sufficient surety for his entering in such court on the first day of its session copies of the process against him, and also for his there appearing and entering special bail in the cause, if special bail was originally requisite therein, it shall be the duty of the State court to accept the surety and proceed no further in the cause, and any bail that may have been taken is to be discharged, and the cause is to proceed in the United States court as if it had been brought there by original process.

The debate on this bill was exceedingly discursive and personal. The Know Nothing movement had its share, and more, of attention. We have only room, this week, for a few passages, indicating the part taken by the Massachusetts Senators in the debate. We are assured by a gentleman of this State, who was in the Senate during the whole discussion, that the reports, as they have been thus far published, have been very imperfect, and even false, and that the course taken by Senator Wilson on that occasion gave great satisfaction to those Senators, and others, at Washington, who sympathise with him in his views on the slavery question. We copy from the *Globe*:—

Mr. WILSON said he was ready to carry out every provision of the Constitution, but was opposed to the existence of slavery in the District of Columbia or in the Territories of the United States, and he, and those who acted with him, were determined to abolish it there. They believed they shared the responsibility of its existence wherever it was under the control of Congress, and they desired to relieve themselves of that responsibility. He earnestly desired the perpetuity of the Union, and thought that if the Fugitive Slave Law should be repealed, the provisions of the Constitution would be carried out by the States themselves.

Mr. WELLER, of California, said if Mr. Wilson was disposed to carry out the provisions of the Constitution, he would go hand in hand with him. He had heard him charged with being a disunionist. He was glad that such was not the case. Later in the evening, Mr. SUMNER said:—

It is now near midnight. Since eleven o'clock this morning, we have been in our seats. This is the day usually set apart for private claims. There are seventy-five private bills, unheard, sacrificed to slavery in one of its most odious forms. There is a seeming apology for slavery at home, but that apology fails when you hunt a man who has the intelligence and skill to secure his freedom.

Mr. RUSK of Texas—Point out a word in that bill which speaks of slavery.

Mr. SUMNER—Read the caption of the bill. By the admission of the whole debate, it is a bill to bolster up the Fugitive Slave Act.

Mr. RUSK—If the United States officers are not to be protected, repeal your law.

Mr. SUMNER—So say I, 'Repeal your law.'—There is neither the word 'Slave' or 'Slavery' in the Constitution. This bill is reported by a Senator from the North, to bind anew the chains of the slave. Some Senators regard the Fugitive Slave Law as constitutional; others, equally conscientious, believe it to be utterly unconstitutional. There is another clause side by side with the 'held to labor' clause, guaranteeing the same privileges and immunities in all the States, and to the citizens of each State. Citizens from the free States, in more than one State, have been put in prison, and in some instances sold.

Mr. BUTLER of S. C.—Do you embrace South Carolina in your statement?

Mr. SUMNER—I do. South Carolina has, by her Legislature, claimed the right to interpret that clause, and Congress has no power to legislate under that clause. I say of Massachusetts, that in the persons 'held to labor' clause, she has a similar right to interpret, and to disclaim the right of Congress to legislate upon this last-named clause. This Fugitive Slave Act is unjust, as it is unconstitutional. You fancy you may prop it up by decisions of Courts, but such an act so defiant of the law of God, would drag any court down to oblivion. Senators to-day have arraigned whole States, because they have endeavored to throw the shield of *habeas corpus* and trial by jury around the victims of this atrocious enactment. An enlightened Christian public opinion is forming in the North, which will render your acts on this floor nugatory, as they are unconstitutional and irrational. You from the South brought slavery into Congress when you passed the laws in reference to slavery which disgrace the District of Columbia, and which my friend from Connecticut (Mr. Gillette) has so ably exposed to day. Let us alone, say Senators from the South; let us alone, say we of the North,—keep slavery where it was under Washington, when our national flag didn't float over a slave. I move to strike out the enacting clause, and insert an amendment providing for the repeal of the Fugitive Slave Act of 1850, and ask the yeas and nays upon the amendment.

In answer to Mr. Butler,—No inducement would incite me to aid in the return of a fugitive slave.

Mr. BUTLER—The gentleman has no right to a seat here, disavowing all obligations to the Constitution.

Mr. SUMNER—I do not disavow obligations to that instrument.

Mr. SUMNER's amendment was rejected by nays 30, yeas 9.

An amendment allowing the use of depositions taken under this bill, to be used in United States Courts, was passed, when the bill was passed to a third reading, by a vote of yeas 29, nays 9.

At a quarter past 12 o'clock, midnight, the Senate adjourned.

DEATH OF HON. WILLIAM JACKSON. We regret to hear that Hon. William Jackson died at his residence in Newton Corner on Tuesday. His disease was dropsy of the heart. Mr. Jackson was born at Newton, on the 2d of September, 1783. He was formerly Representative to Congress, and sustained an excellent reputation there, as he did at home, as a man of energy, ability, sound sense and the purest integrity. He was an early friend of the Railroad system in this State. In politics, Mr. Jackson was a Liberty Party man, and of late years an active member of the Free Soil party. He was also one of the truest friends of the Temperance cause. He was, until recently, if not at the time of his death, President of the American Missionary Society.—*Evening Telegraph, Wednesday.*

ANTHONY BURNS COMING TO BOSTON. This is announced by telegraph. He is expected to be present at the meeting in Tremont Temple to-morrow evening.—*Evening Transcript, Wednesday.*

MEETING OF THE N. E. NON-RESISTANCE SOCIETY.

A Meeting of the New England Non-Resistance Society will be holden in Worcester, Mass. (probably in Brinley Hall,) Saturday and Sunday, March 24 and 25, commencing at 10 o'clock, A. M., on Saturday, and ending on Sunday evening. On Saturday evening, an address on the general subject of Christian Non-Resistance will be delivered by ADIN BALLOU. On Sunday forenoon, afternoon and evening, there will be addresses, discussions, exhortations, and remarks, accompanied by singing, and such other devotional exercises as persons in attendance may feel it a privilege to offer.

Wm. Lloyd Garrison, Stephen S. Foster, Abby Kelley Foster, Henry C. Wright, and we hope many other able speakers, will be present on the occasion. As many of the friends from the Hopedale Community as can conveniently attend, especially speakers and singers, are earnestly requested to be present.

☞ REVIEW OF GEN. HOUSTON. This (Thursday) evening, March 1, at the Tremont Temple, commencing at half-past 7, WILLIAM LLOYD GARRISON will Review the Lecture on Slavery, delivered by Gen. Houston, of Texas, on the evening of the 22d ult.

Single Tickets, 25 cents; three Tickets for 50 cents, or eight Tickets for $1. To be had of John P. Jewett & Co., 117 Washington street; at the Anti-Slavery Office, 21 Cornhill; and at the Box Office at the Temple.

☞ A SERIES OF ANTI-SLAVERY CONVENTIONS, in Western Massachusetts, &c., having been projected by the Executive Committee of the *American Anti-Slavery Society*, will be commenced by the holding of such a Convention in SPRINGFIELD, on Saturday and Sunday, March 3d and 4th, at Hampden Hall.

☞ The Springfield Convention will be attended by STEPHEN S. FOSTER, CHARLES L. REMOND, WM. W. BROWN, and LEWIS FORD.

A CONVENTION will be held at NORTHAMPTON, commencing on Tuesday evening, March 6th, and continuing through Wednesday, March 7th. This Convention will be attended by WM. WELLS BROWN, STEPHEN S. FOSTER, and LEWIS FORD.

☞ Anti-Slavery Meetings will be held in BRATTLEBORO', Vt., on Thursday and Friday evenings, March 8th and 9th. They will be attended by CHARLES L. REMOND and LEWIS FORD.

An Anti-Slavery Meeting will also be held in MONTAGUE on Thursday evening and Friday, March 8th and 9th. It will be attended by STEPHEN S. FOSTER and WM. WELLS BROWN.

☞ A CONVENTION will be held in GREENFIELD; probably at the Town Hall, commencing on Saturday evening, March 10th, and continuing on Sunday, March 11th.

It will be attended by CHARLES L. REMOND, STEPHEN S. FOSTER, WM. WELLS BROWN, and LEWIS FORD.

☞ SALLIE HOLLEY, an Agent of the Mass. Anti-Slavery Society, will speak in

Manchester,	N. H.,	Sunday,	March	4.
Auburn,	"	Tuesday,	"	6.
Milford,	"	Thursday,	"	8.
Haverhill,	Mass.,	Sunday,	"	11.
Bradford,	"	Tuesday,	"	13.
Georgetown,	"	Thursday,	"	15.
Exeter,	N. H.,	Sunday,	"	18.
Newmarket,	"	Tuesday,	"	20.
S. Newmarket,	"	Thursday,	"	22.

POETRY.

LOVED ONCE.

A remarkable composition, by Elizabeth Barrett Browning.

I class'd, appraising once,
Earth's lamentable sounds; the welladay,
The jarring yea and nay,
The fall of kisses on unanswering clay;
The sobb'd farewell, the welcome mournfuller;—
But all did leaven the air
With a less bitter leaven of sure despair,
Than these words—'I loved once.'

And who saith, 'I loved once?'
Not angels, whose clear eyes, love, love, foresee,
Love through eternity!
Who, by To Love, do apprehend To Be.
Not God, called Love,—his noble crown-name,—casting
A light too broad for blasting!
The Great God, changing not from everlasting,
Saith never, 'I loved once.'

Nor ever the 'Loved once'
Dost thou say, Victim-Christ, misprized friend!
The cross and curse may rend;
But, having loved, thou lovest to the end!
It is man's saying—man's! Too weak to move
One sphered star above,
Man desecrates the eternal God-word, Love,
With his No More, and Once.

How say ye, 'We loved once,'
Blasphemers? Is your earth not cold anew,
Mourners, without that snow?
Ah, friends! and would ye wrong each other so?
And could ye say of some, whose love is known,
Whose prayers have met your own,
Whose tears have fallen for you, whose smiles have shown,
Such words—'We loved them once'?

Could ye 'We loved her once'
Say calm of *me* sweet friends, when out of sight?
When hearts of better right
Stand in between me and your happy light?
And when, as flowers kept too long in the shade,
Ye find my colors fade,
And all that is not love in me, decay'd?
Such words—Ye loved me once!

Could ye 'We loved her once'
Say cold of me when further put away
In earth's sepulchral clay?
When mute the lips which deprecate to-day?—
Not so! not then—*least* then! when life is shriven,
And Death's full joy is given;—
Of those who sit and love you up in heaven
Say not, 'We loved them once.'

Say never, ye loved once!
God is too near above, the grave below,
And all our moments go
Too quickly past our souls for saying so!
The mysteries of Life and Death avenge
Affections light of range—
There comes no change to justify that change,
Whatever comes—Loved once!

And yet that word of 'once'
Is humanly acceptive! Kings have said,
Shaking a discrowned head,
'We ruled once;'—idiot tongues, 'We once bested;'
Cripples once danced i' the vines;—and bards approved
Where once by scornings moved!
But love strikes one hour—Love. Those *never* loved,
Who dream that they loved once.

THE PEN AND THE SWORD.

BY JAMES SIMMONDS.

The Pen and the Sword a council held,
O'er which old Time presided,
And who should wear the evergreen crown
Was by him to be decided.
'Come tell me now,' the Monarch cried,
'Come tell me each your story,
And he who has the most good done,
Him will I crown with glory.'

'The laurels I bring,' the Sword began,
'Were won in a glorious cause—
I've hurl'd from the throne the tyrant King,
Who invaded his people's laws;
I've proved my might, in many a fight,
Both on the land and sea—
And I will swear the Pen won't dare
To say that he'll outlive me.'

Then the Pen replied, in a modest tone—
'In the good that I have done,
I've taught mankind that right is might,
From the King to the Peasant's son.
I have saved a glorious Nation's blood
Being spilt in an useless strife;
And my trophies are Peace and Plenty,
Strewn over the field of life.'

Old Time his impartial balance held,
And their separate virtues weighed—
But soon to the modest Pen decreed
A crown that should never fade.
'Go, Sword! on thy fading laurels feast—
For brief is the span I afford,
And know that the Pen—the glorious Pen,
Shall for ages outlive the Sword.

THE PRESS.

AN ODE.

The warrior ruled his crimson age
With brazen helm, and spear, and shield,
And mad Ambition's lust and rage
Made Earth a reeking battle-field;
And thrones were built and propped with swords,
And man was scourged with chain and rod,
And kings, and priests, and feudal lords
Elate o'er prostrate millions trod.

But never more shall steel-clad hand
Alone to rule the world have power;
A mightier spirit walks the land
In court and camp, in hall and bower—
The Soul of Man! unchained at length,
In Reason's name and Freedom's might,
To break the despot's iron strength,
And end Oppression's awful night!

The Soul of Man! that asks nor sword,
Nor trump, nor plume, nor banner's train,
To smite the tyrant, king, and lord,
And give the nations life again—
But shall, in Freedom's name, unbind
The world, and smite its woe and wrong,
With Thought—the jewel of the mind!
And Speech—the glory of the tongue!

And, wide as earth, the Press shall bear
That thought and speech on wings of flame,
Till Faust and Franklin's names shall share
A more than king or warrior's fame—
And Man rejoicing—freed at length—
Shall bless the Printer's Art, that gave
His thought and speech immortal strength,
To free Earth's serf and Error's slave!

THE CHARMS OF VIRTUE IMPERISHABLE.

All earthly charms, however dear,
Howe'er they please the eye or ear,
Will quickly fade and fly;
Of earthly glory faint the blaze,
And soon the transitory rays
In endless darkness die.

The noble beauties of the just
Shall never moulder in the dust,
Or know a sad decay;
Their honors time and death defy,
And round the throne of heaven on high
Beam everlasting day. Henry Moore.

THE LIBERATOR.

LECTURE ON SLAVERY,

BY HONORABLE SAMUEL HOUSTON,

At the Tremont Temple, Boston, Thursday Evening, February 22, 1855.

[Reported for the Evening Telegraph.]

Mr. President and Gentlemen of the Committee:—

By your polite solicitation I have presented myself here. Respect for it induced my visit. I feel that I am far, very far from my home—the most remote Southern Senator; but I feel that I view and address an auditory composed of my countrymen, an American auditory, and as such I feel inspired with delight and confidence. No sentiments have I to advance, but such as spring from an honest heart, and are prompted by honest convictions of experience. I am aware that the dissimilarity of institutions subsisting between this section of the Union and the one in which it has been my destiny to be born, to live, and to act in, is very material. Notwithstanding this, I presume a fair and unvarnished statement of facts not trenching upon the enjoyment of the opinions of any individual, will be received with that allowance which a diversity of intertest and of institutions may give.

I was born in the South, but I was taught to know the North ere manhood had brought me into active life. I had learned the interesting reminiscences of the revolutionary war, and I had known that there was but one brotherhood in the colonies, and but one people achieved the independence of America. As such, I rm proud that I am an American, and I feel as one, presenting myself before this enlightened and accomplished auditory. Unsolicited I am here—I might say undesired; because it devolves upon me a grave responsibility to vindicate an institution with which I am concerned, one with which I had no election, one that fortune or destiny cast me into connection with, and one that must continue or the two races cannot exist together.

To discuss the abstract principles of slavery and freedom is not my task. I take it as I find it, and as I have found it in past life. It was not a contrivance of myself or of my ancestors, and I am not responsible that the institution of slavery exists in the country in which I live. We find that the adaptation of climate, of soil, and of production have demanded and commanded a class of laborers that have been expelled from this section of the country. The institutions here have changed. At the time of the achievement of American liberty, there was not one of the colonies which did not hold slaves, and recognise it as a right institution as it then existed.

The achievement of our liberty was made by slaveholders, and if they have since dispossessed themselves of slaves, now they exist only in one portion of the country. There they are not objects of cruelty, they are not objects of harshness, they are not doomed to a state of heathenism; they have the lights of religion, of civilization, of morality. It is the care of masters there who desire the countenance and fellowship of the community, to see that on the Sabbath day the slave attends the worship of the Supreme Being. The Word is given to them by their own preachers, or by white preachers, and they are instructed in religion. Masters, rightly constituted there, feel anxious that their slaves should be acquainted with the mysteries and the joys of revelation. They do not wish it shut out from their spirits, nor from their eyes. The house of a man who would make his slaves labor on the Sabbath—I have known but two who have been charged with employing their laborers on the Sabbath day—would become like an infected place. No one consorts with such a master, or trusts office or distinction to them.—These I know are statements that are not in conformity with the general and excited state of feeling which exists in certain portions of the country, but they are, nevertheless, true, and I feel called upon by the respect shown to me to state the truth in return for that respect. (Applause.)

So far as the South has heretofore expressed itself—and I have come to vindicate the South against the responsibility sought to be cast upon it for that for which it is not responsible—the South has said, 'Let us alone, let us regulate our domestic institutions for ourselves. You, gentlemen of the North, you legislators, you governors, you statesmen, go on and regulate your domestic institutions as you think proper. Give us the same privilege and it is all we ask. Let us alone.' How long has that spirit of acquiescence existed? How perfect was it on the commencement of the last session of Congress? Not a voice of discord was heard, not a jarring sound was heard throughout the broad land. Peace, concord, harmony and unanimity of feeling existed throughout the whole Union. Acquiescence in the Compromise of 1850 had accorded to the country a state of peace, and there was a tranquillity not before heard of. To be sure, there were some exceptions; but I speak of measures generally. There was no jarring sound until a voice was heard in the ears of the American community, 'Nebraska! Nebraska!' That was the note of discord. From whence did it come? Was it from the South? (A voice, 'No!') I deny it. I will prove from history that the South never demanded it, nor did *all* of the South acquiesce in it either. (Applause.)

I know it requires some iron nerve to stand up against clamors and numbers, but I would not give a fig for a man that could not stand against the world when his breast-plate is honor and his helmet truth. (Cheers.) Not one Legislature of the whole South, not one executive, exhibited an uneasiness under the Missouri Compromise. Not one single community, not one editor, not one orator, not one voice was heard clamoring for the repeal of the Missouri Compromise. No, not one. It came from the North, and I repudiate the idea of its being an effort of the Slave Power to encroach upon the rights of the North. The North was not injured by it. The injury was done to the South, as I insisted at the time. It was putting the knife to the throat of the South, whilst it was an abstraction at most, because not one slave would ever be recognized in the Constitution of the country north of 36 deg. 30 min., on the score of economy or policy; for slave labor could never requite the owner of the slave north of 36 deg. 30 min.; but south of that slave labor could be productive and beneficial to him.

It was an abstraction, but it was a kind of mischievous abstraction that broke up the harmony of the country, and excited apprehensions of the North that the South was struggling for dominion. I felt that I occupied an isthmus between two oceans,—that when I had navigated the troubled sea, whose tempestuous waves tossed me, I should soon cross the isthmus, and that a broader sea would receive me. I felt that I had to leave a posterity in America, and they were to have their destiny for weal or woe blended with the people of America. I could see no North, no East, no West, no South. It was one country, an undivided Union, in which I was born, and in which I hoped to live and die. These were the feelings that I had; and to see the peace of the county broken, and no benefit resulting, led me to suppose that the North would resist the encroachment. They felt veneration as well as the South for the Missouri Compromise line. It had produced great benefits for the country, which had gone on growing and prospering until its millions had more than doubled.

What harm had the Missouri Compromise done? I recollect the time of its adoption,—too young to participate in the political scenes of the day; but I recollect the delightful influence it had in the country when it was brought about. The great pacificators of that day had peans sung to them, and joy reigned at the restoration of harmony in the country. Those were scenes that I well recollect. I had seen its benefits, and sustained it for the good of the country. (Applause.) I sustained it for the repose of my own hopes for the future; I sustained it because it was a compromise; and because it was a pledge of honor, in my estimation, I supported it. I viewed it as the other compromises of the Constitution—for the spirit of that instrument was compromise. It grew out of that. The spirit of conciliation and compromise produced the mighty fabric of the American Constitution, and laid the foundation of our liberties.—Hence this compromise had existed for no less than a quarter of a century. Its antiquity entitled it to veneration and respect. If it had remained without molestation so long, even if we had realized no extraordinary benefits from it, it should have been respected. But when it was repudiated and repealed or violated, there was no excuse, to my apprehension. But I have met the responsibility of opposing every attempt to impair its force or abrogate its principles. (Applause.)

I know that many things that I may think—and an honest man ought never to fear to say what he does think—may not be acceptable to this auditory. But whatever I may say that shall jar upon your feelings, I will premise that I advance my own opinions, not for the purpose of coming in contact with others, or of attacking the most delicate sensibility. (Applause.) When I look around me and contemplate the extent of this country, the diversity of its productions and of the pursuits of the inhabitants of America, I can but believe that there is a reciprocal duty of one portion of the country to another, and of mutual dependence of one section upon another. The people of the South are little more than overseers for the North. They stand pretty much in the relation of overseers for the gentlemen of the North. Why is it so? We produce the raw material; we have the physical responsibility of seeing to the laborer and tending the hands who produce the raw material. When it is prepared for the market, the marine of the North comes and receives it and brings it here. Our cotton and our sugar are brought here for consumption.

Cotton especially is the most important article of this kind of commerce. The cotton is transported here, and you derive the benefit of the carrying trade. This we don't think hard of. You have the advantage of your industry, your ingenuity, your machinery and its fabrication. By the same means that brought it, you transport it back again, and we consume it. So, then, we are the producers and consumers, while you are the manufacturers, and to you we pay tribute. This is all right enough. I don't think hard of it. But it is truth. Thus you are benefitted by it. Where would be your spindles and looms but for the productions of the South on which they depend? We take your manufactures, and you supply our demand. This is all fair trade, and it is all right. It shows that there is a mutual dependence of one section upon the other, and without both neither can exist and be happy and independent. Hence it is that I have always been devoted to the Union. Upon that subject I may be a monomoniac; at all events I am very much devoted to the fancy. (Applause.)

We found slavery in our country. We use slaves, but we do not abuse them. One race or the other must give way. If slavery were to give way, the spindles of the North would stop. It may be objected that I am appealing to the cupidity of the Northern people. I am appealing to their common sense and experience, and they may give it what name they please, that object to it. Look to Jamaica. Has the slave advanced with all the advantages of emancipation, after passing through all the stages of apprenticeship? No, he has deterioriated. He is lower than when he was a slave. His labor is unproductive; he is not profitable to himself nor to any other. How would it be in the South? Turn them loose, and they could not set up in business. Land could not be appropriated to them; and if it were, they would not work it. They would be as they are in Bermuda and every where else where they are thrown upon their own resources. They are listless, inert, lazy, living on the fruits of the earth where they can be had, but never will be industrious.

How could two races exist together without amalgamation? It is impossible. Well, they would produce nothing in the South; the spindles of the North would stand still; the implements of husbandry would remain here unsold, and the whole South would present nothing but a spectacle of wretchedness, if not of bloodshed and carnage. Who could derive happiness from this? It would not elevate the slave in the South. You might call him free, but he would be an object of want and wretchedness. Now, if he is sick, a doctor is provided, and he is attended to by the master because he is his owner, and it is his interest to care for him. But if free, no one would take care of him. His toil would stop, and his recompense, and he would be cast into the streets. That would be his situation. Whereas, it is the master's duty not only to improve his intelligence, but improve his moral condition, that he may be more honest, trustworthy and faithful; and to take care of his physical condition, that he may perform the amount of labor with less inconvenience and more certainty. These are the facts.

It is not the love of slavery that causes it to exist in the South, but the necessity of their condition that has forced it upon them. They are obliged to do it. They cannot liberate them. But we see men when they come to close their account with the earth, anxious to benefit them, make provision to transport them to Liberia. If the same amount had been expended in building up and colonizing Liberia which has been wasted in other ways in relation to them, it would have been better. That colony has gone on in improvement. There they can rise to the stature of men; there they are prospering, and doing well where there is no opposing race, and they are not trodden down. The slave turned loose here cannot rise to the condition of the white race, and the white race cannot sink to the condition of the black man. Hence the system of transportation to Liberia is the only one that seems to loom up in the distance by which a provision can be made for restoring these people, at some future day, to the land of their origin.

Strange as it may appear, and difficult as may be the task, the Providence that rules the world, that has built up and pulled down nations, though His plans are mysterious and beyond our comprehension, can again show his power as in days past in a way to meet His divine purposes. When Joseph was sold by the patriarchs to the Midianites and the Ishmailites, and when he was transported to Egypt, no one could have divined the subsequent wonders of Divine power. The children of Israel remained four hundred years in Egypt ere they were redeemed, and then it was by miraculous and infinite power. Was this all chance? Was it the result of national mutation, or of policy of men, or of Moses uninstructed by Deity? No, for he was raised up by wonderful power to teach them that the God of Israel could redeem the nation from bondage and overwhelm their oppressors.

Here was an act of emancipation. And how do we know by what means, at some future day, if we use our influence to excite humanity towards these beings, and endeavor to get rid of them little by little, imbuing them with the light of Christianity, they may become nations as numerous as the sands of the sea, and that from the point where they may establish themselves they may radiate science and religion throughout the continent of Africa? These are things which we cannot foresee, for we cannot tell what is in the womb of futurity, nor in the mind of the Almighty.

My devotion and the sincerity of it to the Union, my desire for its perpetuation, my love of harmony, my anxiety for the future of my country, all have me to contribute during my whole life, to its general welfare, to its harmony and to its advancement. I would advocate in the abstract nothing. Nor is it a subject that I am going to discuss. Men have a diversity of opinion, and I accord to them the right of opinion. I accord to them everything they claim, and in doing so, I only claim the equal privilege of enjoying the same liberty that they enjoy. I know that all cannot think alike. All do not think alike, and while they abstain from overt acts, which trench upon no rights, I would not interfere with their opinions. I would not trench upon one single iota that pertains to the North, nor would I take it well to see the North trench upon the South. But whatever the South does, as a community, she is responsible for. She, on the other hand, only asks what the North demands—Let us alone. And if pestilent men exist in the South or in the North, it is no reason that discord should exist between the two sections of the country.

The two sections cannot be separated. How would you separate them? Would Mason & Dixon's line be the line of separation? Would not fortresses and cannon be placed on either side of that line—an ideal or a true one—or, if you please, a river—would not they oppose each other. Would not standing armies grow up to protect this frontier? Would not a military power grow up to defend this boundary? Would not taxation and oppression be the consequence of it, and would not despotism follow armies and taxation? Are you prepared for that? Rational men cannot desire it. They desire Union. The men of the South, and the men of the North desire union and tranquillity; both sections are interested in the union, and neither can repudiate it and be happy and independent. [Applause.] No. All we ask is to be let alone. We do not wish to obtrude our institutions, but we wish all the benefits of the Constitution. We wish that to be the controlling principle of the country. We are willing to give the pound of flesh, but not one drop of Christian blood.

I well remember that when we were living separate as a community—as a different republic—when we in the far distant South contemplating a union with the far distant States, we did not count Southern States or Northern States. We contemplated the American Union. And if we entered into the confederacy, it was to be a domestic confederacy of the North as well as of the South. If our domestic institutions were similar to the peculiar institutions of the South, our political institutions were the same as those of the North, as to republicanism and as to freedom, so that we looked to them as one great community, one vast and mighty people—a union that could resist the world. (Cheers.) All that we had to do was to cultivate harmony among ourselves. We were aware of dissensions; we knew that there was a North and a South—a bank and an anti-bank—a tariff and anti-tariff. We knew there were in different sections peculiar notions, and we looked at all these, and did not leap in the dark. But when we took a servey of all of them, and saw the great disadvantage of building up a living power on this contiment in antagonism to a people of our own language, race and religion, we believed it was impolitic, and injurious to the prosperity of two countries. We saw that at some future day evils would grow up; that England might seek to advance her interests, that Europe with all her power might seek to foster an enemy among us, to hinder our march to glory and grandeur. Though Texas might reap the benefit of it, we saw the evil to the nation of supporting a separate power.

We had no diversity of interest among us. On the institution of slavery we were a unit; we were aware that coming into this confederacy, we should have to participate in all the incidents of your government, and we came in and united with you for weal or for woe. We desired union for the sake of the strength and power of the Union—that we might be able to act in conjunction with you to elucidate the great principle of self-government, that men of equal condition, intelligence and cast unite in achieving in our country. These are the benefits we anticipated, and these the blessings for which we united with this government.

Upon these principles, too, we agreed that the North and the South should be equal recipients of the benefits of the annexation of Texas. We agreed that the Missouri Compromise line should be applied to Texas, and all north of 36 deg. 30 m., comprising 5 1-2 degrees of latitude, the North should have dedicated to their peculiar institutions, while in all south of that line the South should retain an interest.

We were willing to do this to show the equality of our principles, upon which we have acted up to this day. I invoke the North to regard these things; they are evidences of our sincerity and good faith. These concessions have not been eschewed by the people of Texas any more than by the North. The bill that has produced this agitation, which I would be glad to see laid, was not discussed in the South, nor any where but in Congress. It was hurried through Congress,—there only it was discussed,—with precipitancy almost indecorous. It was forced through over those who made but a weak opposition in point of numbers, and I am not sure but in point of earnestness. It was carried for special purposes, I suppose; and judging from past events, it must have disappointed the hopes of those who did it. [Cheers.]

[Here the speaker rested for a few minutes, and Dr. Howe took occasion to announce that Mr. Campbell, will deliver his lecture on the 15th of next month. Also that Mr. Houston will lecture this (Friday) evening, on the subject of Texas. Mr. Houston continued:]

Ladies and Gentlemen—I have been led to the reflection that in the adaptation of labor to climate and production, it would be impossible to furnish supplies to meet demand, if it were possible to wipe out slavery and transfer every one of the Southern slaves to the soil of Africa. It would be impossible to supply one fourth or one sixth of the demand that has gradually grown up in the present condition of the country. The white man's labor could never supply that of the slave, whose constitution is adapted to Southern labor, climate and production. It is not that the slave has to bear the burden and heat of the day. Our laborers rise with the sun, are allowed half an hour at breakfast, and two hours at noon, avoiding the heat of noonday, and return at night to their supper and repose. They are not overworked; yet any white man undergoing the same process of labor would be unable to endure it. He would fall under the heat of the sun. There are physical causes why this is so, and they are known to physiologists.

The negroes originated in a southern climate, and they cannot live in a northern climate with the enjoyment of the same degree of health, activity and vigor that they can enjoy in the South. There they are healthy, active, and cheerful. They are of all people on earth the most happy. Have you ever heard of a slave committing suicide? If they were wretched and could not bear the chains, or the moderate slavery which they enjoy, they would have recourse to suicide to break their chains, and give their spirits freedom, but I never heard of a slave yet that committed suicide. [Applause.]

Let us look for a moment at the condition of the North. The immense improvements you have made I am delighted with; I congratulate the people of the North with all my heart upon their many beautiful, convenient, profitable, and elegant improvements. Your States are like gridirons, your fields and gardens, and your houses are elegant. In the interior of the State I was gratified with beholding more than oriental splendor; you have founded an elegant and enlightened state of society. But do you believe that if it had not been for the influx of foreign labor, you would have had these railroads? [Cheers and laughter.] Would the Americans, sons of the revolution, ever have been able to do the digging and all the other work that has been done here? [Cheers.] No. You never could have done it in the world. Well, it is well done, and I am glad to see it done. [Laughter.] But let us reason a little further. Suppose these railroad projects had taken place before the time when you emancipated your slaves, and no foreigners had come. Emancipation did not take place in the North until the adoption of the Federal Constitution. I think in about the year '90. Do you think that if railroads had been started then, emancipation would have been begun? You would have had negroes at work building railroads to this day, just as sure as the world. [Applause and laughter.]

It is necessity that produces slavery, it is convenience, it is profit that creates slavery; though often the owners are not as much benefitted by it as it is thought. It is true that labor must be performed, and when foreign labor had become reduced to a standard, at which it was cheaper than that of slaves with the capital invested in them, you employed foreigners and turned off your slaves. Had there been such an influx of foreign immigration at the South, do you believe they would have continued to hold slaves? No; they would have constructed ships, though they are no hands at it there, to transport them to Africa, rather than to have them among them. These are the things the North should look at. Your slaves became unprofitable here, and they were thrown off. Labor and institutions too, are governed by convenience and necessity to a great extent, without canvassing the morality or immorality of the institution. Now, whenever the South should employ foreign labor, if it were possible to do it, it would depreciate the value of slave labor, slaves would become worthless, and, if possible, it would get rid of them.

Look at Mexico! How is it with her? Mexico is often brought up as a reproach against the South, but it ought not to be. Never bring up Mexico against America, if you please. [Laughter.] They are not free agents or free beings. They belong, all of them, to the two masters; first, to a despot; next, to bigotry. There is not one man in her whole dominions but has sworn allegiance to the Pope and papacy, and will support that religion and tolerate none other on the face of the earth. That is the condition of 'free' Mexico. They are all bound to papacy, and it was required of Americans, too, and that was what produced the hubbub between Texas and Mexico. [Applause and laughter.] Well, the Mexicans found they could take a man with a family to subsist, and make a slave of him, cheaper than to buy negroes. A man, who was twenty-five cents in debt, was brought before the magistrate of the city or town, who is called the 'Alcalde,' and was adjudged to slavery until that twenty-five cents, or two 'bits,' as they called it, should be paid. In the meantime he had to support and clothe his family; his wages were nothing, and every day accumulated his account. The consequence was, that after a certain period, not having paid the debt, he was again brought before the Alcalde, and adjudged to perpetual peonage, and his wife and children with him, liable to be bought and sold like their cattle and their lands. In this way Mexico obtained slaves. Finding it more convenient, they repudiated their African slaves, who had to be purchased, and transferred their fellow-countrymen into peonage. That is Mexican liberty; and there are on certain haciendas no less than 13,000 slaves, belonging to a single master. They are more abject, and not as enlightened as our servants at the South. They are in general more restricted, and infinitely more abject, for they never approach their master or superior within twenty feet, without putting their hats under their arms, and crawling into his presence in the humblest manner. This is what Mexico has done, and this only.

After the extreme fatigue of travelling, loss of sleep and mixing in company, I know, ladies and gentlemen, my lecture has been very desultory. It has been no doubt unsatisfactory to you; I know it has been unsatisfactory to myself. All that I can do is to assure you that I had not a moment's preparation; I had no opportunity to write a line or a note to-day. Gentlemen here can attest that when I left Washington it was from the toil of office I arose, and I have had no repose of consequence since. I had made no preparation whatever to lecture upon this subject; and I can only promise that if I address you to-morrow night, it will be upon a subject I have been more in the habit of talking of, because I was an actor in it. I hope, therefore, to make it more acceptable. I have given an honest exposition of my sentiments to-night. I have not sought to be censorious nor to reflect upon any; I have told you the truth, and how, by the necessity of our condition, we are forced to act as we have done in regard to slavery. I trust, though a misunderstanding may have arisen between the two sections, no deplorable result may arise, such as has been prognosticated.

Our country is too glorious, too magnificent, too sublime in its future prospects, to permit domestic jars or political opinions to produce a wreck of this mighty vessel of State. Let us hold on to it, and guide it, let us give it in charge to men who will care for the whole people, who will love the country for the country's sake, and will endeavor to build up and sustain it, and reconcile conflicting interests for the sake of posterity. This can be done, and let us not despair and break up the Union. [The lecturer here related an anecdote of the man and his wife who quarrelled about the color of a cow, the man insisting that it was brindle, and the woman that it was red. Words ran so high that they finally separated. Many years after, mutual friends effected a reconciliation, but, unfortunately, the old dispute was brought up in their first interview, and they again separated.] I pray, said he, that this brindle cow may never get into this family, and that the Union may be perpetuated while time shall last, and while there is one heart to throb at the names of American and Liberty. [Great applause.]

[Correspondence of the N. Y. Evening Post.]

Remarkable scene in the Legislature—A Slaveholder and a Fugitive Slave confronted—Their Speeches about Slavery.

Boston, February 15, 1855.

The Representatives' Hall was the scene, on last Tuesday afternoon, of a remarkable spectacle. The occasion was a hearing, before the Committee on Federal Relations, of parties interested in the passage of a personal liberty bill. Mr. Wendell Phillips opened the discussion in temperate language, and was followed by two Boston lawyers, who spoke eloquently and to the point. As the last of these concluded, the chairman of the committee announced that he was informed that a slaveholder and owner of fifty slaves was present, and that they should be glad to extend to him the courtesy of a hearing, if he desired to say anything on the subject.

Thereupon all eyes were turned eagerly upon a thin, swarthy man, of perhaps thirty-five or forty years of age, who arose and stepped forward to the committee's table. He bowed to the chairman, and commenced in rather a low tone, when the audience, with a simultaneous movement, flocked toward the speaker, and seated themselves as near as possible. He appeared embarassed, and indeed acknowledged that he was a 'kind o' skeered, (that was his expression.) He began by saying that when he had left home he did not expect to come to Boston, much less to find himself speaking in the legislature of the State. He thanked the committee for the privilege, and immediately began upon the old story of the happy condition of the slaves as compared with the poorer classes of the North; stated that his slaves had six pounds of meat per week, with hominy, rice, &c., and lived about as well as himself; that great progress was now making in the religious education and privileges of the slaves; that there were many slave preachers, who were allowed to preach, 'standing side by side with the missionaries;' that the slaves had no responsibility and no thought—'we do their thinking for them.'

'We cannot blame you,' said he, 'for protecting them when they come among you' (applause,) but there's no use in agitating the subject of abolition. Things are not ripe for that yet. What could you do with the slaves? They didn't want them in Massachusetts; they don't want them in New York. You had much better use the zeal you are spending in this matter, in providing a way to keeping out the foreign emigrants! (A sop for the Know Nothings.) Now, I was born in the free State of Pennsylvania, and raised in Ohio; and half of all the slaves I ever bought I bought to rescue them from cruel treatment on other plantations. (Hearty applause.) (So one man has twenty-five slaves, out of fifty, that have been treated unkindly and cruelly.)

'It is a mistake and a slander to say that slaves are treated unkindly as a general thing. Now, if any of my slaves ran away and come to Boston, you are welcome to keep them, but they won't come,—they would not make the exchange. (The old story.) But if you want abolition, give me forty per cent. of the market value of the slaves in the United States, and I will free and deliver them all to you. The South, that is, the slaveholders, know and admit that slavery is a great evil. (Applause and exclamations of oh! oh!) You judge of the slaves by the specimens you see here. But I tell you that *them that runs away is the worst of the lot.*' He said much more to a like effect. After having spoken some fifteen minutes, he concluded somewhat in the following terms: 'Now, I'm some skeered like, and I don't want to take up much of your time. ('Go on, sir, we are happy to hear you as long as you desire,' from the chairman.) Now, I'm willing to meet any man single-handed on this subject, and I think I can convince him. I thank you, Mr. Chairman and gentlemen, for the privilege of addressing you.'

On his resuming his seat, the chairman arose and said: 'There is an uneducated colored man, a fugitive slave, present, who has expressed a wish to answer the gentleman who has just spoken.' And in the midst of the applause, Lewis Hayden, a merchant tailor, well-known in this city, stepped forward. He was neatly and simply dressed. He has a fine head, inside and out, and he proceeded, as nearly as I can remember, in these terms: 'I am happy to have heard the brother who has just spoken, (I say 'brother,' though I suppose he don't claim any relationship to me.) (A laugh.) He says the runaway negroes are the worst part of slaves. You have, most of you, seen Fred. Douglass and some others of us, and if we are the worst part, you can form some idea what the balance are who remain in slavery.

'He says the masters *think* for the slaves, and speaks of this fact as a blessing to us. Why, Mr. Chairman, the severest flogging I ever had was for telling my master 'I *thought*.' He had ordered me to do something which I thought was a mistake, and I did not do it. He asked me why I did'nt do as I was bid. I replied that I thought it had better not be done, or to that effect. He rejoined, I 'had no business to think,' and flogged me. Another time I omitted to do something which was no part of my duty, and which I was not ordered to do, and the omission caused some mischief. My master said, 'Why didn't you do it?' I replied, 'I didn't think it was to be done.' He rejoined, 'Why didn't you think?' and flogged me.

'When I think of this mode of dealing with us, I am reminded of the Irishman who wanted an excuse for beating his wife; and, as he was riding homeward on his old mare, he said to himself: 'I'll ax her did she feed the old baste, and if she says no, I'll tell her why didn't ye feed the old critter?—and I'll put the strap ontil her; but maybe she'll say, 'yes, I did feed her,' and I'll say, 'and why in the d—l's name did you feed her,' and I'll blather her for that.' (A laugh.) The gentleman speaks of the religious privileges and the gospel we enjoy. Yes—the missionary and the slave priest stands up side by side, and say, 'Servants, obey your masters,' and such like gospel is all we hear. But as soon as a slave begins to feel himself near a man, he wants a free gospel.

'The gentleman tells us that America is not responsible for slavery, and puts the blame on the mother country. Mr. Chairman, the gentleman needn't have told me he was born and raised a Yankee after that. I should have known him. This is always the Yankee argument; but it don't sound very well in his mouth, who was born and raised in a free country and goes and voluntarily into slave-holding; more shame for him.' I have not done full justice to the excellent reply which this intelligent, once-slave made to this ignorant, though, perhaps, kind-hearted master. To be just to the latter, I think he was stung to the quick by the superiority of his antagonist, and as it would not do in that presence to answer him with the overseer's whip, why he arose hurriedly, went again to the stand, and invoked the attention of the audience, in a strain of some emotion, to the fact that God who rules over all, permits slavery, and if it wasn't right he wouldn't. (So God permits the canebrakes of Alabama to grow—must the Alabamian, then, not clear them off and build cities thereon?) 'Now, I should be willing to meet any white man (great applause and laughter) single-handed on this subject. To be sure, I'm going south to-morrow, but then I'll be glad to meet any one before I go,' &c.

Thus you have substantially and faithfully reported, the remarkable scene. It mocks commentary, and I will not mar its significance by offering any. To look and listen to the product of slavery on a white freeman, and of freedom on a colored slave, in the persons of these two men, was such a sermon as neither Whitefield or Parker could have preached.

B.

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PRINTERS,
21 CORNHILL.......... BOSTON.