The Lancaster Intelligencer.

"THAT COUNTRY IS THE MOST PROSPEROUS WHERE LABOR COMMANDS THE GREATEST REWARD."—BUCHANAN.

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GOVERNOR'S MESSAGE.

To the Honorable the Senators and Members of the House of Representatives of the Commonwealth of Pennsylvania:

GENTLEMEN:—In submitting to the General Assembly my last annual communication, it is the source of unfeigned gratification to be able to announce to the people, and to their Representatives, that notwithstanding the present unfavorable crisis in the monetary affairs of this country, and the general prostration of business and credit, the financial condition of Pennsylvania is highly satisfactory.

The receipts at the State Treasury, from all sources, for the fiscal year ending on the 30th of November, 1860, were $3,479,257 31, to which add the available balance in the Treasury on the 1st day of December, 1859, $839,323 00, and the whole sum available for the year will be found to be $4,318,580 40. The expenditures, for all purposes, for the same period, were $3,637,147 32. Leaving an available balance in the Treasury, on the 1st day of December, 1860, of $681,433 08. The following items are embraced in the expenditures for the fiscal year, viz:

Loans redeemed	$664,857 65
Relief notes cancelled	1,811 00
Interest certificates	2,439 52
Domestic creditors' certificates	5 40
Damages on the public works and old claims	22,644 32
Making, of the public debt actually paid during the year, the sum of	691,757 89

The funded and unfunded debt of the Commonwealth on the first day of December, 1859, was as follows:

FUNDED DEBT.		
6 per cent, loans,		$400,630.00
5	do	37,625,153.37
4½	do	388,200.00
4	do	100,000.00
Total funded debt		38,513,983.37
UNFUNDED DEBT.		
Relief notes in circulation		$101,213 00
Interest certificates outstanding		18,513 82
do unclaimed		4,448 38
Domestic creditors		802 50
Total unfunded debt		$125,977 70

Making the entire debt of the Commonwealth, at the period named, $38,638,961.07.

The funded and unfunded debt of the State, at the close of the last fiscal year, December 1, 1860, stood as follows:

FUNDED DEBT.		
6 per cent. loans		$400,630.00
5	do	36,967,295 72
4½	do	381,200 00
4	do	100,000.00
Total funded debt,		37,849,125.72
UNFUNDED DEBT.		
Relief notes in circulation,		$99,402.00
Interest certificates outstanding		16,074.30
Do, unclaimed		4,448.38
Domestic creditors' certificates		797.10
Total unfunded debt		$120,721.78

Making the entire public debt of Pennsylvania, on the first day of December last, $37,969,847.50.

To pay the principal and interest of this debt, besides the ordinary sources of revenue, the Commonwealth holds the following mortgage bonds, derived from the sale of her public improvements, viz.:

Bonds of Pennsylvania railroad company	$7,200,000.00
Bonds of Sunbury and Erie railroad company	3,500,000.00
Bonds of Wyoming canal company	281,000.00
Total	$10,981,000.00
At the close of the fiscal year, on the first day of December, 1857, the public debt of this Commonwealth, funded and unfunded, was	$39,881,738.22
It is now, at the close of the fiscal year, 1860	37,969,847.50
Having been reduced, during the last three years	1,911,890.72
The available balance in the Treasury on the first day of December, 1857, was	$528,106.47
On the first day of December, 1860, it was	681,433.08
Exceeding the former balance in the sum of	153,326.61
Add to this the sum paid at the Treasury during the past three years, for debts and claims against the Commonwealth arising out of the construction and maintenance of the public improvements, and which was substantially a part of the unfunded debt of the Commonwealth, amounting to	171,664.82
And we have the sum of	324,991.42

By adding this sum to the amount paid on the public debt from December 1, 1857, to December 1, 1860, to wit: $1,911,890 72, it will be found that during the past three years the State has not only met all her liabilities, including all the expences of the government, and the interest on her public debt, but has diminished her actual indebtedness the sum of $2,236,882.15.

When it is remembered that for the last three years the tax on real and personal estate has been but two and a half mills on the dollar, while from 1844 to 1857 it was three mills—that for the past two years and six months the State has received no part of the tax on tonnage due from the Pennsylvania railroad company—and that since July, 1859, the interest on the bonds held by the State against the Sunbury and Erie railroad company has remained due and unpaid, it is certainly cause for hearty congratulation, that, without aid from these important sources of revenue, so great a reduction of the public debt has been accomplished in comparatively so short a period. The funded debt of the State is now less than it has been since 1842, and the unfunded and floating debt, which at that time amounted to upwards of two millions of dollars, has been almost entirely redeemed. It is now reduced to $120,721 78—and of this sum over ninety-nine thousand dollars consists of relief notes, most of which are undoubtedly either lost or destroyed, and will, therefore never be presented for payment. The claims against the State, accruing from the construction and maintainance of her canals and railroads, are now reduced to a mere nominal sum; and, in the future, after providing for the ordinary expenses of government, her revenues and her energies may be exclusively applied to the payment of the interest, and the discharge of the principal of her public debt.

The people of this Commonwealth have hitherto met, with promptness, the demands made upon them, from time to time, for the ways and means of replenishing the Public Treasury; and now, that they see that the onerous debt with which they have been so long burdened, is each year certainly and rapidly disappearing—that the amount required to meet the interest is annually being diminished—that consequently a still greater sum can each year be devoted to the reduction of the principal of the debt, without resorting to additional sources of revenue—and that, with a proper husbanding of the resources of the State, the day is not far distant when direct taxation in Pennsylvania will cease altogether—the payment of such taxes as may for the time be required to meet the public necessities, will continue to be met with cheerfulness and alacrity. But they will unquestionably hold those to whose care they have entrusted the financial interests of the State to a rigid accountability. That there should, at this particular juncture, when the business and monetary affairs of the country are so greatly depressed, be the strictest economy in public expenditures, is so manifest, that it can scarcely be necessary to call attention to so plain a duty. It is equally clear that any legislation which would tend greatly to lessen the revenues of the Commonwealth, would, at this time, be peculiarly unwise and inexpedient. The exigencies of the future no man can foretell—the prospect before us is beclouded with doubt and uncertainty—it is, therefore, no more than the part of wisdom to guard, with unceasing vigilance, all our present sources of revenue, and to thus be prepared for every possible contingency.

Since July, 1858, the Pennsylvania railroad company has refused to pay the tax on tonnage required to be paid by the act incorporating the company, and its various supplements; and there is now due to the State, on that account, exclusive of interest, the sum of $674,296 22. Including the interest, the sum now due is about $700,000. Before my last annual message was communicated to the Legislature, a case had been tried in the court of common pleas of Dauphin county, between the Commonwealth and the railroad company, involving the question of the constitutionality of this tax, which was decided in favor of the State, and the imposition of the tax pronounced constitutional. In January last, another suit was tried between the same parties, in the same court, involving the same question, with a like result. In December last, a judgment was obtained in the district court of Philadelphia, upon one of the semi-annual settlements, for $110,000. So that judgment has been obtained for $365,000 of the debt, being the whole amount which became due prior to 1860. The tax which accrued during the past year, amounts to $308,829 03. The first settlement for the year is before the Dauphin county court, on an appeal taken by the company; and the second, or last, settlement was made but a few days since, by the accountant department of the Commonwealth.

After the recovery, in the common pleas of Dauphin county, the cases were removed by writs of error, taken on behalf of the defendants, to the Supreme Court of this State, where they were argued in June last, and in October that tribunal sustained the decision of the court of common pleas, and held the tax to be clearly constitutional; thus uniting with the law making power in affirming the right of the State to tax a corporation under a law to which it owes its existence. But, notwithstanding this concurrence of opinion and action on behalf of the constituted authorities of Pennsylvania, the litigation is not yet at an end; for the railroad company has recently removed the cases, by writs of error, to the Supreme Court of the U. States, where they are now pending. That the decision of that court will, when made, fully sustain the right of a sovereign State to enforce a contract between the State and a corporation, and entirely vindicate the power of a State to impose such taxes upon corporations, as in her sovereign will she may deem proper, I cannot for a moment doubt.

To complete the history of this important litigation, and to show that every effort has been thus far, made to compel the payment of this large sum of money into the Treasury of the State, it is proper to add, that the law officer of the Commonwealth, being of opinion that the writs of error were not issued from the supreme court of the United States in time to prevent the collection of the judgements rendered in the State court, executions were issued to the sheriff of the County of Dauphin, and proceedings are now pending in the Supreme Court of this State, to determine whether the Commonwealth can compel the payment of the judgements, already recovered, before the final decision by the Supreme Court of the United States.

The Sunbury and Erie railroad company having failed to negotiate its mortgage bonds in their present condition, the expectations confidently entertained of an early completion of that most important improvement, have not been realized. The work during the past year, however, although greatly retarded, has been continually progressing; upwards of one million of dollars having been expended on the line from November, 1859, to November, 1860. The whole length of the road, from the borough of Sunbury to the harbor on the lake, at the city of Erie, is 288 miles: of which 148 miles are now finished and in operation, and 115 miles of the remaining portion of the line are graded; leaving but twenty-five miles yet to grade. Pennsylvania is largely interested in the early completion and success of this great thoroughfare, not only because she is the creditor of the company to the amount of three and a half millions of dollars, but for the additional, and more cogent reason, that the improvement, when completed, will open one of the most important channels of trade between the city of Philadelphia and the great lakes of the west, at the best harbor on Lake Erie, entirely within the limits of our own State, which has ever been contemplated. It will, moreover, develop the resources of a large portion of North-Western Pennsylvania, abounding with the richest minerals, and a lumber region of unsurpassed excellence, which the munificent hand of the State has hitherto totally neglected. By disposing of her branch canals to that company, in exchange for its mortgage bonds, the State has already largely aided in the construction of this great work; and it may be necessary, to insure its completion, that further legislation should be had in order to render the means of the company available. It is evident that a liberal policy, on the part of the government, will promote alike the interests of the Commonwealth and the railroad company; nevertheless, great care should be taken to protect, as far as possible, the debt now due from the company to the State. If all propositions which may be made for a change in the securities now held by the Commonwealth, be carefully considered by the Legislature, and no more yielded than sound economy demands, with proper provision for the due application of whatever means may be realized, it is believed, that sufficient relief can be granted to the company, to enable it promptly to finish the road, while the security remaining will be fully adequate to insure the ultimate payment of the principal and interest of the bonds of the railroad company now held by the Commonwealth.

I commend this subject to the Legislature, as one entitled to its most careful consideration, as well on account of its vast importance to that portion of the State through which the railroad passes—to the cities of Philadelphia and Erie—and to the railroad company—as to the Commonwealth herself. Premising that whatever policy it may be thought expedient to pursue, should be adopted solely with reference to the protection and furtherance of the public interests.

The attention of the Legislature is again invited to the subject of general education.—At the present juncture it presents peculiar claims. The experience of a quarter of a century has satisfied the proverbially cautious people of Pennsylvania, of the adaptedness of the common school system to their wants and condition. No less has the severe ordeal of the past three years shown its capability to endure those sudden reverses which occasionally prostrate the other interests of the community. Involving greater expenditure than the rest of the departments of government, and that, too, mainly drawn from direct taxation, it is a proud fact, that, while most of the enterprises of society have been seriously embarrassed, and some of them suspended, by the pecuniary crisis of 1857, our educational system has not been retarded in any appreciable degree. On the contrary, its operations have been maintained, to an extent which plainly indicates that our citizens fully appreciate its value. Contrasting its main results during the past year, with those of 1857, we find that the whole number of pupils now in the schools, is 647,414, being an increase of 44,422; these were taught in 11,577 schools, 621 more than in 1857, during an average term of five months and five and one-half days, at a cost of fifty-six cents per pupil, per month, by 14,065 teachers, being 529 more than in 1857. The entire expenditure of the system, for the past year, including that of the School Department, is $2,683,650 80. These figures afford some idea of the magnitude of the operations of the system; but neither words nor figures can adequately express the importance of its influence upon the present, or its relations to the future.

In contemplating the details of a plan for the due training of the youth of a community, its large proportions and imposing array of statistics do not display the points of its greatest importance. Pupils may be enrolled by hundreds of thousands; school houses of the best structure and most complete arrangement may be dotted at convenient distances over the whole face of the land; the most perfect order of studies may be adopted, and the best possible selection of books made; but what are all these, without the learned and skillful, the faithful, moral and devoted teacher? Without this animating spirit, all is barren and unfruitful. In this vital department, I am happy to announce that the improvement of the common school teachers of the State shows more solid advancement, within the past three years, than any other branch of the system. This, therefore, being the point whence all real progress in learning and culture must originate, is also the one to which the fostering attention and care of the public authorities should be mainly directed.

Our peculiar mode of training teachers under the normal act of 1857, has now stood the test of practical experience, and, against the most adverse circumstances, has produced results decisive of its success. Already it has placed one institution in full operation in the south eastern part of the State, equal in standing and extent to any in the Union. Another, with all the requirements of the law, has just applied for a State recognition in the extreme north-west. I commend these noble, and peculiarly Pennsylvania schools, to your favor. Aid to them will be the best investment that can be made for the rising generation. Good instruction for our children, is the strongest earthly guarantee, that, whatever else we bequeath them, their inheritance will be a blessing and not a curse; and, if nothing more is left, in the well cultured minds, the willing hands, and the trust in God, of freemen, they will have all that is essential.

Nearly eleven thousand of our fellow citizens are now devoting their efforts to the improvement of the common schools, as directors. Than this there is no more meritorious body of men. An increase of the annual State appropriation would not only be a material relief to the districts, at this time, but would, to some extent, disembarrass directors in their local operations.

It is not, however, the common school system, vast and honorable to the State as it is, that claims your entire attention in reference to education. Pennsylvania also boasts her collegiate, academical, scientific, professional, and philanthropic institutions, and numerous private schools of every grade. In this respect, she is second to no member of the confederacy; but, from mere want of attention to the proper statistics, she has thus far been ranked far below her just standard. The present is not the proper time to renew grants to institutions of these classes which heretofore received State aid. If it were, the public authorities do not possess the requisite data for a safe and just extension of liberality. The period will arrive when all public educational agencies must be included in one great system for the elevation of mind and morals; and when the State will, no doubt, patronize every proper effort in the good work.

For the details of the system, during the last school year, the attention of the Legislature is respectfully refered to the annual report of the Common School Department, herewith submitted.

I desire again, especially, to call the attention of the General Assembly to the Farmers' High School of Pennsylvania, as an institution which proposes to accomplish an object which has never been attained in this country—the supply of a want which has ever been felt by the agricultural community; the education of their sons, at once, to scientific knowledge, habitual industry, and practical skill, to fit them for the associations of rural life, and the occupation chosen for them by their fathers. The gains of the farmer, however certain, are small. The education of his sons should, therefore, be measured by the nature of his business. There seems to be no practical mode of cheapening education, but by combining an amount of expenditure, within the ability of a farmer, with the daily labor of the student, so as to make the institution so nearly self-sustaining as to bring it within the reach of that class who constitute so important a branch of the industry of our people. The original design of this school embraced the accommodation of four hundred students, a number essential to the economical working of the system; and, although the applications for admission are numberless, the utmost efforts of the trustees have not enabled them to complete more than one-third of the buildings, or to accommodate more than a corresponding number of students. Many individuals throughout the State, convinced of the merit of an institution which promises so much good, have contributed liberally to what has already been done; and the board of trustees have labored with a zeal which cannot fail to commend itself to the kind feeling of all our citizens. Scientific education has advanced the interests of every avocation of life—agriculture far less than any other—and for the manifest reason that it has not reached it to the same extent, and never will reach it, unless the body be educated to the plow, as well as the mind to the philosophical principles which the plow's work developes.

I have always looked upon the Farmers' High School with peculiar favor, as well because of my own convictions of its promised usefulness, as t is favor which has hitherto been shown to it by the Representatives of the people. Its charter requires an annual exhibition of its receipts, expenditures and operations generally, and these will doubtless be laid before you.

By the act passed by the Legislature, establishing a system of free banking in Pennsylvania, and securing the public against loss from insolvent banks, radical changes were made in the banking laws of this State. Instead of corporations created by special laws, voluntary associations are authorized to transact the business of banking, without further legislation, and as an indispensable prerequisite to the issuing of bank notes for circulation as money, ample security must be deposited with the Auditor General for their prompt redemption. The law makes provision, not only for the incorporation of new banking associations, but enables banking institutions already in existence, to continue their business for twenty years after the expiration of their present charters, upon complying with its provisions, by withdrawing their old circulation, and giving the securities required for the redemption of their new issues. The public, I am sure, will rejoice that no further necessity exists for legislative action, either on the subject of creating new, or re-chartering old banks: and that the time and attention of their Representatives, will now, happily, be no longer monopolized in the consideration of a subject hitherto productive of so much strife and contention, if not of positive evil.

The rapid increase of private banks, throughout the State, makes it eminently right that they should be placed under proper legislative restrictions, and that the large amount of capital, thus employed, should be made to contribute its fair proportion to the revenues of the Commonwealth. Their business, in the aggregate, is now believed to amount to a sum almost, if not quite, equal to the whole business of the regularly chartered banks; and yet it is entirely unrestricted, and, with the exception of a merely nominal license tax, is free from taxation. This is unjust to every other class of our tax paying citizens, and especially so to the banking institutions holding charters from the Commonwealth, for which they have each paid a liberal bonus, and are, in addition, subject to a very large tax on their dividends. I respectfully commend this subject to the attention of the Legislature.

A high sense of duty impels me again to call the attention of the Legislature to the inadequacy of existing laws, regulating the receiving, keeping and disbursements of the revenues of the State. The public moneys are now paid directly to the State Treasurer, who deposits them, at his own discretion, whenever and wherever he chooses, and pays them out in sums, either small or great, upon his own unattested check exclusively. The amount thus received, kept and disbursed is annually between three and four millions of dollars, with balances on hand, at times, exceeding one million of dollars; while the bond of the State Treasurer is for only eighty thousand dollars. His accounts are settled monthly by the Auditor General, by whom the receipts for money paid into the Treasury are countersigned, and these are the only safeguards provided by law to prevent the illegal and improper use of the money of the State, by the State Treasurer.

Happily the revenues of the Commonwealth have hitherto been safely kept, properly disbursed, and promptly accounted for, by those in charge of the Public Treasury; but in view of the serious defalcations which have occured elsewhere, and in other States, this fact should furnish no reason why we ought not guard against loss in the future. Referring to my former annual messages, I respectfully, but most earnestly, recommend that provision be made by law—

FIRST—That no money shall be deposited by the State Treasurer in any bank, or elsewhere, without first requiring ample security to be given to the Commonwealth for the prompt repayment of such sum as may be deposited; and that such securities shall be deposited in the office of the Auditor General.

SECOND—That all checks issued by the State Treasurer, shall be countersigned by the Auditor General, before they are used, and that daily accounts shall be kept of the moneys received, deposited and disbursed, in the Auditor General office, as well, as in the Treasury Department.

THIRD—That condensed monthly statements verified by the signatures of the Auditor General and State Treasurer, shall be published in one newspaper in Philadelphia and one in Harrisburg, showing the balances in the Treasury, and where deposited, with the particular amount of each deposit; and

FOURTH—That the bond of the State Treasurer be increased to the sum of two hundred and fifty thousand dollars.

Our various charitable and reformatory institutions—the State Lunatic Hospital, at Harrisburg—the Western Pennsylvania Hospital for the Insane, at Pittsburg—the asylums for the blind, and deaf and dumb, at Philadelphia—the House of Refuge at Philadelphia and Pittsburg, and the Pennsylvania Training School for idiotic and feeble-minded children, at Media, will present their usual annual claims upon the bounty of the State. These excellent charities are continually dispensing benefits and blessings upon suffering and erring humanity, which can scarcely be over rated. They are heartily commended to the discriminating liberality of the Legislature. I refrain, as I have heretofore done, from recommending, as proper objects for appropriations from the State Treasury, other charitable and benevolent institutions, not because they are undeserving the confidence and patronage of the public, but because they are local in their character, and in my judgment have no claims upon the common fund which can be admitted, in justice to the rights and interests of other portions of the Commonwealth.

The Inspectors of the State Penitentiary for the Eastern District of Pennsylvania, in their annual reports for the years 1858 and 1859, called the attention of the Legislature to the insecurity of such parts of the penitentiary building as were exposed to their own fires and those of the neighborhood, and recommended that roofs of such of the corridors as were covered with shingles, and needed renewal, should be replaced with slate or metal. On visiting the institution, my attention was called to the subject by the Inspectors. The necessity for the change was so apparent and urgent, that I advised them not to hesitate in having the old, dilapidated and dangerous wooden roofs of such portions of the building as required renewal, replaced with some substantial fire proof material. This has accordingly been done, and I respectfully recommend that a small appropriation be granted to defray the expenses incurred.

I commend to your consideration the report of the State Librarian, whose attention to the interests of the Library under his care, deserves the warmest commendation. The system of exchanges, with the different States of the Union, and with foreign governments, commenced and prosecuted under his auspices, has resulted in great advantage to the Library, and deserves the continued countenance of the Legislature. The increase of the Library, at a comparatively small expense to the State, has been such, that it now needs enlarged accomodations for the safe keeping of the volumes, and, if the increase continues, will soon require a separate building for its exclusive use.

The reports of the State Treasurer, the Auditor General, the Surveyor General, the Adjutant General, and the Attorney General, will inform you, in detail, of the operations of the government, as presented by those several departments, for the last fiscal year. They are entitled to the attentive consideration of the Legislature.

Soon after my inauguration, upon the recommendation of my predecessor in office, a dwelling house was purchased in this city for the residence of the Governor of the Commonwealth. The purchase included several articles of heavy furniture, then in the building, and a small appropriation would complete the necessary furnishing of the house, so as to make it a fit and convenient residence for the incoming Executive. I cheerfully recommend the immediate passage of a bill making a suitable appropriation for this purpose.

The extraordinary and alarming condition of our national affairs demands your immediate attention. On the twentieth of December last, the convention of South Carolina, organized under the authority of the Legislature of that State, by a unanimous vote, declared "that the union now subsisting between South Carolina and the other States, under the name of the United States of America, is hereby dissolved;" and the action already taken in several other southern States indicates, most clearly, their intention to follow this example.

On behalf of the advocates of secession, it is claimed, that this Union is merely a compact between the several States composing it, and that any one of the States, which may feel aggrieved, may, at its pleasure, declare that it will no longer be a party to the compact. This doctrine is clearly erroneous. The constitution of the United States is something more than a mere compact, or agreement, between the several States. As applied to nations, a compact is but a treaty, which may be abrogated at the will of either party; responsible to the other party for its bad faith in refusing to keep its engagements, but entirely irresponsible to any superior tribunal. A government, on the other hand, whether created by consent, or by conquest, when clothed with legislative, judicial and executive powers, is necessarily in its nature sovereign; and from this sovereignty flows its right to enforce its laws and decrees by civil process, and, in an emergency, by its military and naval power. The government owes protection to the people, and they, in turn, owe it their allegiance. Its laws cannot be violated by its citizens, without accountability to the tribunals created to enforce its decrees and to punish offenders. Organised resistance to it, is rebellion. If successful, it may be purged of crime by revolution. If unsuccessful, the persons engaged in the rebellion, may be executed as traitors. The government of the United States, within the limits assigned to it, is as potential in sovereignty, as any other government in the civilized world. The Constitution, and laws made in pursuance thereof, are expressly declared to be the supreme law of the land. Under the Constitution, the general government has the power to raise and support armies, to create and maintain a navy, and to provide for calling forth the militia to execute its laws, suppress insurrection and repel invasion. Appropriate statutes have been enacted by Congress, to aid in the execution of these important govermental powers.

The creation of the Federal Government, with the powers enumerated in the Constitution, was the act of the people of the United States, and it is perfectly immaterial that the people of the several States acted separately within the territorial limits of each State.—The form of their action is of no consequence, in view of the fact that they created a Federal Government, to which they surrendered certain powers of sovereignty, and declared those powers, thus surrendered, to be supreme, without reserving to the States, or to the people, the right of secession, nullification or other resistance. It is, therefore, clear that there is no constitutional right of secession.—Secession is only another form of nullification. Either, when attempted to be carried out by force, is rebellion, and should be treated as such, by those whose sworn duty it is to maintain the supremacy of the Constitution and laws of the United States.

It is certainly true, that in cases of great extremity, when the oppression of government has become so intolerable that civil war is preferable to longer submission, there remains the revolutionary right of resistance; but where the authority of the government is limited by a written Constitution, and each department is held in check by the other departments, it will rarely, if ever, happen that the citizen may not be adequately protected, without resorting to the sacred and inalienable right to resist and destroy a government which has been perverted to a tyranny.

But, while denying the right of a State to absolve its citizens from the allegiance which they owe to the Federal Government, it is nevertheless highly proper that we should carefully and candidly examine the reasons which are advanced by those who have evinced a determination to destroy the Union of these American States, and if it shall appear that any of the causes of complaint are well founded, they should be unhesitatingly removed, and, as far as possible, reparation made for the past, and security given for the future; for it is not to be tolerated, that a government created by the people, and maintained for their benefit, should do injustice to any portion of its citizens.

After asserting her right to withdraw from the Union, South Carolina, through her convention, among other reasons, declares that she is justified in exercising, at this time, that right, because several of the States have for years not only refused to fulfil their constitutional obligations, but have enacted laws either nullifying the Constitution, or rendering useless the acts of Congress relative to the surrender of fugitive slaves—that they have permitted the open establishment of societies, to disturb the peace of other States; and the people of the non-slaveholding States have aided in the escape of slaves from their masters, and have incited to servile insurrection those that remain—and have announced their determination to exclude the South from the common territory of the Union. As the Representatives of the people of Pennsylvania, it becomes your solemn duty to examine these serious charges, made by the authority of a sovereign State.

Pennsylvania is included in the list of states that are charged with having refused compliance with that mandate of the Constitution of the United States, which declares "that no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." So far from admitting the truth of this charge, I unhesitatingly aver that upon a careful examination, it will be found that the legislative and judicial action of Pennsylvania, whether as a colony, as a member of the old confederation or under the existing Constitution of the United States, has been almost invariably influenced by a proper appreciation of her own obligations, and by a high regard for the rights, the feelings and the interests of her sister States.

As early as 1705, the provincial authorities of Pennsylvania, after reciting in the preamble that "the importation of Indian slaves from Carolina, or other places, hath been observed to give the Indians of this province some umbrage for suspicion and dissatisfaction," passed an act against the importation of Indian slaves from any other province, or colony, in America, but at the same time declared "that no such Indian slave, so deserting his master's service elsewhere, shall by this province, shall be understood or construed to be comprehended within this act." And when, in 1780, more than eight years before the Constitution of the United States went into operation, Pennsylvania passed her law for the gradual abolition of slavery, mindful of the rights of her confederates, she declared that "this act, or anything in it contained, shall not give any relief or shelter to any absconding or runaway negro or mulatto slave, or servant, who has absented himself, or shall absent himself, from his or her owner, master or mistress, residing in any other State or country, but such owner, master or mistress, shall have like right and aid to demand, claim and take away his slave, or servant, as he might have had in case this act had not been made." A provision much more unequivocal in its phraseology, and direct in its commands than those found on the same subject, in the Constitution of the Union. The act, by its terms, was made inapplicable to domestic slaves attending upon delegates in Congress from the other American States, and those held by persons while passing through this State, or sojourning therein for a period not longer than six months.

In 1788 it was made a high penal offence for any person, by force, violence or fraud, to take out of this State, any negro or mulatto, with the intention of keeping or selling the said negro or mulatto as a slave, for a term of years. Soon after the passage of this act, the Supreme Court of Pennsylvania decided that it did not apply to the forcible removal of a slave, by the owner, or his agent, but that its object was to punish the forcible or fraudulent abduction from the State of free negroes with intention of keeping or selling them as slaves. Thus, at that early day, giving judicial sanction to the doctrine, that a master had the right to take his slaves wherever he could find them.

The first act of Congress providing for the rendition of fugitives from justice or labor, was passed in 1793, and originated from the refusal of the Governor of Virginia to surrender or deliver up, on the requisition of the Governor of Pennsylvania, three persons who had been indicted in Pennsylvania for kidnapping a negro, and carrying him into Virginia. And when it was found that this Congressional statute did not afford a simple, speedy and efficient remedy for the recovery of fugitives from labor, the Legislature of Pennsylvania, at the request of the adjoining State of Maryland, in 1826, passed an act to give effect to the provisions of the Constitution of the United States relative to fugitives from labor, for the protection of free people of color, and to prevent kidnapping. This excellent and well considered law met all the existing exigencies. It required the judges, justices of the peace and aldermen, of that State, upon the oath of the claimant, to issue their warrant for the arrest of any fugitive from labor escaping into this State; directing, however, that such warrants should be made returnable, by whomsoever issued, before a judge of the proper county. It required sheriffs and constables to execute such warrants. It authorized the commitment of the fugitive to the county jail, and otherwise made provisions to secure its effective execution, and at the same time to prevent its abuse.

This law continued quietly in operation until the decision of the Supreme Court of the United States made in 1842, in the case of Prigg vs. the Commonwealth of Pennsylvania. The history of this case may be briefly stated: Edward Prigg was indicted in the court of oyer and terminer of York county, for kidnapping a colored person, named Margaret Morgan. Upon the trial it appeared that she was held as a slave in the State of Maryland, and that she escaped into the State of Pennsylvania in the year 1832—that in 1837, Edward Prigg was appointed, by the owner of the slave, to seize and arrest her as a fugitive from labor. In pursuance of this authority, and under a warrant issued by a justice of the peace, Prigg caused the negro woman to be arrested; and without having obtained any warrant of removal, he delivered her to her owner in the State of Maryland. These facts were found by a special verdict, and by the agreement of counsel, a judgment was entered against Prigg. From this judgment a writ of error was taken to the Supreme Court of the State, where a *pro forma* judgment of affirmance was again by agreement, entered, and the case removed to the Supreme Court of the United States.

It will be observed that the question, whether Edward Prigg was really guilty of the crime of kidnapping, under the Pennsylvania statute of 1826, was never actually passed upon either by the court or jury, in the county of York, or by the Supreme Court of the State. The jury merely found the facts, and the action of both courts was but a matter of form.

In the argument and determination of the case, in the Supreme Court of the United States, it appears to have been taken for granted, that our act of 1826 made it a criminal offence for a master to take his slave out of this State, without a warrant of removal; and, upon this construction, the act was declared unconstitutional and void. This, I submit, was a clear misapprehension of the purport and meaning of our legislation. The first section of the act of 1826, under which the indictment against Prigg was framed, was almost literally copied from the seventh section of the act of 1788, to which a construction had already been given by the highest judicial tribunal of the State of Pennsylvania, where it was held to have no application whatever to the removal of a slave by the master or his agent, with or without a warrant. Such was the undoubted law of the State under the statute of 1788, and in re-enacting that statute, in the act of 1826, with an increased penalty, it is manifest that the intention and object of the Legislature was to protect free persons of color, and to punish those who, by fraud, force or violence, were guilty of kidnapping, and holding or selling freemen as slaves. This the State had a clear right to do; and nothing but a misconstruction of her act could have induced the declaration that it was forbidden by the Constitution of the United States. It is perfectly clear that Edward Prigg had committed no crime in removing Margaret Morgan from the State of Pennsylvania to the State of Maryland, and delivering her up to her owner; and it is equally clear, that no attempt was made, by the statute of Pennsylvania, to declare his act a crime. He should have been discharged, not because the act of the State was unconstitutional, but because he had not transgressed its commands.

The Supreme Court of the United States not only pronounced the particular section of the act of 1826, then before them, unconstitutional, but a majority of the court held that the whole act was void, because the power to provide for the rendition of fugitives from labor, was vested exclusively in Congress, and the several States were, therefore, incompetent to pass statutes either in aid of, or to hinder, delay or prevent, the delivery of such fugitives. That this was the extent of the decision, as delivered by Judge Story, not only appears from the opinions of the majority, but also from the dissenting opinions delivered by the minority of the court. By this unfortunate decision, it was authoritatively proclaimed that Pennsylvania, in enacting her liberal statute of 1826, making it the duty of her own officers to aid in arresting and delivering up fugitives from labor, had mistaken her constitutional obligation, and that her act was in violation of, rather than obedience to, the Constitution of the United States. Under such circumstances, it was the manifest duty of the State to repeal her law thus declared unconstitutional. This was done by the act of 1847; and if that act had contained nothing more than a repeal of the law of 1826, and the re-enactment of the law against kidnapping, it could not have been subject to any just complaint. But the third section of the act of 1847, prohibits, under heavy penalties, our judges and magistrates from acting under any act of Congress, or otherwise taking jurisdiction of the case of a fugitive from labor; and the fourth section punishes with fine, and imprisonment, the tumultuous and riotous arrest of a fugitive slave, by any person or persons, under any pretence of authority whatever, so as to create a breach of the public peace. The sixth section, denying the use of the county jails, for the detention of fugitive slaves, was repealed in 1852, and need only be referred to as showing the general spirit of the act. The seventh section repealed the provisions of the act of 1780, which authorized persons passing through our State to take their slaves with them, and gave to sojourners the right to bring their slaves into the State, and retain them here for any period not exceeding six months.

The provisions of the third and fourth sections of the act of 1847, seem to have been predicated upon the language of the Supreme Court in Prigg's case. It is there admitted that the several States may prohibit their own magistrates, and other officers, from exercising an authority conferred by an act of Congress; and that while an owner of a slave, under and in virtue of the Constitution of the United States, is clothed with power, in every State of the Union, to seize and recapture his slave, he must, nevertheless, do so without using any illegal violence, or committing a breach of the peace. It is evident that the framer of the act of 1847, had closely studied the case of Prigg vs. The Commonwealth of Pennsylvania, and had kept his law strictly within its letter. In many respects, the act is a codification of the principles enunciated by the court; and more fault may justly be found with its temper than its want of constitutionality.

If fugitive slaves were still claimed under the act of Congress of 1793, the denial to the master of the aid of State judges and magistrates, might be a source of great inconvenience to him; but the complete and perfect remedy now provided by the act of Congress of 1850, renders him entirely independent of State officers. And the punishment of arrests without warrant, by a master in the exercise of his constitutional right of recaption, but made in a violent, tumultuous and unreasonable manner, amounting to a breach of the peace, is but recognizing, by statute, what was before the common law. These sections were re-enacted in the revised penal code of Pennsylvania, at the last session of the Legislature, and are still the law of the State; but they are not now of any practical importance, and as their retention on our statute book is calculated to create the impression that the people of this State are unfavorable to the execution of the fugitive slave law, and the discharge of their confederate duties, and with the view of removing this subject of reproach, I earnestly recommend their unconditional repeal.

While a majority of the judges of the Supreme Court of the United States, in the Prigg case, held that a State had no constitutional right to provide by legislation for delivering up fugitives from labor, a minority were then of the opinion that State laws, consistent with and in aid of the constitutional injunction, were valid and proper.—And this minority opinion is now the judgment of the present court, as recently indicated in a case which arose in the State of Illinois. There is therefore, nothing to prevent the revival of the act of 1826, and its restoration to the place in our code, to which by its merits, it is so justly entitled. This would leave to the option of the claimant, whether he would seek his remedy under State or National laws. He had this right before the repeal of our act of 1826, and, in my opinion, no good reason can be assigned for refusing to place him again in the same position.

I would also recommend that the consent of the State be given, that the master, while sojourning in our State, for a limited period, or passing through it, may be accompanied by his slave, without losing his right to his service. While such legislation is due to the comity which should ever exist between the different States of this Union, it would undoubtedly tend greatly to restore that peace and harmony which are now so unwisely periled. By it Pennsylvania would concede no principle—we would be simply be falling back upon our ancient policy, adopted at a time when our people were themselves struggling for their rights, and never departed from, until, by a misconception of its meaning, one of our most important statutes was declared unconstitutional. From 1780 to 1847, a period of sixty-seven years, Pennsylvania, herself a free State, permitted the citizens of other States to sojourn within her limits, with their slaves, for any period not exceeding six months, and to pass through the State, in traveling from one State to another, free from all molestation. Was she injured, or was the cause of human freedom retarded, by the friendly grant of this privilege? This question cannot be truthfully answered in the affirmative; but it may be safely averred, that by changing our policy, in this respect, we have, in some degree, at least, alienated from us the feelings of fraternal kindness, which bound together, so closely the sisterhood of States. Let us, then renew this pledge of amity and friendship, and once more extend a kindly welcome to the citizens of our common country, whether visiting us on business or pleasure, notwithstanding they may be accompanied by those who, under the Constitution and the laws, are held to service and labor.

The Territories of the United States belong to the General Government, and in those territories the people of the several States unquestionably have equal rights. They were acquired by means of the common contribution of blood and treasure. By the Federal Constitution power is given to Congress "to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." Whether under this, or any other power conferred by the Constitution, Congress can prohibit or protect slavery in the territories, has been frequently questioned. But, if the power to legislate upon this delicate and important subject were clearly vested in Congress, in my judgment it ought not be exercised. To declare, that slavery shall not exist in the Territories, is calculated to exclude from their occupancy the citizens of the southern or slaveholding States; while, to make it a legal institution in all the territories of the United States, by Congressional enactment, and to provide for its continuance during their entire Territorial existence, would be equally injurious to the people of the free States. The principle adopted in the Compromise measures of 1850, disposing of the question of slavery in New Mexico and Utah, and reiterated in the Kansas and Nebraska bills of 1854, of non-intervention by Congress with slavery in the States and in the Territories, is the true rule. It is the duty of Congress, when a sufficient number of hardy and adventurous pioneers find their way into our distant Territories, to furnish them a shield of protection and a form of government; but to the people themselves belongs the right to regulate their own domestic institutions in their own way, subject only to the Constitution of the United States.

While these views have been long entertained by me, and while I am sincerely of the opinion that their general adoption, and faithful enforcement, would have preserved, and may yet restore, peace and harmony to all sections of our country, I am nevertheless not so wedded to them as to reject, unceremoniously, all other propositions for the settlement of the vexed questions which now threaten to sunder the bonds which for three quarters of a century have made us one people. Forty years ago, our fathers settled an angry controversy growing out of a similar question, by dividing the Territories purchased from France, and providing that slavery, or involuntarily servitude, should not exist north of a certain line; and the whole country acquiesced in that compromise. In 1854, that restriction upon slavery was removed, and the people of all the Territories were left free to decide the question for themselves. Now the sectional issue is again presented, by the dominant party in the north, claiming that slavery cannot legally go into the Territories, even if sanctioned by Congress, or the Territorial Legislature; and that it is the right and the duty of Congress to prohibit its existence. While the doctrine which obtains with a majority of the people in most of the southern States, is, that under the Constitution the Territories are all open to slavery; that neither Congress nor the Territorial Legislature can lawfully prohibit its existence, and that it is the duty of Congress to provide for it all needful protection.

May we not wisely follow the example of our fathers, by re enacting the old compromise line of 1820, and extending it to the boundary of California? Not by the means of legislation of doubtful constitutionality, but by an amendment to the Constitution itself, and thus permanently fix the condition of the Territories, so that those who desire to occupy them, may find a home, at their discretion, either where slavery is tolerated, or where it is prohibited. If the adoption of such an amendment would peacefully settle the difficulties which now surround us, I am satisfied that it would be sanctioned by the people of Pennsylvania. At all events, they should have an opportunity to accept or reject it, if made as a peace offering. I would, therefore, recommend the General Assembly to instruct and request our Senators and Representatives in Congress, to support a proposition for such an amendment of the Constitution, to be submitted for ratification or rejection, to a convention of delegates, elected directly by the people of the State.

In the event of the failure of Congress speedily to propose this, or a similar amendment to the Constitution, the citizens of Pennsylvania, should have an opportunity, by the application of some peaceable remedy, to prevent the dismemberment of this Union. This can only be done by calling a convention of delegates, to be elected by the people, with a view solely to the consideration of what measures should be taken to meet the present fearful exigencies. If Congress should propose no remedy, let it emanate from the source of all authority, the people themselves.

Every attempt upon the part of individuals, or of organized societies, to lead the people away from their allegiance to the government, to induce them to violate any of the provisions of the Constitution, or to incite insurrections in any of the States of this Union, ought to be prohibited by law, as crimes of a treasonable nature. It is of the first importance to the perpetuity of this great Union, that the hearts of the people, and the action of their constituted authorities, should be in unison, in giving a faithful support to the Constitution of the United States. The people of Pennsylvania are devoted to the Union. They will follow its stars and its stripes through every peril. But, before assuming the high responsibilities now dimly foreshadowed, it is their solemn duty to remove every just cause of complaint against themselves, so that they may stand before High Heaven, and the civilized world, without fear and without reproach, ready to devote their lives and their fortunes to the support of the best form of government that has ever been devised by the wisdom of man.

In accordance with the provisions of the Constitution of the State, I shall soon resign the office of Chief Executive of Pennsylvania, with which the people have entrusted me, to him whom they have chosen as my successor. I shall carry with me into the walks of private life, the consciousness of having honestly discharged the duties that have devolved on me during the term of my office, to the best of my ability; and shall ever cherish the warmest affection, and the deepest interest in the future welfare of our beloved Commonwealth and our glorious Republic. The shadow of a dark cloud does indeed rest upon us; but my hopes and my affections still cling to our Union, and my prayer shall be that He who orders the destinies of nations, when He shall have chastened us for our sins, and humbled us before Him, will restore us again in mercy, and bind us together in stronger and more hallowed bonds of fraternity, to remain unbroken thro' all future time.

WM. F. PACKER.

EXECUTIVE DEPARTMENT,
Harrisburg, January 2, 1861.

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