# Pittsburgh Gazette.


W. McMILLEN, R. P. WILLIAMS, R. E. PENNOCK, J. R. HERBERT.

R. ERRETT & CO.,
EDITORS AND PROPRIETORS.

PITTSBURGH:
TUESDAY MORNING, DEC. 11, 1860.


PURSUANT to a Resolution of the Republican Executive Committee of Allegheny County, I have appointed the following Committee to call a MASS MEETING at such time as they may fix upon:

RUSSELL ERRETT,
T. J. HIGHAM,
JOHN H. STEWART,
GEORGE W. JACKSON,
JOHN W. RIDDELL,
JAMES C. LEWIS,
THOMAS M. MARSHALL.

The Committee are requested to meet at the office of MARSHALL & BROWN, on Friday, Dec. 14th, 1860, at 10 A. M.

THOS. M. MARSHALL, *Chairman.*

### THE PENNSYLVANIA LAW OF 1847.

As a great deal of complaint has been made in the South concerning the anti-kidnapping law passed in this State in 1847, we ask attention to the facts connected with it.

The leading features of that law, at the time of its passage, were:

1. It prescribed adequate penalties for kidnapping free persons of color.

2. It prohibited State officers or persons holding civil office under State laws from aiding, as such, in the arrest of fugitive slaves.

3. It prohibited the arrest of fugitive slaves in a riotous and tumultuous manner.

4. It prohibited the use of our jails for the detention of fugitive slaves.

This act was passed in 1847, three years before the present Fugitive Slave Law was passed. It could not, therefore, have been passed for the purpose of obstructing the execution of that law.

On the contrary, in 1852, two years after the passage of the Fugitive Slave Law of 1850, representations were made to our legislature that the provision of the law of 1847 contained under our fourth head, prohibiting the use of our jails for the detention of fugitive slaves after arrest, was unsightly and unkind, and the legislature promptly repealed it. This was the only provision of the law then complained of, the South being perfectly satisfied to let the rest stand; and it was repealed solely to show the South the neighborly spirit entertained by Pennsylvania, and that nothing should be left on the statute book that was a just cause of complaint.

No one complains, now, of the provisions in that law against kidnapping. They apply only to free persons, not to slaves; and the only prosecutions under the law that have ever taken place in the State have been under those provisions. No one has ever been punished, under that law, except for kidnapping free persons; and the frequency of that crime renders it unnecessary that these provisions shall be repealed.

As to the remaining provisions, prohibiting officers under State laws from arresting slaves, and interdicting the arrest of fugitives by others in a riotous and tumultuous manner, it is alleged that they are unfriendly in spirit and obstructive of the law of Congress. Let us look at the facts which led to their enactment.

The law of 1780, which abolished slavery in Pennsylvania, contained the following provision:

"XI. Provided always, and be it further enacted, 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."

This was the law of Pennsylvania on the subject of fugitive slaves, when the Federal Convention assembled in Philadelphia in 1787, to revise the articles of confederation. The occasion of that very law was introduced by the Convention into the Constitution; and now forms the second section of the fourth article.

No law was passed by Congress to give effect to this constitutional provision until the 12th of February, 1793. An act was then passed, which provided, among others, "that when a person held to labor or service in any of the United States shall escape into any other of the States or Territories, the person to whom such service or labor may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and take him or her before any Judge of the Circuit or District Courts of the United States, residing or being within the State, or before *any magistrate of a county, city, or town corporate wherein such seizure or arrest shall be made*, and upon proof, to the satisfaction of such judge or magistrate, &c., that the person so seized or arrested doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or *magistrate* to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant *for removing* the said fugitive from labor *to the State or Territory from which he or she fled.*"

This act of Congress, it will be seen, made it the duty of State magistrates to take cognizance of fugitive slave cases and adjudicate them. No law, however was passed by the State, either to confirm or annul this provision, the law of 1780 remaining the only one in force until 1826. During that year a deputation from the State of Maryland visited Harrisburg, and presented to Governor Shulze a letter from Governor Kent, of that State, the object of which is explained by the following copy:

ANNAPOLIS, Jan. 9th, 1826.

SIR: The immense losses sustained by the citizens of this State, by the absconding of their slaves, and the great difficulties experienced in recovering them, have been deemed of sufficient importance to induce the Legislature to make a solemn appeal to the governments of those States in which the greatest portions of such fugitives are known to seek refuge, for their aid in arresting this growing evil. For this purpose the bearers hereof, Ezekial F. Chambers, a member of the Senate, and Archibald Lee and Robert H. Goldsborough, Esqs., members of the House of Delegates, have been appointed a joint committee to confer with the Legislature of Pennsylvania, upon the measures best calculated to remedy the grievance so much felt, and which I assure your Excellency is of very serious magnitude and general concern to all holders of slaves.

With the fullest confidence that the gentlemen deputed upon this interesting business will be received in the friendly and conciliatory spirit in which they have been appointed, and with the disposition which no doubt is entertained that your Excellency, as well as the Legislature of the State over which you presides, will feel to meet the views and accomplish the just purposes of their mission, we cannot doubt a speedy issue. With the highest consideration,

We have the honor to be your Excellency's most obedient servants,

JOSEPH KENT.

To his Excellency, J. Andrew Shulze, Governor, &c.

Gov. Shulze communicated this letter to the Legislature on the 24 Feb., 1826. The Deputies were courteously received, and took their seats by invitation within the bar of the House. A committee was appointed on the same day to confer with them in relation to the object of their visit, and the result was the passage of "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," approved the 26th of March, 1826.

That act defined and made provision for the punishment of kidnapping.

It conferred jurisdiction and authority upon all State judges, justices of the peace and aldermen, to issue warrants, directed to the sheriff or constable of the proper county or city, for the arrest of fugitive slaves, and made it their duty to issue such warrants, when applied for under the act.

It provided that the fugitive when arrested should be taken before a State judge, and, on proof to his satisfaction that the person seized or arrested owed service or labor to the person claiming him, under the laws of the State from which he or she fled, it became his duty to give a certificate thereof to the claimant or his agent, which was declared to be a sufficient warrant for his or her removal to the State or territory from which he or she fled.

It authorized the commitment of the fugitive to any jail of the commonwealth for safe keeping, if either party required time for the production of their proofs.

It provided that if any sheriff or constable, refusing and executing a warrant, should refuse or wilfully neglect, without unnecessary delay, to carry the person arrested before the judge according to the exigency of the writ, such sheriff or constable should, on conviction thereof, be fined at the discretion of the Court in any sum, not exceeding five thousand dollars, or sentenced to imprisonment at hard labor for a term not exceeding six months—or both.

It prohibited bankers and justices of the peace from taking cognizance or jurisdiction of the case of any fugitive from labor under the act of Congress of 1793, and from granting any certificate or warrant of removal, except in the manner provided by the State law. But this prohibition did not extend to Judges of the State Courts, who were left at liberty to act under the law of Congress.

This law was submitted to and received the approval of the Maryland Commissioners, and was entirely satisfactory to the South. Under it many fugitives were arrested and returned, and there are yet living quite a number of Pittsburghers who remember an exciting case under it, which was tried before Judge Pentland, as Recorder of this city, and in which the fugitive was returned to his claimant.

But in 1837 a certain Edward Prigg, a citizen of Maryland, the agent or attorney of a Mrs. Ashmore, also of that State, applied to a justice of the peace of York county for a warrant for the arrest of a negro woman, the slave of Mrs Ashmore, who escaped from her mistress, and had been living in that county about five years. The warrant was issued on which the woman and her two children were arrested and taken before the magistrate, who refused to take further cognizance of the case, on the ground that he was prohibited from so doing by the act of 1826, under which he had granted the warrant. Without complying with the provisions of that act, Prigg and his associates carried the woman and her children out of the State, and delivered them to Mrs. Ashmore. One of the children was born more than a year after the mother had escaped from her mistress.

Prigg was indicted and tried for kidnapping in the Court of Oyer and Termiser of York county, where he was defended by counsel employed by the State of Maryland. Under the provisions of an act of Assembly, passed the 22d of May, 1839, a special verdict was taken by agreement of counsel, and a judgment entered by the Court on the finding of the jury. The last mentioned act was passed at the instance of the authorities of Maryland, for the purpose of enabling them to try the question of the constitutionality of the Pennsylvania act of 1826, which they now denied, although it had been fully approved by them and passed by their request.

The Supreme Court of Pennsylvania, having affirmed the judgment of the County Court, the case was removed by the State of Maryland to the Supreme Court of the United States. Mr. Nelson and Mr. Meredith, of Baltimore, appeared for that State, and contended:

That the law of Pennsylvania, on which the indictment of Prigg was founded, was unconstitutional.

1. Because Congress has the *exclusive power* of legislation upon the subject matter of the said constitutional provision, which power had been exercised by the act of 12th of February, 1793.

2. That if this power is not exclusive, still the concurrent power of the State Legislature is suspended by the actual exercise of the Federal power.

3. That if not suspended, still the statute of Pennsylvania, in all its provisions applicable to this case, is in direct collision with the act of Congress, and is therefore unconstitutional and void.

The Supreme Court of the United States, in 1842, delivered its decision sustaining this view. It declared that the act of 1826, upon which the indictment was founded, was repugnant to the Constitution and laws of the United States, and was therefore void.

The opinion of the Court was delivered by Mr. Justice Story. The right of individual States to legislate upon the subject was clearly and emphatically denied, while it was held by the Court that every State is perfectly competent, and has the *exclusive right*, to prescribe the remedies in its own judicial tribunals; to limit the time as well as the mode of redress, *and to deny jurisdiction* over cases which its own policy and its own institutions either prohibit or discountenance. The constitutionality of the act of Congress, of 1793, was considered, in respect of which the court said:

"We hold the act to be clearly constitutional in all its leading provisions, and, indeed, *with the exception of that part which confers authority upon State magistrates*, to be free from reasonable doubt and difficulty, upon the grounds already stated. As to the authority so conferred upon State magistrates, while a difference of opinion has existed, and may exist still on the point, in different States, whether magistrates are bound to act under it, none is entertained by this Court that State magistrates may, *if they choose*, exercise that authority, *unless prohibited by State legislation.*"

Thus was Pennsylvania rebuked for her enmity to the slaveholding States, and an act passed at the instance and with the approval of Maryland, *and which was the only effectual fugitive slave law ever in force in the State*, was, at the instance of that State, declared to be unconstitutional and void. As a consequence, the law of 1847 was passed, first for the purpose of protecting free negroes from kidnapping, and second, for the purpose of prohibiting State officers from exercising a jurisdiction which the Supreme Court said Congress *could not confer* and the exercise of which any State might prohibit. That provision, then, prohibiting State officers from acting, as such, in the capture of runaway slaves, was an embodiment, simply, of the dicta of the Supreme Court.

We come, now, to the last provision, prohibiting the arrest by others, of a fugitive, in a riotous and tumultuous manner. This, also, was suggested by the Supreme Court. In its decision in this Prigg case, it said:

"Upon this ground (the doctrine of reception) we have not the slightest hesitation in holding that under and by virtue of the Constitution, the owner of a slave is clothed with entire authority in every State in the Union, to seize and recapture his slave *whenever he can do it without any breach of the peace or any illegal violence.*"

Our law of 1847 does nothing more than prohibit this "breach of the peace" or "illegal violence." It says in effect that the master or his agent may come here, with or without a warrant, arrest a fugitive and carry him away, *but he must not do it in a violent and tumultuous manner.* That is all.

But, it may be asked, if a man arrest a fugitive in Pennsylvania and a mob gather around him to prevent him from carrying the fugitive away, is he to be held responsible for the riot? Not at all. If others make a riot, *they* are responsible, not he. No punishment can be inflicted upon him for what *others* do. All that is exacted of him, is, that he shall commit no breach of the peace, himself.

We have shown, now, we think, First, that the effort of Pennsylvania to maintain comity with Slaveholding States upon the subject of returning fugitives was rebuked and rendered null by the Supreme Court at the instance of a Southern State; Second, that all the existing provisions of our law were suggested by and have received the sanction of the same court; and Third, that all the provisions of the law of 1847, of which the South complained in 1852, after the passage of the present fugitive slave law, were repealed at her instance and solely to remove all cause of complaint between us and the South. The present complaints against that law, therefore, may well be regarded as the merest pretexts.

A TRAIN BOY STEALS $11,000 FROM THE U. S. MAIL-BAGS.—The fact that a train-news boy had been arrested on the cars near Chicago a few days ago for stealing $11,500 in drafts and notes from the United States mails, has already been mentioned. Several land warrants, valuable packages, deeds, etc, were also found in his possession, and he admitted his guilt and was sent to prison. He had been in the habit of riding in the mail car, and thus effected the robberies, the extent of which is not yet fully known. His name is Hudson, and is about 18 years of age. Among the articles found in his trunk was an order of Henry S Taylor, Baltimore, on the Manhattan Company, New York, for $2,500 addressed to payees, and a draft of John Muller, Lieutenant U. S. A., Fort Banton, Nebraska, August 4th, order G C. Tallafero, on assistant Treasurer U. S. New York, for $50, endorsed to cashier, Metropolitan Bank, N. Y., (envelope and letter lost.)

A few weeks since, a bag containing upwards of six hundred guineas: was left at the house of an aged lady residing near Notting Hill, London, with a letter stating that some party, constrained by conscience, returned the money, which was part of a sum plundered from the family 63 years before, promising also that the whole should be shortly restored. The robbery was committed in Londonderry, Ireland, and the lady's father, from whom the money was stolen, died more than fifty years ago.

WHAT IS TREASON.—It will be well for people, at the present time, to read and remember the following emphatic provision of the Constitution:

"No State shall, without the consent of Congress, lay any duty of tonnage, *keep troops, or ships of war in time of peace, enter into any agreement or compact with another State*, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will admit of delay."


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