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## The Letcher and Vail Correspondence.

*The Constitutionality of the Statutes of Pennsylvania.*

### Mr. Vail to Gov. Letcher.

Philadelphia, Dec. 5, 1860.

Hon. John Letcher,
Governor of Virginia:

*Dear Sir:* Your courteous letter of Nov. 28th was received on the 30th—a reply was commenced that day, but business engagements have delayed its completion. Since its completion, I have, for several reasons, hesitated about forwarding it.—on the one hand I do not wish to appear conspicuous in this matter, when there are so many men in my native State better qualified to perform the duty. Besides, our present Governor in his annual message, and the Governor elect in his inaugural address, will doubtless fully discuss it. And I also doubted whether it would be proper for me to further encroach upon your time, which must be so much needed in your conservative labors. But on the other hand, by not answering I may *appear* to be convinced, when I really am not. Nearly a month must elapse before the message or address can be delivered, and in the present crisis *hours* are of more importance than *days* in calmer times. This I say especially in reference to our own citizens, some of whom not having the time or opportunity for careful examination, may suppose that we have laws on our statute books "intended to obstruct the execution of the laws of Congress." After careful deliberation, therefore, I have concluded to forward this reply, hoping that it may in some degree, however slight, assist in restoring the fraternal feeling formerly existing between our States; and I hope that in this reply nothing shall be said but that shall be in the same kind and conservative spirit which characterizes yours.

In the concluding portion of your letter I cordially acquiesce And in so doing I think that I can speak not only for myself but for the conservatives of this State who constitute an overwhelming majority of her population. If there is a single law on our statute books which is calculated in the slightest degree to embarrass our Southern fellow citizens in the recovery of their fugitive slaves, we wish it immediately repealed. We are even willing to repeal any law which may possibly irritate them, but we are unwilling to do so in such a manner that we may *appear* to confess that the law was really *wrong* or *unconstitutional*, when in our hearts we believe it was not. Nor can you wish us to act in such a manner,—You cannot wish us to yield to *fear* but to *earnest conviction*.

We are much obliged to you for pointing out what you consider as our "obnoxious" laws. Heretofore we have had only general charges made against us which were difficult to answer merely on account of their vagueness. But permit me to say I still hold to my former opinions, and will give you my reasons for so doing.

Let us take up in detail the sections of the act of 1847, which are still in force, and consider any objections which may be urged against them.

The *first* section provides for the punishment of any person *kidnapping* any *free* negro or mulatto.

To this I suppose no Virginian objects. On the contrary, the "Code of Virginia" under the heading of "offences against the person," Title 54, Chapter CXCI, page 725, ordains that "If any free person sell a free person as a slave, or kidnap a free person with intent to use or sell him as a slave, knowing him to be free, he shall be confined in the penitentiary not less than three nor more than ten years."

The *second* section refers to the sale of any *free* negro or mulatto. The same remarks apply to this as to the first section.

The *third* section prohibits any of our State Judges, Aldermen, or Justices of the Peace, from having jurisdiction or taking cognizance of the case of any fugitive from labor. And this, you think, is wrong Let us reason together upon it.

In the first place, allow me to refer you to the following extract from the opinion of the Supreme Court of the United States, in Prigg vs. The Commonwealth of Pennsylvania, 16 Peters, 622: "We hold the act (that of 1793) 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 still exist on the point, in different States, whether State 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.*"

But it may be said, "although it has been decided that our State has authority to prohibit her Justices or Aldermen from acting under this Congressional law, still is it proper for her to exercise that authority?" The best answer to this proper question will be to show why she has prohibited them.

Kidnapping free negroes being very profitable, many scoundrels, some of whom I regret to say, were citizens of this State, engaged in it as a regular occupation.—And, of course, they endeavored to contrive some plan by which, even if caught, they might possibly escape the penalties of the law. (For it must be remembered that laws punishing kidnapping were enacted at a very early period in our history, and the first and second sections of the act of 1847 were in a great degree merely repetitions of them.) One of their plans was this: They would enter into a sort of partnership with some corrupt justice of the peace, or alderman and his constables. (Some corrupt ones could be found amongst the hundreds in this State.) The magistrate would issue a capias against some free negro, in which he was charged with larceny. The constable would arrest him about dusk, take him to a magistrate's office, where the kidnapper would appear and claim him as a fugitive slave. The magistrate, without allowing the negro any opportunity to prove his freedom, would grant the certificate of removal, and before morning the negro would be removed from this State. Even if discovered before actually removed, the certificate of removal was conclusive, and was a sufficient return to a *habeas corpus* This has been done not once or twice merely but scores of times. The legislature not being able to point out by name and separate corrupt officers from the good ones, thought it best to exercise their lawful authority and prohibit all of them from having jurisdiction in such cases.

But does this prohibition embarrass any claimant? The third section of the fugitive slave law of 1850, provides "That the Circuit Courts of the the United States and the Superior Court of each organized territory of the United States shall from time to time enlarge the number of commissioners, with a view to afford reasonable facilities to reclaim fugitives from labor, and to the prompt discharge of the duties imposed by this Act." Under this section any number of commissioners may be appointed in each county in this State

In the remarks I have made upon this section, I do not wish to be understood as having intended to cast any reflection upon any Southern gentleman who may have purchased a kidnapped negro, supposing him to be a slave. I know that in your State, and, I believe, in all of the Southern States, a legal mode is pointed out by which a negro may prove that he is free. But this, on account of the necessary expense of bringing witnesses from this State, cannot be often resorted to.

(In the fourth and fifth sections I have retained your *italics*)

Sec. 4. "That if any person or persons, claiming any negro or mulatto as fugitive from servitude or labor, shall *under any pretence of authority whatsoever*, violently and tumultuously seize upon and carry away to any place, or attempt to seize and carry away in a riotous, violent, tumultuous and unreasonable manner, and so as to disturb or endanger the public peace, any negro or mulatto within this Commonwealth, *either with or without the intention of taking such negro or mulatto before any district or circuit judge*, the person or persons so offending against the peace of this Commonwealth, shall be deemed guilty of a misdemeanor, and on conviction thereof, before any Court of Quarter Sessions of this Commonwealth, shall be sentenced by such Court to pay a fine of not less than one hundred dollars, nor more than one thousand dollars, with costs of prosecution; and further to be confined in the county jail for any period, at the discretion of the Court, not exceeding three months."

It will be seen that this section applies to *a claimant, a pivate person* seizing his slave. The Supreme Court in Prigg's case, page 613, say, "Upon this ground (the doctrine of reception, we have not the slightest hesitation in holding that under and in 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.*"

If a Pennsylvania's horse strays or is stolen, and the owner finds him in Virginia, he has an undoubted right to seize and take him away, "*whenever he can do it without any breach of the peace or any illegal violence.*" But if he should "*violently and tumultuously* seize him and carry him away to any place, or attempt to seize and carry him away in a *riotous, violent, tumultous and unreasonable manner, and so as to endanger the public peace*," either with or without legal process, would be not properly be punished under and by the laws of Virginia?

Is not even an officer of the law punished for executing a lawful process in a riotous, violent, tumultuous and unreasonable manner, and so as to disturb and endanger the public peace?

But it may be said that a fugitive, when seized, will resist, and thus create a riot. But if he does the claimant is in the same position as an officer who has been resisted, and has full authority to "use such reasonable force and restraint as may be necessary under the circumstances of the case," and in so doing he will not be subjected to indictment in our Courts.

Section 5. "That nothing in this act shall be construed to take away what is hereby declared to be invested in the *Judges of this Commonwealth*, the right, power and authority at all times, on application made, *to issue the writ of habeas corpus*, and to inquire into the causes and legality of the *arrest or imprtsonment of any human being* within this Commonwealth

At first glance it would seem that this section might cause some embarrassment, but on further examination it will be seen that it does not.

In Article IX [Declaration of Rights] Section XIV of our State Constitution, it is declared that "the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it"

The third section of the Act of 1847, by prohibiting any of our State Judges from having jurisdiction, or taking cognizance of the case of any fugitive from labor, might be construed to take away their right to issue the writ of *habeas corpus* in any such cases, and if it stood thus, alone, would be adjudged unconstitutional. So it was deemed necessary to add Section five, to make Section three constitutional. Before the passage of Section three, it was their right and duty to issue the writ in all cases when it should be properly demanded. So that it is evident, that a claimant of a fugitive is placed in no worse condition by the passage of this section, than he was in before, and conversely he would be placed in no better condition, if it were repealed tomorrow.

But some one may ask, how will the issuing of this writ work in practice.—Let us hear what Chief Justice Taney (who certainly cannot be accused of wishing to embarass any claimant,) says in United States vs Booth, 21 Howard's S. C. Reports, page 523 (The italics are mine,) "We do not question the authority of State Court or Judge who is authorized by the laws of the State to issue the writ of *habeas corpus*, to issue it in any case where the party is imprisoned within its territorial limits, provided it does not appear, when the application is made, that the person in prison is in custody under the authority of the United States. The court or judge has a right to inquire, in this mode of proceeding, for what cause and by what authority the prisoner is confined within the territorial limits of the State sovereignty. And it is the duty of the marshal or other person having the custody of the prisoner, to make known to the judge or court, by a proper return, the authority by which he holds him in custody. This right to inquire by process of *habeas corpus*, and the duty of the officer to make a return, grows, necessarily, out of the complex character of our Government, and the existence of two distinct and separate sovereignties within the same territorial space, each of them restricted in its powers, and each of them within its sphere of action, prescribed by the Constitution of the United States, independent of the other. *But after the return is made, and the State judge or Court judicially apprised that the party is in custody under the authority of the United States, they can proceed no further.*"

And further this opinion was acted upon in this city in the case of the fugitive Moses Hornor. While the case was pending before the United States Judge, some friend of the fugitive made application in the usual form for a writ of *habeas corpus* to one of our State judges, who not knowing whether the person who it was sworn, was illegally restrained of his liberty, was white or black, granted it, of course. As soon as the slave was remanded this writ was served upon the master and the Marshal. The United States Judge refused to interfere. The Marshal by advice of his counsel sent the negro immediately back to Virginia and made his return to the writ in the manner pointed out by Chief Justice Taney. This opinion was cited to the State Court, who, of course, recognized it as binding upon them, and this was the end of the case.

What may have been the view of each legislator in enacting this law no man can say. I have given what appears to me must have been their reasons, and have stated what is of far greater importance, its practical working. One reason why I have done this is that in the event of a dissolution of the Union (which may God forbid) no one can truly say to Pennsylvania that she contributed to it by violating the solemn compact of the Constitution of the United States. If for the last thirteen years we have been violating that Constitution, then indeed can it be truly said that we have been "lamentably ignorant of the legislation of our own State." Some instances may be given to show the views of our own citizens on this subject.

The Pennsylvania Anti-Slavery Society, in one of their reports, say: "It is a humiliating fact that Pennsylvania has furnished more victims to the fugitive slave law than all of the other States of the Union put together." In the last report of the Female Anti-Slavery Society they speak "of the importance of *procuring* the enactment of a law which shall make it a penal offence to arrest as a slave any human being on the soil of Pennsylvania." If there are "obnoxioue" laws on our statute books would not these persons have used them long since?

The Democratic Convention which met at Reading, June 5th 1851, and nominated Hon. William Bigler for Governor, considered this very act of 1847, and adopted the following resolutions:

"Resolved, That the Democratic party of Pennsylvania are true to the Constitution, the Union and the laws, and will faithfully observe and execute, so far as in them lies, all the measures of compromise adopted by the late Congress for the purpose of settling the question arising out of domestic slavery, and this, not only from a sense of duty as good citizens of the Republic, but also from the kind and fraternal feelings which they cherish towards their brethren of the slaveholding States."

"Resolved, That the sixth section of the act of the Legislature of Pennsylvania, passed on the 3d of March, 1847, denying, under severe penalty, the use of our State jails for the detention of fugitive slaves while awaiting their trial ought to be expunged from our statute books, both because it interposes obstacles by means of State legislation to the execution of the provisions of the Constitution of the United States, and because it is a virtual disregard of the principles of the compromise, and is calculated seriously to endanger the existence of the Union."

Thus it will be seen that they thought that only the sixth section ought to be expunged, which was done by the next Legislature.

From that time all went on quietly—fugitives from labor were delivered up to their claimants, no one objecting but a few Abolitionists—when suddenly we are astounded by the discovery of some astute editor, that all this time we have been nullifiers.

Let me further refer you to an extract from a speech delivered in this city last Saturday evening, by Hon. A. G. Curtin, our Governor elect (a gentleman against whom I voted on account of his party, but for whomI have much respect);—"The law making power of this State has never designedly placed upon our statute book laws to contravene or obstruct the execution of any act of the Federal Government; but if there be any statutes on our books which, in effect, do contravene or conflict with any legislation of the National Government, or obstruct the execution of any law of the United States, upon being fully satisfied that such is the fact, let us repeal them. Let us show to the South and the North, and all the world, that while Pennsylvania vindicates her own interests and rights, she is faithful to the Union, and the rights of no State or man in the nation shall ever be interferred with, restricted, or limited by any act of the people of Pennsylvania," and I can truly say that I firmly believe that these are the sentiments of nine tenths of his party.

Before I close, let me remark on the case of a Virginian and a Marylander who you think "have been seriously injured by *this obnoxious Pennsylvania law*." A lawyer of this city has published the facts in the case of Emanuel Myers, in the Bulletin of December 1st, a copy of which I herewith send you. By it you will perceive that Myers was tried and convicted for kidnapping *free* negroes. Judge Graham distinctly charged that if they were slaves, Myers must be acquitted. The Maryland lawyers expressed themselves highly pleased with the fairness with which the trial had been conducted.—Moreover, Myers has never been sentenced, but was discharged upon his own recognizance upon his returning the negroes. If he had been convicted of the same offence in Virginia he would have been sentenced to "not less than three nor more than ten years confinement in the penitentiary." I must confess that I have forgotten the facts in Parson's case, and will be much obliged to any one who will give them to me. I wish to know particularly under what section of our act he was indicted, and whether he was convicted.

We Pennsylvania conservatives occupy a peculiar position, and are exposed to attacks on every side. By the fanatics of the North we are called "pro slavery dough-faces," and by the fire eaters of the South "abolitionists." But we will continue to adhere to our principles of even and exact justice to all parts of this Union.

There are many traits to admire in the Southern character, but none more than this—no matter for whom they may have voted, whether for Bell, Breckinridge or Douglas, yet if the honor of their State is attacked, all domestic bickerings are forgotten, and standing together shoulder to shoulder, as one man, they vindicate her. But, alas, we have some persons who not only do not deny, but even repeat a calumny against their own State. Such men should be despised.

And now, sir, I must close this long letter. In it I have endeavored to confine myself strictly to the question "whether Pennsylvania has enacted any law which embarasses a claimant of a fugitive from labor." Although from haste and inexperience much may have been omitted, yet I trust that nothing has been said which may in any manner interrupt our kind feelings. Hoping that I may always be able to subscribe myself your fellow-countryman, I am, yours truly,

Lewis D Vail.

☞He that overcomes his passions, conquers his greatest enemies.

## About Bedbugs.

According to an article in the last number of Harper's Magazine, bedbugs are an American invention, and have been exported from this to all parts of Europe, excepting Ireland, where a bedbug is never to be found. The insect made its appearance in England as early as 1503, when two noblemen were "punctured" by them, and the physicians called in great haste. The bug is a parasite of the bat family, and is so tenacious of life that no degree of cold or heat can effect it.—Freeze one until you can break it in two; thaw the pieces and they will revive.—Freeze the eggs until congealed in ice; let them thaw and they will hatch again as usual. Boil both insect and egg and they will revive as soon as cool. If they can get nothing to eat they will live and propagate on what nourishment they may derive from the atmosphere.

## The Oil Regions of Pennsylvania.

The oil regions of Pennsylvania seem to be rather more extensive than was at first supposed. Wells have been sunk in Venango, Warren, Mercer, and many other western counties, and there are no less than four famous points known as Mecca, Oil Creek, Titusville, and Tideout. Of the three latter a great deal has been published, but Mecca, which is less known appears to be hardly less important. From a statement in the Pisttsburg Evening Chronicle we learn that since the first well was sunk there, in February last, between six and seven hundred wells have been put down at an aggregate cost of $48,750, and two weeks ago there were seventy-five engines in operation pumping oil. Each well involves an outlay of from $1000 to $1200 for engine, pump and vats. They produce from three to twelve barrels of oil a day each, except those of Hoxie & Wilson, and Skeele & Co., which yield from fifty to one hundred barrels a day, the average being for these two about seventy-five barrels a day. The oil sells at twenty five cents a gallon. During the past summer about one hundred and fifty buildings have been erected there, including hotels, boarding houses, dwellings and stores. Land which in January last could have been bought at from twenty five to thirty dollars an acre, is now selling at three hundred per acre. In fact the oil discoveries have been already of immense value to Western Pennsylvania, and are peopleing the forests and rearing up towns and villages.

## Interesting to Divorced Wives.

The New York Court of Common Pleas, Judge Brady presiding, has decided that in cases of divorce the female side of the house must pay its own debts from the moment the decree of divorce is rendered. The case is that of Mrs. Forrest, who resisted payment of a claim for dry goods amounting to $552, on the ground that she was then the wife of Mr. Forrest, the question turning upon the point of appeal from the decree of divorce still pending. The Court decided the appeal was only for the purpose of settling the question of alimony.

## Effect of Pumpkin Seeds On Milk Cows.

A Clary, of Connecticut, writes to the *New England Farmer* in regard to this subject, as follows:

"First I fed my cows one week with one large or two small pumpkins to each cow twice a day. Their milk decreased two or three quarts to each cow a day, from what they gave the first week previous. I then fed them one week with the same quantity of pumpkins as before, and took out the seeds. They increased in a greater proportion of milk than they decreased the week previous. I then fed them alternately, three or four weeks, and they varied in their milk very much of the first weeks.

The diuretic qualities of pumpkin seeds are well known, and they will always prove injurious to animals if fed in large quantity. Fowls have sometimes eaten of them so largely as to produce death.

## Condition of our State Treasury.

We are indebted to Hon. Thomas E. Cochran, Auditor General of the State of Pennsylvania, for a statement of the receipts and expenditures of the State Treasury for the year ending the 30th of November, 1860. The receipts from all sources were $3,479,257 31, which, with an available balance in the Treasury December 1, 1859, of $839,323 09 and 41,032 of depreciated funds, make a total of $4,359,612 40. The expenditures of the year have been $3,637,107 32, leaving an available balance in the Treasury on the 1st of December, 1860, of $681,432 08, in addition to $41,032 of depreciated and unavailable funds.

Wigfall, who misrepresents Texas in the U. S. Senates, boasts that before he left home he armed all his negroes, and told them to shoot all strange white men who might intrude on his plantation If, in a sober interval, he spoke the truth, we advise him not to return home incautiously, for he is the strangest white man his darkies will be likely to encounter.—*Lousville Journal.*

☞A little pipe clay dissolved in the water employed in washing, will cleanse the dirtiest clothes thoroughly, with about one half the labor, and fully one-half less soap. Besides, the clothes will be improved in color.

## Pay Your Debts.

At such a moment as the present, every one who has money, or can raise it in any way, should promptly liquidate his obligations. To refuse or neglect to do so at any time, would be wrong, but now such neglect or refusal is a double and inexcusable wrong One dollar set in motion may pay fifty times that amount of debt in a very few days.

Few people realize this matter of debt paying as they should. They have no conscience on this subject. They excuse themselves by saying they are "very busy." Suppose you are busy. You are not too busy to neglect such a moral obligation. "I will attend to you in a day or too." You don't know that, for you may die—your property may burn, or some other providential circumstance may happen to prevent it. "Oh, he or she don't want the money." How do you know that? who gave you that piece of information? Nothing but the voice or message of your creditor can settle that matter "He is rich, and don't need small sums." Indeed! and is that your excuse? How do you know but that your neglect to pay him hundreds may cost thousands? While in business you must take all its risks If you can't, how do you expect your creditors can stand your delinquency?

Now, reader, this brief article is not intended for "foreign lands," nor for "future generations," nor your "neighbor," nor for "people generally," but for you—*yourself*. Do you hear?

## An Unhung Traitor.

The whole country breathed freer when John Brown and his fellow conspirators were hung. But during all that time one traitor at least was plotting treason while in the Cabinet Howell Cobb was a disunionist when called to the Cabinet, he was a disunionist previous to that time, and he is now acting with traitors to his country. He has deliberately planned the bankruptcy of the Treasury, so that his successor and the Governmet might be embarrassed. Having done this, he writes a letter full of treasonable sentiments, and goes home to plot destruction to the best government on earth. John Brown could get but a handful of followers; Cobb gets thousands. Which most deserves the gallows?

## Don't take them.

The notes of the following Pennsylvania Banks are quoted no sale in Philadelphia. They have gone under in the financial crisis which is now sweeping the country:

Bank of Commerce, Erie.
Bank of Crawford, Meadville.
Bank of Lawrence Co., New Castle.
Bank of New Castle, "
Erie City Bank, Erie.
McKean Co. Bank, Smithport,
Monongahela Valley Bank, McKeesport.
North Western Bank, Warren.
Tioga County Bank, Tioga.
The Corn Exchange Bank, Philadelphia, gives notice that the notes of the Shamokin Bank will be no longer redeemed at that Bank.

## How to Obtain a Christian Husband.

A Louisville paper has some answers to correspondents. Here is a sample:—*Jenny*—Ministers are not more addicted to dissipation than men of other professions. A few of the Kalloch type take gin toddies and liberties with females, but the great mojority of them are as good as lawyers and doctors. If you want a true Christian, marry and editor.

## The Belt given up.

From *Bell's Life* we learn that Sayers has given up the Champion's Belt, though not without reluctance, and that it has been handed over to the Staleybridge infant Some $600 remain to be paid on the new belts, and *Bell's Life* appeals to the friends of Sayers and Heenan to raise it at once, otherwise they must remain with the maker.

☞Whittier, the poet, says, in reference to the present crisis—"The South are setting fire to the clothes upon their backs, hoping their neighbors may *scorch* their fingers in trying to put it out."

He also says, "that those fighting about Lincoln's election, are fighting with the census-takers, and Greenleaf's arithmetic—they look like the figure 3 getting angry because it ain't the figure 5."

☞An irritable man is somewhat like a hedge-hog rolled up the wrong way, and pierced by his own prickles.

☞"Pray, madam, why do you name your old hen Macduff!" Because, sir, I want her to "lay on."

☞A lad, who had lately gone to service, having had salad served up every day for a week, ran away, because said he, "they made me eat grass in the summer, and I was afraid they'd make me eat hay in the winter; so I was off."

☞A man who marries a frivolous, showy woman, fancies he has hung a trinket round his neck, but he soon finds it a millstone.

☞The Western penitentiary contains 277 inmates.