

rant 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 given, by agreement of counsel, 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 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 understanding of the law 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 free men 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 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 incurred a 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, under a state of slavery, and in the 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 framers 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 fully may justly be found with its temper than its warranty 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 recapture, but made in a violent, tumultuous and unreasonable manner, amounting to a breach of the peace, and 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 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 fully 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, who sojourning in our State, for a limited period, or passing through it, may be accompanied by his slave, without being 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 imperiled. By it Pennsylvania would concede no principle—we would 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 1788, 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 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 admit 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 expenditure 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 seriously questioned. But, if the power to legislate upon this delicate and important subject were clearly vested in Congress, in my judgment it ought not to be exercised. To declare that slavery shall not exist in the Territories, is calculated to exclude from their occupancy the citizen 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, for 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 the country, I am nevertheless not to regret 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 involuntary 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 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 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 its 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 that I ever cherish the warmest affection for, and the deepest interest in, our and our glorious Republic. The shade 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 through all future time. WM. F. PACKER. EXECUTIVE DEPARTMENT, Harrisburg, January 2, 1861.

ORIGINAL RESOLUTIONS.

Mr. LEISENRING moved that 10,000 copies of the message be printed in English, and 3,000 in German, for the use of the House.

Mr. SMITH, of Berks, desired 5,000 in German, which was not agreed to. After discussion between Messrs. RIDGWAY, SMITH, of Berks, WILSON and COLLINS, the original resolution was agreed to.

Mr. HOFIUS offered a resolution retaining the officers of the late House, for the same length of time as the retiring officers of 1860, which, after discussion between Messrs. COLLINS, FRAZIER, HOFIUS, AUSTIN and WILSON, was agreed to.

Mr. MOORE offered a resolution inviting clergymen of Harrisburg to open the sessions with prayer. Agreed to.

Mr. AUSTIN offered a resolution prohibiting the Post Office from being open on Sundays.—On motion of Mr. BARNESLEY, it was agreed that it should be kept open between the hours of ten and 10 a. m.

Nominations were then made, on motion of Mr. BARNESLEY, for officers of the House. The nominations were as follows:

Clerk—Mr. SELTZER nominated E. H. Rauch; Mr. DUFFIELD nominated Jacob Ziegler.

Postmaster—Mr. WALKER nominated E. J. Woodhouse; Mr. DUNLAP nominated Thomas O'Harra.

Sergeant-at-Arms—Mr. SELTZER nominated J. R. Mathews; Mr. McDONOUGH nominated John Gill.

Doorkeeper—Mr. BUTLER (Lehigh) nominated John Farrell; Mr. HUNH nominated E. D. Pickett.

Messenger—Mr. BOYER nominated Jacob Wiegaman; Mr. HOFIUS nominated H. B. Gibson.

An election having been entered into, the successful candidates were as follows, the vote being a strictly party one:

Clerk—E. H. Rauch.

Postmaster—E. J. Woodhouse.

Sergeant-at-Arms—J. R. Mathews.

Doorkeeper—E. D. Pickett.

Messenger—H. B. Gibson.

The above named, together with their several assistants, were then all either sworn or affirmed.

The House then adjourned.

of the different States of the Union, the restoration of so much of the act of 1780, permitting masters while sojourning in the State for a limited period, or passing through it, to be accompanied by their slaves without losing the right of their service; and the arguments advanced in favor of these measures are irresistible.

We are glad to record the fact, that Governor PACKER has spoken bold, manly, and unequivocal language on this subject, worthy of his high position and of the great and conservative State that he represents. His words cannot fail to have a powerful influence upon the country, and we trust that they will not pass unheeded by the Legislature.

The following resolutions, understood to have been adopted by the Republican members of the Senate, were introduced into the Senate on Tuesday last, referred to a select committee of five, and reported yesterday with but slight amendment. This morning has been appointed for their consideration:

Resolved, That a Convention of Delegates now assembled in the State of Pennsylvania, in the year of our Lord one thousand eight hundred and sixty, adopt an ordinance, entitled, "An Ordinance to divide the State of Pennsylvania into four Territories, to be called the People of Pennsylvania, through their Representatives in this General Assembly to make known what they consider to be the objects sought, and the duties imposed by the Constitution; and be it therefore Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby resolved:

1. That the Constitution of the United States of America be and established, as set forth in its preamble, by the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to themselves and their posterity; and that the people of this State, in order to secure the full enjoyment of all the benefits intended to be secured to them by the said Constitution; if their rights are invaded, or their liberties imperilled by the people of any other State, full and adequate redress can and ought to be provided, and that the people of this State, in order to secure the full enjoyment of all the benefits intended to be secured to them by the said Constitution, and to secure the most fraternal sentiments for their brethren of other States, and are ready now, as they have ever been, to co-operate in all measures to promote the welfare, peace, unity and harmony under the Constitution which makes us one people. That while they cannot surrender their love of liberty, inherited from their fathers, and which is the blood of the Revolution and witnessed in the history of their legislation, they nevertheless maintain now, as they have ever done, the right of the people of their own State to the undisturbed enjoyment of their own domestic institutions, and all their Constitutional rights in relation thereto.

2. Resolved, That the people of Pennsylvania entertain the most fraternal sentiments for the people of other States, and are ready now, as they have ever been, to co-operate in all measures to promote the welfare, peace, unity and harmony under the Constitution which makes us one people. That while they cannot surrender their love of liberty, inherited from their fathers, and which is the blood of the Revolution and witnessed in the history of their legislation, they nevertheless maintain now, as they have ever done, the right of the people of their own State to the undisturbed enjoyment of their own domestic institutions, and all their Constitutional rights in relation thereto.

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