THE SOUTHERN PRESS.

DAILY, - - - - - - - - - - - - - $10 00
TRI-WEEKLY, - - - - - - - - - 5 00
WEEKLY, - - - - - - - - - - - 2 00

Ballad of Sir Hamiltoune Fysshe.

YE ARGUMENT

Showing in Fytte ye Firste, his Aspiringes and Temporarye Undoinge—In Fytte ye Seconde, Plottynge on his behalf by his Retainers, and Subsequent successe.

FYTTE YE FIRSTE.

A sound of wrath alonge ye shore,
A surge upon ye riverres breaste,
With angry haste ye swift floods roare,
Fast flies ye white foame from their crestes
Felle newes they beare
Of an affaire
That haplessely was messede.

For oh, it was a greivous wronge
This sadde mishappe I singe,
And hushed be every venomede tongue
Which now its galle would flinge
On him who late
Seemed bleste of fate,
Now a neglected thinge.

With a mournfulle garbe and cadence sadde,
O maidens of Manhattan's isle!
Perambulate the streetes once gladde,
And as ye wander, chante the while—
"Sure never Fysshe
Before was dishede
In such unseemjy style."

My goode Lorde Thnrlowe and ye Sewarde,
With other knights of some renowne,
Had many slights and thrustes endurede
From him who erewhile wore ye crowne;
A paladin of fame,
Fillmore his name.
Him soughte they to confounde.
Now these with numerous other gentles
Of colours various as of views diverse.
'Yclept Free Soylerres, social Anti-Rentalles,
Of dubious honour, and intentiones worse.
These all combined
The means to finde,
To help their endes perverse.

FYTTE YE SECONDE.

One nighte while seated round ye social boarde
Of Ravinge Fanaticke, surnamed "ye goode,"
As fast and furions ye choice wines they poured,
And being thereat somewhat in ye moode
Of plan and plotte,
Though ill begotte,
And abolitione woo'de.

Out spake grimme Raymonde then,
Who held by courtesye alone ye chaire,
(Not him who ledde of old ye holy menne
Who bore ye bright red crosse into ye lair
Of Paynim foe,)
He'd scarcely know
His weak congener here.

"Ye poweres of woole, and potentates of sables,
I have bethought me of a shrewde device,
Which carried out with all the strengthe we're able
On it to lavishe, and that too in a trice,
Will shroud in gloome
Fillmore right soone,
And chille his hopes like ice.

This plotte, my peeres, I cannot now reveale,
I'll beare it softly in my inner breaste,
Suffice for ye to know, that Fysshe his weale
Naught suffers with his henchman true confest,
We may not swerve
From him we serve,
Nor in his cause take reste."

Now some there were who liked not Fysshe,
And deemed his views and name
Much of a piece, and often wished
That they were not the same,
Chief of this clan
Ye bolde Beekmanne,
Well known I trow to fame.

In ye same shire where ye Beekmanne dwelt
There lived a Fysshite true and old,
Ye Kelleye was he highte, a manne or . . .
Eke independent and of wealth un . . . gelt,
And well h . . . olde,
Held of . . . e wished to be
As mast . . . some dignity,
. . . r of ye rolls.

Also ye black Douglas . . .
In him combined to . . . e, (character and color
And George ye D . . . earne the soubriquet)
Deft with the . . . owninge, darker yet and duller,
tr . . . ye, oyster knife and nimble with ye
On Shiloh's shrine
These Shiloh swine
Had vowed to win the day.

What boots it now to tell the tale
Of Fysshe, his finalle conquest, and his seate
In ye grave senate, into which he sailed
Unsanctified by law and qualified by cheate?
In better rhyme
Another time
We may his deeds repeate.

L'ENVOI.

A truce to jest, most gentle reader mine,
And end the doings of "ye Fysshe" to chime;
What you have read is sadly real and true,
Another of the base and factious crew
Known here as Woolly Heads, there as Anti-Renters,
And every where alike as circumventors,
Is sent to Washington, it may be to dictate
To men of thousand times his moral weight,
The voice (mistaken echo!) of the Empire State.
Say, patriot souls—real Democrats and true,
Shall these things longer be? the answer is with you.

From the Columbus Times.

TO THE PEOPLE OF GEORGIA.

Fellow Citizens: The undersigned committee, after having invited the several counties of the State to send delegates to a common school convention in December last, deemed it expedient to defer the meeting until a future day. We now most respectfully renew that invitation.

We have been gratified with the interest expressed in different portions of the State, and cannot but hope that there will be a general response to this proposition. What we desire is, a meeting of delegates from different parts of the State, to take into consideration the great cause of common school education. No question more deeply concerns the welfare of the whole State. The increase of our population, the developement of our resources, and the extending spirit of enterprize among our citizens, all demand of us some earnest attention to the cause of general education.

To devise some practicable system, and the means of carrying it into effect, will require mature deliberation. This is the object of the convention which we now invite to assemble.

We therefore respectfully solicit our fellow citizens of the several counties of the State, to send delegates, two from each county, to a convention to be held in the town of Marietta, on Tuesday the 8th day of July next.

As we feel assured there are some in every county who take an interest in the subject, we hope they will see that this proposition be fairly offered for the action of the people.

We highly appreciate the interest taken in this subject by the press of our State, and beg they will still lend their aid by inserting this call, and urging the claim as they may deem most useful.

THOMAS F. SCOTT,
ALONZO CHURCH,
B. SNIDER,
JAMES A. NISBET,
S. FOUCHE.
} *Committee.*

FROM CUBA.—The New Orleans Picayune mentions rumors of an outbreak in Cuba. One report had it that negroes on some plantations in the interior had risen upon their masters; another story was to the effect that a revolution against the authorities had been started and was making headway.

The Delta gives an explanation. It says that these rumors had their origin in a fact well-known in New Orleans, that a large number of the patriots have been leaving Havana, since the 10th of this month, for Vuelta Abajo, with a view of joining the revolutionary movement as soon as it breaks out. This movement has been hastened by the orders which have been issued for the arrest of the leading patriots in Havana, and in other parts of the Island. A considerable number of them have retired to the mountains, carrying with them an entire company of Spanish soldiers, which was stationed at San Cristoval, at the foot of the Cuzco mountains, and many deserters from the army. These mountains afford retreats inaccessible to the Spanish authorities.

As a proof of the secrecy with which the tyrants of Cuba make their arrests, says the Delta, we may state the fact that the arrests referred to were made during the festivities on the occasion of the visit of several distinguished members of our Congress to the captain general; and yet were not known to those gentlemen before they left Havana.

CIRCULAR

OF THE SOUTHERN RIGHTS ASSOCIATION OF MATAGORDA COUNTY.

To the Friends of Southern Rights in Texas:

The objects for which we have resolved to associate ourselves, will hardly be misunderstood by those who have been observant of passing events; and if all were watchful of the signs of the times, perhaps an explanation of the motives which actuate, and the principles which govern a "Southern Rights Association," would be but little needed.

But lest any should be misled as to the object of our present organization, or our ulterior aim, we deem it but justice to ourselves, and to the cause we advocate, to place in the hands of those whom we regard as the intelligent friends of the South, and her interests, a brief synoptical statement of the opinions which, as an association, we entertain, and the principles upon which we are united.

Our first object is to unite the friends of the South in our community, and if possible, to aid in uniting the friends of the South throughout Texas, in an organization for the preservation of our rights and the more successful resistance of Northern aggression and federal usurpation.

Our enemies are organized and disciplined under able leaders, bearing, it is true, a variety of names, and professing to hold their existence as organized bodies, under different pretences; but not the less our enemies that they do not openly avow their enmity; and not the less to be guarded against that they do not all profess to have formed themselves into abolition societies.

It is no longer alone in the insignificant abolition conventicles, dedicated to cant, consecrated to mock philanthropy, that we are to look for the enemies and assailants of Southern institutions. They are found alike in high places of the nation, and in the humblest walks of life, and that too, in numbers no longer despicable.

In the halls of Congress, and in the squallid cellars and garrets of the Northern cities, in the various departments of the general government, and in the workshop of the wooden butter maker. In the pulpit and at the plough, they are actively, unceasingly, and but too successfully engaged in agitating and planning the ruin of the South.

It is no longer the wrong-headed excitable and ignorant rabble alone, who are engaged in the fierce crusade against domestic slavery.

Two great political conventions at the North have recently, in no measured terms, denounced as an unholy thing the only solitary act of Congress passed during a long series of years, for the vindication of the previously existing and constitutionally guaranteed rights of the South, holding up to public opprobrium the "Fugitive slave law," as a thing which it is meritorious to resist. They not only recommend measures calculated to ensure its speedy repeal, but also to prevent its being carried into effect; even while it may be suffered to occupy a place upon the statute book, as the law of the land.

From the political forums of the North, issue continually the most unqualified denunciations of slavery, and the most ardent protestations and pledges to fight against it, until it shall be forever extinguished.

From the Northern people—THE PULPIT!—dedicated to God!—set apart as the chosen and favored means of spreading the sway of a religion of peace and love, and mutual forgiveness—yes, even from the pulpit, anathemas are pronounced against us, as traffickers in human flesh—as men who grow rich upon the groans and tears of our fellow men, and fatten upon the blood of our brethren. All this they say of us, and all this falls far short of the evil things which they continually speak against us.

The old lines of party are disregarded and forgotten. The ties of a common religion—ties once deemed strong and sacred, are but as ropes of sand before the fury of the storm that rages against the institution of slavery, or as of tow, quickly sundered and consumed by the fierce flame of incendiary zeal which burns in the breast of the assailants of our rights.

Is proof demanded? It is but too easily furnished.

The Northern Whig has nothing to-day in common with the Southern Whig, who dares defend the institutions among which he lives.

The Northern Democrat of to-day would aid in the passage of a law, which would exclude his Southern brother from territory won in part by his treasure and his blood, or aid in repealing a law to protect him against robbery.

The Northern Methodist will not bow, to-day, at the alter of their common Savior, with his Southern Methodist brother—*a brother no more.*

The Northern Baptist, to day, will not break Sacramental bread, nor drink the prototypical and consecrated wine, at the table of their common Lord, with his Southern Baptist brother—*a brother no longer.*

The Northern Press, religious and political, (with a few honorable exceptions,) teems with abuse of all public measures having the slightest tendency toward a recognition of the rights of the slaveholders of this Union.

This is but a hurried glance at the agencies now at work to do us present injury, and finally to rob us of our property, as they have already robbed us of our equal interest in the national territory—equally won, and once equally owned; but now carefully fenced up against our approach forever.

But even this may suffice to show, or rather to remind those who already know it well, that there is an urgent necessity for the excercise of the most vigilent watchfulness on our part; that, at least, we are not premature in attempting to organize and unite the friends of the South, so that concert of action may be attained, and some measures adopted for our mutual protection, and the preservation of the interests which are most closely connected with our prosperity, and of those rights which are incalculably dear to every patriot heart.

Ours is by no means a disunion movement, if by the union be meant, adherence to the Constitution.

We desire to live in the Union, to adhere to, to venerate, to cherish the Union, as that which is of all earthly things most dear; but by this we mean the Union as it is, defined by its only visible exponent—THE CONSTITUTION OF THE UNITED STATES.

The rights which are secured to us by the Constitution, are all that we desire, and it is solely for the preservation of those rights that we are united.

For those rights we will strive. To enjoy those rights is our aim and our fixed determination: in the Union, if it may be so; without the Union, if it must be so.

We believe that when the principles upon which the Union was formed, cease to be regarded—when the Constitution ceases to be a guide—when a part of the American confederacy assume and exercise the power to do that which the Constitution prohibits, or to divest the remainer of the people of that which the Constitution confers upon them: in a word, when the Constitution is made subservient to the dictates of "A HIGHER LAW," there is no longer a Union.

We believe that to speak of the American Union as existing after the Constitution, has been torn to tatters by a dominant faction in the government, is to speak of an absurdity.—When all that gives an existence to the Union is destroyed, the name of Union is merely a sound, having no appropriate signification. We believe that he who adhers to the compacts of the Constitution is the "Union man." He who attempts to injure his fellow citizens by the violation of those compacts, is the "disunionist."

We believe that "the right divine to govern wrong," or to trample upon solemn guarantees and sacred rights, is not acknowledged in America, either as appertaining to an individual potentate over his subjects, or to any number of sovereign States, over any other number equally sovereign; and if a majority of the States of America are determined to adopt that system, they must exercise it upon those who are willing to submit.

We believe that the Constitution does not require such submission at our hands, and we are not among the passive submissionists.

We believe that the principles of the Union, without the name, are more sacred than the name without the principles.

We believe that when the blessing which the Union was designed to secure alike to all classes of citizens, are denied to us—when those equal rights and privileges which the Constitution guarantees to all Americans, are wrested from us, and all this is done in the name of the Union, it is our duty to adhere to the rights, the benefits, and the principles of the Union, and let who will, wear the empty name.

We believe that justice, honor, the rights of our children, the privileges and immunities of freemen and Americans, as our fathers enjoyed them and we received them, are things which we cannot abandon, while we know that the *name of Union*—venerable as that name is made by the remembrance of what it once was, and what it was designed to be—when it is used but as a watch-word for every attempt to defraud or oppress us, has in its sound no charm of sufficient potency to lull us into forgetfulness of our duties and our rights, or into an apathetic endurance of the oppression or the fraud.

But we are far from conceding that the close and well concerted union of the Southern States for the vindication of their rights, will necessarily produce a separation from the North.—On the contrary, we believe that without it a separation must surely come, and that this will be the only means—if indeed any means may yet suffice—by which that consummation to the labors of the Northern agitators may possibly be averted.

The history of the past very clearly demonstrates that the compromise and concession policy has tended, on the one hand, to weaken the South, both morally and physically; while, on the other, it has utterly failed to purchase for us any cessation of the continually increasing aggressions of the enemies of negro slavery.

The present posture of affairs, we think, fully exemplifies the fact that the slaveholding States can make no concession or compromise, short of a total surrender of their property and their rights, which will satisfy those who clamor against the institutions of the South.

It is not, then, by concession that we can hope to preserve a political unity with the Northern States, for it is evident that we may go on making surrender after surrender of our rights, until nothing is left us to concede; and yet, so long as we hold the negro in domestic servitude, we shall fail as completely to pacificate our enemies, as we have hitherto failed to stop their calamors by acceding to their demands.

Pursue this system as long as we may, a time must arise when concessions will of necessity cease. What will then be our situation? Infinitely worse than it is now.

Shall we reason with our adversaries? It is in vain to remind them that the Constitution recognizes the existence of slavery and protects it.

Equally vain to remind them that the beneficent Creator and Great Law Giver of the Universe, has recognized the relation of man-servant and maid-servant, of bond-man and bond-woman, without disapproval, and even instructed his chosen people of ancient days, as to the manner of their treatment, nay, that HE has more than once directed the taking of captives and their retention in perpetual servile bondage, or to remind them that the Blessed Savior of mankind, when on earth, lived among a people where slavery existed; and yet he "who was of purer eyes than to look upon iniquity," has left upon record no condemnation of the institution.

Who shall by reasoning attempt to convince a people who have a law higher than the Constitution!—a morality purer than the law of God (!!)!

But there is one call to which they have never turned a deaf ear: The call of interest. Let them realize that their farther interference in our domestic affairs will certainly deprive them of their immense Southern revenue upon which they have built cities of palaces, in a land whose staple production are ice, granite hills, and Yankee notions. Let them be convinced that they have to choose between giving up the luxury of oppressing, robbing, and abusing the South, and being cut off from all intercourse with us.

Let the merchant, the ship-owner, the manufacturer, and the master mechanic of the North, become convinced that his ships will no longer find market, and that his "trade," will no longer be consumed at the South; that our cotton will no longer furnish employment for his spindles; that he may keep his hats, and boots, and kerseys, and brogans, his tin and wooden buckets, his cotton hose, and cane knives, his towels, and his negro blankets, at home and retail them to his neighbors; and he may possibly be induced to pause and consider of the matter.

We do not believe that the North *is* ready for the separation, and we think that if there is any mode of proceeding by which it is possible to secure a cessation of that system of unwarrantable and intolerable interference with our affairs, which is now sapping the very foundation of our institutions, it is simply to convince them that system must inevitably lead to separation, and that speedily.

Thus, whether with a view to continuance of the connexion with the Northern States, to the necessary preparation for a separation from them—if that should prove to be the only means by which our rights and our honor can be maintained—we deem a union among the friends of Southern rights not only desirable, but of absolute necessity.

Whatever course the South may ultimately resolve to pursue, it is obvious that to act with effect, she must act as a unit. United, we are strong enough to vindicate our rights; without united and concerted action we can prosecute no plan successfully. We believe that we have arrived at such a crisis in our affairs, that Southern disagreement and Southern destruction are convertable terms.

We do not pretend to dictate to others, or even fully to have decided for ourselves as to what may be the most prudent and effective plan of extricating the South from her present alarming and precarious situation, nor do we attempt to inform others of anything of which they are ignorant, but rather to stir them up to act upon the knowledge which they already possess. We profess to have made no very new discovery; nor do we claim to have organized any important movement.

Others have far preceeded us in the work of Southern organization; and upon others than the citizens of Matagorda county, will in all probability, devolve the task of devising a way of escape from the imminent dangers which threaten the slaveholding States of the Union. Our pretensions extend thus far, no farther:

To hold ourselves united and ready to correspond—to consult and to *act* with the "Southern Rights Associations" of other States, and with such as may have been, or may hereafter be formed in our own State.

To abide by the decision of the united South, and with our fellow-citizens of the whole South to go heart and hand in support of such general plan as may be adopted, whether that plan be non-intercourse, separation, or whatever else it may.

The time may never arrive when it will be necessary for the South practically to test her resources and capabilities for maintaining a separate existence.

The day may never come when she will be driven to rely alone upon the true hearts and strong arms of her own gallant citizens, to defend her own against injustice and oppression, and to shield her honor and her rights.

We have no desire to hasten that day, but should it come, as come it may, we desire to be found ready.

By order of the association.

JAMES C. WILSON,
P. E. PEARESON,
M. TALBOT,
} *Pub. Committee.*

Santa Fe dates to the 19th February are received at St. Louis by the arrival of Major Cunningham, army paymaster. The news is unimportant. The census return of New Mexico show a population of 61,504. Indian outrages are continually occurring and much danger is apprehended in the spring.

From the Boston Journal.

The Fugitive Slave Case.

EXAMINATION OF THOS. SIMS—CONTINUED.

Full Report of the Arguments of the Counsel for the Defence.

At 12 o'clock m. the Commissioner came in, but on account of Mr. Rantoul being engaged in the Supreme Judicial Court, the examination of Sims was postponed for an hour. At 1 o'clock this afternoon the Commissioner again came in, and the hearing proceeded.

The Commissioner inquired of Mr. Thomas whether he had any further evidence in the case; and he having answered in the negative, Mr. Curtis inquired of Mr. Sewall whether it was arranged who was to argue the case, to which he replied, that either Mr. Loring or Mr. Rantoul. Mr. C. further said, that he deemed it his duty to forward the case as fast as justice would allow. It had been assigned for 12 o'clock, and must now be commenced.

Mr. Rantoul proceeded, and said he proposed to submit the several propositions, which he read when the Court was last in session. The first proposition was that the power the commissioner was called to exercise in this case was a judicial one, and such as could only be exercised by a judge. That the commissioner could not be a judge was evident from the language of the Constitution, which he read. He supposed it could not be pretended that a United States commissioner was such a person as here described as a United States judge. He was not to hold his office for life unless impeached, neither did he receive a regular stipulated compensation, and therefore he could not be a judge of the Supreme Court; and there could be no inferior court under this, unless such as was held by judges.

The powers granted to the judges of the U. S. Supreme Court were exclusive. The Constitution gave to the several departments of the United States government certain specific powers, and they could take no power that was not expressly given. Hence Congress had no power to establish any court, except such as the Constitution provided for. If the commissioner was not a judge, he could not exercise judicial power. Hence, it became an important inquiry what were judical powers. And was the commissioner called upon in this case to exercise them? If so, he was bound to refuse. He was bound to determine whether what he was called upon to do was constitutional.

Was the power, then, a judicial power? The judicial power was defined in the 2d section of the 3d article, which he read. Did this claimant invoke, and did this act provide for such proceedings as constituted a case under this 3d article. What was a case? A suit was a case. Any proceeding whereby any party demands a right. He had not had time to look up those cases that he had read, much less to look after others. If therefore, there was not sufficient accuracy in his mode of statement this must be his apology.

A case was when a claim was made by one party and resisted by another. A case in law, was such a case as he had described, which was not a case in equity or in admiralty. Any proceeding of any kind was a case at law, unless it came under one or the other of those described in the Constitution. He read from the 16th of Peters, 615th page, Prigg *vs.* Pennsylvania, which defined a claim in accordance with the definition he had given. He read also from the 6th of Wheaton Cohens *vs.* Virginia, 378-9, and also, in the case of Prigg *vs.* Pennsylvania, 316th page, which declared the claim of a master for a slave to be a "*case arising* under the Constitution within the express declaration of the judicial power."

He did not deny that Congress might direct the mode in which this might be done, but Congress could not confer these powers upon any but judicial officers. They could not confer judicial powers upon an executive officer, nor could they confer executive power upon a judicial officer. And Congress could as well confer judicial power upon a United States marshal as upon a commissioner. If this were not so, of what use was a written constitution? One important object of a written constitution was to keep the several departments of government distinct and separate.

The judicial power extended to cases of law and equity. The case of Parsons and Redford contained a fuller definition of what cases in law were; 3d of Peters, 436, he read to show that the framers of the Constitution when they spoke of law, had the common law in their minds. "The amendment might be considered as embracing all cases not in equity or admiralty." So said the U. S. Supreme Court. The 6th section of the act spoke of this action as a "case," from which he read: and the Supreme Court said it was a case of law.

It fell within the definition of the Supreme Court. It was a case at law, within the meaning of the 3d article, and the Supreme Court had decided that this came within the judicial power.

Mr. Curtis said the counsel did not state it quite correctly. The commissioner was to give him a certificate authorizing him to convey him to the State where he was held.

Mr. Rantoul said this certificate did not compel him to carry the party back to that State.

The act of 1850 undertook to give the commissioner concurrent jurisdiction with the court. A commissioner was an officer appointed to perform an inferior act; but a court, and a court alone, undertook to decide cases finally. This law gave the commissioner not the power to perform any subordinate office, but to exercise concurrent jurisdiction; and jurisdiction of law as well as of fact; and their decision was above the Supreme Court, for there was no way in which the Supreme Court could recal him.

Mr. Curtis said the certificate authorized the claimant to take him back to the State whence he escaped, and nowhere else.

Mr. Rantoul. An authority was not a command—Suppose under the warrant granted, this claimant should be authorized to take this person back to Georgia, and this agent of the claimant sold him in Maryland, would that sale be illegal?

The Commissioner. Most certainly. The sale would be entirely void.

Mr. Rantoul thought if his honor had arrived at such a conclusion, it must be by direct inspiration, for there was not a word in the act to the contrary. The claimant might carry him to Georgia, to Texas, or to Cuba, or any where else. It was exceedingly important that the court should give careful consideration of this point, because there was no appeal.

It might be said that this was a mere preliminary step, analagous to an examination previous to trial.—But this was not a parrallel case, because there was nothing in the act to compel the claimant to carry the slave back to the State whence be escaped, and of course there was no provision for a subsequent trial.

That this was the judicial power, in the understanding of practical lawyers, appeared from the letter of Attorney General Crittenden to the President, before the act was signed. It appeared that the President doubted the constitutionality of the law. The Attorney General in his reply used language which assisted them in this case.

The Attorney General says that these officers have judicial powers to hear and decide the case. The Attorney General therefore determined that these officers had judicial power. He did not quote him as authority upon the point he had in view, for he was not anticipating the objection he himself was raising; but he quoted him as showing that what the commissioner had to do, was the exercise of judicial power.

He could not say this, if he had regarded it merely as a preliminary case, or a ministerial act. The Attorney General called it an "act of judgment." This was an act of *judicial power.* Here the Attorney General goes on to say that Congress had determined upon a tribunal to determine summarily and without appeal who are fugitives from service.

Here was the question the commissioner was to determine ultimately and without appeal. Was not this judicial power? The main question was the question to be determined here.

But if this were the preliminary proceeding, then it was a more gross and direct violation of the Constitution than anything he had named.

He proceeded to speak of the case where a person is charged with a crime in another State. This provision was inserted for the benefit of the person charged, that he might have a fair trial, in the district where he was charged to have committed the offence. This law was most humane.

It went on the principle that a man was to be presumed innocent till proved guilty; and it secured a trial at the place where the suspicion of crime existed, where they could most easily defend themselves. But should they be *tried* before sent back? Now he came to the next section, where the language was in direct contrast to this.

The person charged with crime had a right to know that he was so charged. But the person "held to service"—was he to be sent back for trial of this charge? No; the charge was to be here tried and decided; and unless he was "*held*" to service, the commissioner was to be sent back.

This case was final. It was decided without appeal.

COMMISSIONER. So far as to the restoration of the fugitive to the place from which he escaped, his decision was final. But he wanted them to show that the law was unconstitutional, because the question of his freedom could not be again tried.

MR. RANTOUL. The Constitution did not allow a citizen of Massachusetts to be dragged off to another State, unless it was decided that he was held to service. And to decide that, was a judicial act. And was it not a different thing to decide whether a man was held to service, or whether he was charged with crime?

COMMISSIONER. The question of being held to service was to be finally decided for the purpose of removal; but he wished them to show that it was unconstitutional for Congress not to make provision for a re-examination of the case.

MR. RANTOUL. His Honor was to decide the question whether under this clause of the Constitution this person was held to service. Was not this a judicial power? If so, the act was unconstitutional, for Congress had no right to confer judicial power on a commissioner.

Under the previous section, it was only necessary to make out a *prima facia* case, to send back the person charged with crime; but under this clause, relating to prisoners "held to service," the case was to be decided.

And all men were presumed to be free till they were proved otherwise. A citizen of Massachusetts should not be dragged away 1000 miles till the question was decided. Suppose somebody should come here and take him away to Texas, on *prima facia* evidence, and then they should tell him it was all a mistake! The possibility that his rights might be determined in some other court, was a mere mockery.

Was there any probability that this man might have a trial in Georgia? The constitutional provision was, that a *man held to service* should be delivered up.

But would any court *dare* to send a man back merely because he was *suspected* of being held to service? No, the question must be determined, and the trial of that question was notoriously a judicial act, but the highest act of judicial power to determine whether a man was entitled to his liberty. If that was not a judicial act, what act could be?

Adjourned till 4 o'clock.

Another petition of Thomas Sims, the fugitive slave, for a writ of habeas corpus.—Argument of Robert Rantoul, jr., in its support.

In the Supreme Judicial Court this morning, R. H. Dana, esq. presented the petition of Thos. Sims, the fugitive slave, praying for a writ of *habeas corpus.* The chief justice, after consultation with his associates, stated the opinion of the court, as he did Saturday, and gave permission to the counsel to argue the petition.

Robert Rantoul, jr., then proposed to argue the matter, and ask the court to determine whether Sims is held by a good and sufficient warrant. He wished that it might be allowed as a right, so as to avoid a delay, which might prove fatal. The slave might be carried to Georgia, as they had reason to believe he would be, before the counsel would be prepared to argue the point.

The court, through the chief justice, were of opinion that there was no reason to believe that the slave would be withdrawn from custody.

The counsel thought there was great reason to believe that the party would not be in custody in the court-house any great number of hours from this time.

The court decided that the defendant was not entitled to this writ as a matter of right.

Mr. Rantoul proceeded to argue the petition. He commenced by reading from the opinion of the chief justice of Pennsylvania, in a case of *habeas corpus,* brought in the year 1809, before the court.

The chief justice read from the 19th section of the act which provides that notice should be given to the other party before a writ is allowed.

Mr. Rantoul thought it would be time after the party was brought in. The hearing was now for the purpose of bringing him in.

Mr. Dana called upon the court to rule in the matter, which the court took no notice of.

Mr. Rantoul resumed his reading, and stated that he should inquire whether Geo. T. Curtis has a right, in acting as a U. S. commissioner, to issue such a warrant as he has directing the arrest of Sims.

The inquiry arises under the 3d article of the Constitution of the United States, section 1st.

Two questions arise under this clause, which he proposed to argue:

1st. The action indicated in this warrant shows a judicial power; that the acts done are acts of judicial power, as much as any done under the powers of this, or any other court; and such as was not intended by the framers of the Constitution.

By the acts of 1790 and 1850, the commissioner is called upon to decide whether the person owes service or labor, which is an act of judicial power, and is not granted by the Constitution to said commissioner. The act of 1850 gives to the commissioner concurrent jurisdiction with the judges of the circuit and district courts, which Mr. Rantoul thinks looks like giving judicial power to the commissioner.

If any portion of a proceeding for depriving a man of his liberty be a judicial proceeding, this was one; for this involved the whole case. Was this a preliminary proceeding? Was there any provision for a further trial? The law did not require him to be carried to the State from which he had escaped. The law did not require that he should be carried there.

The master might stop before he got there, and carry him any where else. This proceeding was final and conclusive. It was a mere mockery of language to say it was preliminary. It was said that the slave *might* have a trial in the State to which he should be carried, and to that trial this might be preliminary.

But how did this court know that the State to which he might be carried has a law authorizing such a trial? And if it had, what guarantee was there that it would not be repealed?

But, if all this were so, it would be nothing to the purpose, for this law made the decision of this commissioner final. There would be no power to touch him in Georgia. He would be deprived of a trial wherever he might be carried, because a final proceeding had been had, making him the slave of James Potter. What was there to show that the proceeding there was not the final adjudication of the case?

This being disposed of, the question arose, is this commissioner the proper judicial power? Mr. R. proceeded to show that according to the Constitution, he was not. The commissioners were subject to removal by the court, and hence did not come under that essential qualification of U. S. Judges, that they be appointed during good behavior. They were subject to removal whenever the power appointing them chose.

Again, they received no stated salary, independent of the business done. Their compensation depended upon the amount of business done, and in this case, upon the manner in which it was done.

Hence, there was no provision for their taking an oath, as required of Judges by the Constitution. A commissioner might act without taking an oath. The commissioner, therefore, did not come under the denomination of an inferior court. If this were true, the act of George Curtis, in this case, would be null and void.

He cited from the opinion read by Judge Story in the case of Pennsylvania vs. Prigg, to confirm this position.

Not only was the process before the commissioner not preliminary, but it was not collateral with anything else. There was no court that could control it. His proceedings were independent and final. If so, the acts of the commissioner were null and void, and hence the act of Marshal Devens was null and void, and Thomas Sims was illegally held, and ought to be discharged by this court.

[Chief Justice Shaw will deliver the decision of the court this afternoon, at three o'clock.]

From the New Orleans Bee.

Extracts of Gov. Quitman's Speech,

DELIVERED AT NEW ORLEANS.

Governor Quitman said: It was always more agreeable to him on such occasions, to make an apology, rather than a speech, as he was but poorly qualified to perform the latter duty. But he could not escape from the obligations to express his grateful emotion for the compliment thus enthusiastically paid him by the citizens of a neighboring State, and the great commercial emporium of the South. On few occasions of his life were his feelings more vividly aroused, than on this. Were this testimonial a mere personal compliment he should have felt bound to decline it; but as it was considered that principles deeply interesting to all of us were involved in the matter—as he was regarded as belonging to that band in the South who were to be proscribed for their fidelity to her interests and principles—he thought it his duty to bear back to the gallant citizens of his own State, who are closely allied to them in feeling and interest, this evidence of the good feeling of this great city. The impression had gone abroad that the only dependence in the struggle between the North and the South, was on the country, he was happy to carry back to his State the evidence that there was a gallant band in this city who would rally around the banner of the South, and sustain her honor and rights. Though greatly disinclined to speak of himself—to obtrude his private griefs or affairs before the public, he could not refrain from alluding to the peculiar circumstance under which he appeared before them.

Lately, whilst acting as governor of a neighboring State—not dreaming that he had committed any violation of law—he was suddenly advised that a prosecution had been got up against him for an alleged participation in the Cuban affair. He felt entirely innocent of the charge, and as an opportunity had not been allowed him to show it in court, he considered it due to them, to the public, to the State whose Executive he had lately been, to declare upon the honor of a man, that this persecution was wholly unfounded. He thought it proper to say this, even in anticipation of an exposition which he should publish at some other time. In thus stamping the baseless character of this prosecution, he begged to be understood as casting no censure or reproach upon those of our fellow-citizens who embarked in the noble purposes of revolutionizing the beautiful but oppressed island of Cuba; of bearing the free principles of our country to the richest and most plenteous-endowed spot in America. [Loud applause.]

It would be strange indeed, if he, who has contributed some aid to Texas, when struggling for her liberty—who had co-operated with some he now saw around him in that glorious and successful revolution, should not have sympathized in the great American policy avowed by Mr. Monroe, of the right of the United States, rather than of any foreign nation, to control the destinies of the continent. He trusted that the time would soon arrive when this would become a fixed principle in our nation, and that not only the American people, but the American government would aid the struggles of the oppressed in every part of this continent, whenever they should assert their rights. This obligation he thought doubly binding in regard to our neighbor, the beautiful isle of Cuba which lies almost within sight of our shores, which has been condemned, Tantalus-like, to see and admire the fruit of liberty without the power to enjoy it,—whose ears are filled with the shouts of our own people, on the great days of our national commemorations, and who yet can send back no response. (Loud cheers.) Whilst he thus sympathized with Cuba, his position as governor of a neighboring State forbade his taking any part in the effort to emancipate her. He felt bound, therefore, to say with perfect respect for the grand inquest of the nation, who, of course, acted under the instructions of the legal officer of the government, that there was no evidence on which a prosecution against him could rest. But because he happened to enjoy the confidence of those who had embarked in the Cuban affair, to such an extent as to be offered the command in a certain event, it was deemed necessary to drag the chief executive of a State from his position and jurisdiction, to answer to a charge thus got up. He would leave the responsibility where it belonged, of this harsh measure, this harsh attempt to bring about a conflict between the federal government and State sovereignty, with a view of producing resistance and violent measures, which might be made the basis of a suit for high treason against the executive of a sovereign State.

But he would leave this subject, and proceed to one of more general interest. Gen. Quitman then referred to the subject of State sovereignty, the battle for which had to be fought over once more. He felt highly honored in being designated as one of the chiefs in that struggle. He considered that the sovereignty of the State involved not only the preservation of the Union, but also that of American liberty. There were powerful reasons why the South should cling to it, as their last refuge. Gen. Quitman then entered into an elaborate and able exposition of the relation of slavery, showing that it was a natural state, and was authorized by divine revelation—that all parts of our country, the North as well as the South, were interested in its preservation—that the products of Southern labor gave employment to millions of laborers at the North, and in Europe—that under its influence capital and labor, instead of being made hostile and antagonistic, co-operated most beneficially, so that all classes, those who did not own equally with those who did own, large number of slaves, were greatly benefited by its existence and preservation: it was the natural and happy condition of the Africans, who, it was satisfactorily established, could never take care of themselves, without the protection of the white man. [We give but the skeleton of this part of General Quitman's speech.]

This institution of the South had been threatened. We had words of—compromise! compromise!! peace! peace!! But, those who rose this cry, do not believe in their hearts what is on their tongues. This institution was threatened, not by its own defects—nor by a foreign power—not from abroad but it is within our own country, and from States confederated with us in this Union; it is from them the danger comes. When the Constitution was adopted, it was believed that ample guarantees had been given that the rights of the slave States would be protected. There would have been no Union, no Constitution without such guarantees. And it is now gravely denied, that the institution which exists in fifteen States of the Union, which, at the time of the formation of the Constitution existed in a large majority of the States of the Union, and which is entitled to the protection which is extended to other species of property, other interests of the States. As the Constitution was framed, so should it stand.

He would have no other compromise than the Constitution. "Give me all my rights or none," was his motto. [Loud applause.] It were better that our civil rights should be struck down at once, than gradually sapped. Slavery was a delicate institution, which needs a friendly government to guard and protect it. It could not exist under a hostile government—one which was perpetually making attacks and inroads upon it. It must eventually fall before these continued aggressions. It were far better to incur all the evils of separation, than place this institution under the control of those who are opposed to it.

General Quitman then referred to the Compromise bill, as it was called. This measure was the joint product and special hobby of Messrs. Clay, Webster, Cass, and his own neighbor, Gen. Foote,—the three first were all known to be hostile to slavery. It would therefore be pretty fair to conclude, if, as was pretended by some, the South was the gainer by the compromise, that Webster, Clay, and Cass, had become the dupes of their learned friend, Gen. Foote; he rather apprehended, however, that a majority of folks would think that it was the Mississippian who had been hoodwinked by these astute politicians. What was the compromise? Its leading feature was the enactment of the Wilmot Proviso, and the exclusion of the South from the whole territory acquired by the joint valor and services of all the States. Not an inch was left to them! And what was the compensation for this immense concession? The Fugitive slave bill. And what was the so-called concession but an implied acknowledgement that the North had heretofore failed in her duty under the Constitution. Recent incidents would illustrate the value of this concession? He would like to see with what face the advocates of the compromise would now come before the people to justify their great measure. It becomes necessary, therefore, that the South should rely upon itself—that our citizens should take their protection in their own hands. It would not do to wait until their rights were struck down,—their valued institutions overthrown; they must meet the danger like men, on the threshold.

In conclusion, he invoked them to see that those who were foremost in defence of the rights of the South, were not borne down by their enemies, and by those who were recreant to their cause—to turn their artillery against those who committed the aggressions on the South, and not on their friends.

"As for myself, gentlemen," exclaimed Gen. Quitman, with great emphasis, "my position is taken. I have endeavored to the utmost of my ability, to defend the institutions of the South. The documents which have gone forth embody the views which I should maintain to the last moment of my existence—the sentiment by which I stand or fall. It is this:

"*The Union, with all our rights: if these cannot be preserved, our rights out of the Union.*"

This sentiment was drank with three cheers, and loud demonstrations of approval.

THE NAVY OF THE UNITED STATES at present consists of seventy-five vessels, carrying two thousand and eleven guns. These comprise twelve ships of the line, fourteen frigates, twenty-one sloops of war, four brigs, five steamfrigates, and ten steamships, of which three are of the first class. The following, says the Commercial Advertiser, is a list of commissioned and warrant officers in the service:

Captains, 68; commanders, 97; lieutenants, 327; surgeons, 68; passed assistant do., 34; assistant do., 44; pursers, 63; chaplains, 29; prof's mathematics, 12; masters in line of promotion, 11; passed midshipmen, 233; midshipmen, 171; masters, 19; second masters, 3; masters' mates, 3; boatswains, 43; gunners, 46; carpenters, 45; sailmakers, 37. Total, 1347.

The officers of the marine corps are colonel 1; general staff 4; lieutenant colonel 1; majors 4; captains 16; first lieutenants 23; second lieutenants 21. Total 70.

The colonel of marines is brigadier general by brevet; one of the majors (Dulaney) a lieutenant colonel; five of the captains majors by brevet; ten of the first lieutenants captains, and seven of the second lieutenants first lieutenants.

The engineers in the service are—chief engineers 9; first assistants 7; second assistants 17; third assistants 35. Total, 68.

The number of permanent navy agents is eleven; temporary navy agents two; naval storekeepers eleven; naval storekeepers in charge of naval stores for foreign squadrons two; engineer in chief one; naval constructors seven; hemp inspectors two; agents for preservation live oak timber eleven.

The vessels in the several squadrons corrected from the latest returns received at the department were as follows:

Home Squadron.—Com. F. A. Parker; steam-frigate Saranac; sloops Albany and Decatur; steamers Water Witch and Vixen.

Pacific Squadron.—Com. C. S. McCauley: Frigates Savannah and Raritan; sloops Vandalia, Falmouth, Vincennes, and Warren; store ships Supply and Southampton; steamer Massachusetts.

Mediterranean Squadron.—Com. C. W. Morgan; Razee Independence; frigate Cumberland; steam-frigate Mississippi.

Brazil Squadron.—Com. Isaac McKeever: frigate Congress; sloops St. Louis and Jamestown; brig Bainbridge.

African Squadron.—Com. F. H. Gregory: sloops Portsmouth, Germantown, John Adams, and Dale; brigs Perry and Porpoise.

East India Squadron.—Com. J. H. Aulick: steam-frigate Susquehanna; sloops Saratoga and Marion; brig Dolphin.

On the Lakes.—Steamer Michigan.

On Special Service.—Frigate St. Lawrence, World's Fair, London.

In Ordinary.—Ships-of-the-line Columbus, Ohio, Delaware, and Vermont. Frigates United States, Constitution, Potomac, Brandywine and Columbia, &c. Of the second class, Constellation and Macedonian. Sloops-of-war Fairfield, Cyane, Levant, Plymouth, Decatur, and Preble. Schooner Petrel. Steamers Fulton and Alleghany. Storeships Relief, Lexington, and Fredonia.

Receiving Ships.—The Pennsylvania, Norfolk; Franklin, Boston; North Carolina, New York; Ontario, and Baltimore.

Preparing for Sea.—Steamers Powhatan and San Jacinto.

On the Stocks.—Ships-of-the-line Alabama, at Portsmouth, New Hampshire; Virginia, Boston; New York; Norfolk; New Orleans, Sacketts Harbor. Frigates Santee, Portsmouth, New Hampshire; Sabine, New York.

Tenders.—Steamers General Taylor, at Pensacola; Engineer, Norfolk; John Hancock, Boston.

LOLA MONTES.—The Paris correspondent of the St Louis Republican, referring to the soirees which President Bonaparte is in the habit of giving, says:

Lola Montes is striving with might and main to get an invitation to these presidential parties. The last week has been signalized by two desperate attempts on her part. She had the audacity to apply to the Bavarian minister to procure her a ticket, on the ground of her having been the "dear and intimate friend of the king." This application being treated with the scorn it deserved, she determined to try another plan. She arrayed herself in her most brilliant and becoming attire, black velvet and diamonds and concealing it by a large cloak, she drove to the Elysee and asked to see the president. His ordnance officer was sent to speak to her, and she used her dazzling eyes and charming mouth to such an advantage, that he, without knowing her name, consented to get her admitted to the president. He conducted her into an anteroom of the palace and left her, to go and request the prince to receive her. In a few moments he returned and led Lola, all trembling with joy and triumph, to the saloon, where Louis Napoleon stood ready to receive her and listen to the "urgent petition" she came to offer. As soon as the door closed on Mr. Ney, Lola threw back her cloak, displaying her superb toilette, and falling at the feet of the president, commenced, "Your Royal Highness"—and was going on with something about "your most humble subject," when Louis Bonaparte, who had instantly recognized her, raised her gallantly but coldly, and without a word, conducted her to the door, opened it, and said to Mr. Ney, who remained in the anteroom—"Colonel, will you see this lady to her carriage?" and dropping the hand of the astounded Lola, returned to the saloon and closed the door. It is said that she does not intend to try again to enter the president's circle, but is preparing to challenge the head of the government for his "insulting conduct" towards her.

LOTTERIES.—The proprietors of one of the Gift performances at Buffalo, N. Y., have drawn a fine of $1000 in Court.