THE CHARLESTON CONVENTION.

Indignation of Fernando Wood.

IMPROVEMENT IN DOUGLAS'S PROSPECTS.

ALARM OF THE ADMINISTRATION.

New-York Softs for Douglas or Guthrie.

Special Dispatch to The N. Y. Tribune.

CHARLESTON, Friday, April 20, 1860.

Fernando Wood and his followers arrived here last night, and have established open house at St. Andrew's Hall. He is indignant that tickets should be issued to Soft delegates, as has been determined upon, and will endeavor to make trouble in the Convention. But his efforts will prove ineffectual. He has no party or power.

The friends of Mr. Douglas, though still confident, are not exultant, and fear a defection at some weak point. They claim 117 votes at the start, exclusive of New-York, but including the East and a portion of the South, and are also sure of his nomination on the fourth ballot, by the aid of Kentucky and Tennessee. If the Southern line be broken and he can penetrate the Cotton States, his nomination will follow immediately, because with that fact demonstrated satisfactorily New-York would unite and become solid for him. He receives more countenance South than was expected at Washington, but mainly from individual delegates who cannot separate from their States.

Mr. Bradley of Alabama offers to bet $10,000 he will carry every Southern State, if nominated, and yet he will not vote for him in the Convention. Others are in the same fix. Strenuous efforts are making to consolidate the South, but unsuccessfully as yet. If such a combination be formed before the Convention organizes, Mr. Douglas will be beaten. That is the turning point of the whole contest. Southern divisions have the effect of increasing his strength.

Mr. Hunter does not concentrate any strength, as was expected, and he is opposed by the delegates from New-Jersey and Pennsylvania.

The Mississippi, Florida, Alabama, Arkansas, and Louisiana delegates threaten to bolt unless the platform is acceptable, or the candidate obviates the objection. Those from South Carolina are less exacting, but must coöperate in a certain contingency.

It is said the Administration has become alarmed at the prospects of Mr. Douglas, and Messrs. Slidell and Bright have been sent here to defeat him at any sacrifice.

If Mr. Douglas be defeated, a formidable movement will be made for Mr Guthrie by the delegates from New-England and New-York, if any encouragement from the South be given outside of Kentucky. There is a strong inclination in that direction already, seconded by quiet influence from Pennsylvania.

The Soft delegation from New-York will meet to-morrow to organize formally. No preference will be expressed till the question of the contested seats is decided, but their alternatives are Messrs. Douglas and Guthrie, evidently with scattering partialities. They will not take Mr. Douglas against a general Southern protest.

Georgia has 40 delegates here, but she is entitled to only 20, tickets for whom will be issued by Judge Smalley when they have selected that number.

The impression is that the Douglas delegates from Baltimore will be admitted as regulars, though a test issue may possibly be made if the South should be able to concentrate its strength.

Dr. Niles is helping Randall to press Mr. Dickinson, but with little effect. The New-York regulars give him the cold shoulder decidedly.

Gen. Cushing will probably be the President of the Convention, having consented to come with that assurance.

Mr. Buchanan and the Administration are ignored here as if they were dead.

The Town of Lewisburg, Arkansas, Destroyed by Fire.

LOUISVILLE, Ky., Friday, April 20, 1860.

The Memphis Enquirer of the 17th inst., reports that the Town of Lewisburg, Conway County, Arkansas, was entirely destroyed by fire, several days since. No particulars are as yet received.

The Lawrenceburg Bank of Tennessee has suspended. The cashier says it will be all right again in a few days.

Non-Arrival of the Africa.

HALIFAX, Friday, April 20—8 p. m.

There are as yet no signs of the steamship America, now due here with Liverpool dates of the 7th inst.

Severe Tornado.

ST. LOUIS, Friday, April 20, 1860.

A tornado passed over Carlenville, Illinois, on Monday evening, unroofing and blowing down houses, barns, trees, and fences. The roof of the Lutheran Church was blown some distance, and the walls were much injured. The roof of a dwelling was carried nearly a mile and a half through the air. Children were picked up by the wind and carried a considerable distance; stock was killed in every direction. A man named Lowe was killed by lightning; many persons were wounded, and the destruction of property was very great. A similar storm visited Louisiana, Mo., on the same evening, doing much damage to property and injuring several people.

Maryland State Constitutional Convention, &c.

BALTIMORE, Friday, April 20, 1860.

The Constitutional Convention continued in session until after midnight. It was finally determined to appoint District Electors, and the following ticket was chosen:

State at large—Alexander Evans, J. Dixon Roman. Districts—James M. Dennis, J. C. Smith, Samuel M. Rankin, Wm. Price, James S Carper, Alexander B. Hagner.

The new police appointed by the Police Commissioners entered on duty to-day, superseding the Mayor's police.

Heavy Verdict.

BOSTON, Friday, April 20, 1860.

In the suit of Mary E. Clayes agt. The Boston and Worcester Railroad Company, for $20,000 damages, for personal injuries on the road, the Jury of the Supreme Court to-day awarded the plaintiff $10,000.

Marine Disaster—Loss of Life.

PROVIDENCE, Friday, April 20, 1860.

The schooner A. L. Packer of New-Haven, Hemmingway, from Port Ewen for Providence, with a cargo of 185 tuns coal, foundered on Tuesday night last during a heavy northerly blow and high cross sea, off Trimble Island, between Norwalk and Black Rock, and all hands, five in number, perished.

Markets.

BALTIMORE, April 20.—FLOUR steady; Howard Street superfine $6. WHEAT firm. CORN firm; White, 74@76c.; Yellow 72@75c. PROVISIONS dull; Mess PORK, $17 75; Prime, $15; Rump, $14. BACON at 9½c. WHISKY quiet at 22½c.

PHILADELPHIA, April 20.—FLOUR firm at $6@$6½ for superfine. WHEAT steady; Red, $1 50; White $1 60@$1 73. CORN dull; sales 2,000 bush.; Yellow at 75c. PROVISIONS firm. Mess PORK $18 50; pickled Hams, 10c. WHISKY steady; Ohio, 22@22½c.

MOBILE, April 18.—COTTON—Sales to-day, 1,000 bales at 10@10½c. for middling.

April 19.—COTTON—Sales to-day, 3,500 bales at 10½c. The market closed dull.

ATTEMPTED SUICIDE.—Thomas Wheeler attempted to commit suicide last night at No. 115 Wooster street, by taking a large quantity of strychnine. He was just recovering from a spell of dissipation, and was much depressed in spirits.

Eight Days Later from California.

ARRIVAL OF THE PONY EXPRESS.

Suffering by Emigrants to the Washoe Mines

Special Dispatch to the N. Y. Tribune.

ST. JOSEPH, Mo., Friday, April 20, 1860.

The following dispatch was received for THE TRIBUNE, by the Pony Express, just arrived here:

CARSON, Nevada, April 11—10 p. m.

The excitement of the Washoe Mines still increases. There are 12,000 Californians in the Territory. Thousands are leaving San Francisco and all other parts of the State. The only routes through the summits are the Breckwearth and Luther passes, both of which have been closed to all travel for eight days from a most violent snow-storm. At the Mono and Walker's River are 350 men in a starving condition, shut in by snow. The storm was the most violent of the season.

Provisions and all the necessaries of life are nearly out. Of Flour there is none in market, and when sold the price rules from 50@55c. Sugar, 50c.@$1. Of Rice very little in market, and brings 35@40c. Coffee, 45@50c. Butter, $1. Beans, 40@45c. Hay, $1,000 ₩ tun. Barley, none in market; rules at 50@62c. Beef, 25@30c. There is not one day's ration to a man, of flour here, and none can reach us for at least five days if so soon as that time. There are 500 persons at Carson's, 200 at Genoa, and near 3,000 at Virginia. At Silver City there were 500.

On the 3d March twelve tuns of silver ore from the Spanish and Ophir leads, were shipped to San Francisco, valued at $140,000. The wealth of the main leads of the Comstock vein is unsurpassed. Good leads have been opened at several other localities. The prices of the principal lodes in market are as follows: Comstock lode from $100 to $6,000 per foot; Gold Hill do., $300 to $3,000 per foot; Emigrant do., good, not in market; Sucner do. $50 to $75; Rodgers's do. $100. Many of these leads have adverse claims, and are involved in legal processes. The discoveries of gold are extensive—equal to the best of California. An immense immigration will be here in two or three months. The Mormon laws are entirely abrogated, and no law but that of sufferance exists.

To the Associated Press.

ST. JOSEPH, Friday, April 20, 1860.

The Central Overland Pony Express, bringing California dates to April 10, and Carson Valley to the 11th, arrived at 5 p. m., exactly on time.

SAN FRANCISCO, Thursday, April 5, 1860.

Arrived 5th, ship Zephyr, from New-York. Sailed 5th, steamer Golden Age, for Panama, carrying $1,600,000 in treasure, and 530 passengers, among them, most of the Republican Delegates to the Chicago Convention, who will remain with the Roanoke at Aspinwall, until the Japanese Embassy arrives, and then proceed to Washington. Also, Gen. Johnston of the Utah Army, and Lieut. Brooke.

The steamer Champion sailed for New-York via Cape Horn on the 5th, not being longer available on the Pacific.

The Japanese steamer Candinmunah will remain at San Francisco till advices are received of the arrival of the Embassy at Washington, and then return to Japan to announce to the Emperor the news of the Embassy's reception at the Federal Capital.

The bill granting to a company of French capitalists the right to build a sea wall along the entire water front of San Francisco, embracing a distance of five miles, passed the State Senate on the 4th, and its supporters claim that it will pass the Assembly within a week. Intense opposition to the project is manifested in San Francisco, and an indignation meeting is called for to-morrow evening to express the public sentiment on the subject.

LATER.

SAN FRANCISCO, April 10, 1860—3:12 p. m.

No arrivals since the departure of the steamer.

Sailed—6th, ship Torrent, for Puget Sound; 7th, United States steamer Powhatan, for Panama, with the Japanese Embassadors.

The ship Lookout is loading for New-York, and will take 25,000 bags wheat, and 18,000 bbls. whale oil.

The general news is exceedingly meager. An immense mass-meeting was held in San Francisco on the eve of the 6th, to protest against the passage by the Assembly of the Senate bulkhead bill. Strong resolutions were unanimously adopted denouncing the bill as a swindle upon the State, and calling in question the integrity of its supporters. It was the most formidable demonstration that has taken place in San Francisco for many years.

This Bulkhead bill is under consideration in the Assembly to-day, and its passage of that body is considered a foregone conclusion. Great confidence is felt that the Governor will veto it, and that the bill will never become a law. The bill appropriating $250,000 to open nine wagon-roads over the Sierra Nevada Mountains has passed both branches of the Legislature.

A bill has also passed appropriating $15,000 to survey and open the the eastern boundary of the State; also, an act appropriating $10,000 to the deaf and dumb and the blind. It contemplates a State institution. A bill has passed the Legislature appropriating $30,000 for a State Reform School at Marysville.

The late storms experienced throughout the State, coupled with the intelligence from Placerville that the country thereabouts was enveloped in snow, and the mountain passes obstructed, had operated for several days to retard emigration to the Washoe mines.

The rush has recommenced within a day or two, and 500 emigrants were at Placerville to-day on their way to the mountains.

All the pack animals and stages there are engaged several days ahead.

The latest accounts from Washoe represent the weather unfavorable for labor, and people are arriving faster than accommodations for living can be provided. Flour there is $50 to $60 per cwt; sugar $1 per pound, and other articles of food in proportion. There was but little forage for animals, hay having been sold at $350 per tun.

The mining accounts are of the same tenor as previously reported. New silver leads are discovered almost daily, but it will require months to test the value of each lead. The marvelous richness of the Comstock vein, which is thoroughly tested, is about the only evidence relied upon, showing the value of hundreds of the veins.

The bark Booker, with later news from the Sandwich Islands, is entering the harbor as the express leaves. The whole number of letters taken from San Francisco by the Pony Express will not exceed 25.

SPRINGFIELD, Mo., Friday April 20, 1860.

The Overland mail coach, with San Francisco dates to March 30, arrived here at about 3 o'clock this morning. The main features of the news have been anticipated by the pony express, but the following additional items are furnished: The whalers Ocean Bird and Caritz returned to this port on the 29th, bringing 1,800 barrels coast whale oil, an exceedingly large catch. Nineteen whales have been taken in Monterey this year by the small boats engaged in the coast whale fishery. The emigration to the Washoe mines, is increasing.

It is believed that an average of fifty people leave San Francisco daily for those mines, and the emigration is proportionally large from all parts of the State. There is danger that the stock of provisions in Carson Valley cannot be kept up to the wants of the rapidly increasing population, as the roads over the mountains are in a very bad condition, and the cost of transportation of merchandise at $25 to $30 per cwt. Flour at Carson Valley has advanced to $50 per cwt.

The telegraph reports that the Superintendent of the Overland Pony Express has arrived in Genoa, Carson Valley, where he met the Superintendent of the Salt Lake Telegraph Company, who states that the arrangements for the proposed connections are nearly completed, so that the express and telegraph at each end of the line will be ready to commence operations on the 3d of April.

The U. S. war-steamship Powhatan has lost but four of her men since leaving Norfolk in 1857. Frederick E. Thompson of New-Haven died at Yokuhama on the 24th January, and Joseph Senna was drowned February 11. A Japanese servant of Mr. Allcock, the British Minister at Yeddo, was murdered by his countrymen shortly before the Powhatan left. The Minister took no official notice of it.

The British steamship Topaz had arrived off Honolulu, but sailed again, not being able to enter the harbor on account of an insufficient depth of water. She required 23 feet, and the harbor has but 22.

Trade was very dull at Honolulu, and business from year to year was thought to be on the decline.

The Jury again failed to convict Mr. Chase of adulterating acids belonging to the San Francisco Mint, standing six for conviction and six for acquittal. A *nolle prosequi* has been entered.

SELLING LOTTERY POLICIES.—On a warrant issued by Justice Osborn, upon complaint of John Buckman, the Sixth Ward Police last night arrested George Linenthal. The prisoner is charged with selling lottery policies for the drawing of a foreign lottery.

—*The Presbyterian Herald* announces that the Rev. Dr. W. L. Breckinridge has accepted the Presidency of Oakland College, Miss.

THE LEMMON CASE.

DECISION OF THE COURT OF APPEALS.

Slaves Cannot be Held in the State of New-York.

THE OPINION OF JUDGE DENIO.

Jonathan Lemmon agt. The People ex rel. Louis Napoleon.

DENIO, J.—The petition upon which the writ of habeas corpus was issued, states that the colored persons sought to be discharged from imprisonment were, on the preceding night, taken from the steamer City of Richmond, in the harbor of New-York, and at the time of presenting the petition were confined in a certain house in Carlisle street in that city. The writ is directed to the appellant, by the name of *Lemmings*, as the person having in charge the "eight colored persons lately taken from the steamer City of Richmond, and to the man in whose house in Carlisle street they are confined."

The return is made by Lemmon, the appellant, and the colored persons of which it speaks, and which are therein alleged to be slaves, and the property of Juliet Lemmon, as "the eight slaves or persons named in the said writ of habeas corpus." It alleges that they were taken out of the possession of Mrs. Lemmon while *in transitu* between Norfolk, in Virginia, and the State of Texas and that both Virginia and Texas are slaveholding States; that she had no intention of bringing the slaves into this State to remain therein, or in any manner except on their transit as aforesaid through the port of New-York; that she was compelled by necessity to touch or land, but did not intend to remain longer than necessary, and that such landing was for the purpose of passage and transit, and not otherwise, and that she did not intend to sell the slaves. It is also stated that she was compelled by *necessity or accident* to take passage from Norfolk in the above-mentioned steamship, and that Texas was the ultimate place of destination.

I understand the effect of these statements to be that Mrs. Lemmon, being the owner of these slaves, desired to take them from her residence in Norfolk, in Virginia, to the State of Texas; and, as a means of effecting that purpose, she embarked, in the steamship mentioned, for New-York, with a view to secure a passage from thence to the place of destination. As nothing is said of any stress of weather, and no marine casualty is mentioned, the necessity of landing, which is spoken of, refers no doubt to the exigency of that mode of prosecuting her journey.

If the ship in which she arrived was not bound for the Gulf of Mexico, she would probably be under the necessity of landing at New-York to reembark in some other vessel sailing for that part of the United States; and this, I suppose, is what it was intended to state. The necessity or accident which is mentioned as having compelled her to embark at Norfolk in the City of Richmond is understood to refer to some circumstance which prevented her from making a direct voyage from Virginia to Texas. The question to be decided is whether the bringing the slaves into this State under these circumstances entitled them to their freedom.

The intention and the effect of the statutes of this State bearing upon the point are very plain and unequivocal. By an act passed in 1817, it was declared that no person held as a slave should be imported, introduced or brought into this State on any pretence whatever, except in the cases afterward mentioned in the act, and any slave brought here contrary to the act was declared to be free. Among the exceptional cases was that of a person not an inhabitant of the State passing through it, who was allowed to bring his slaves with him; but they were not to remain in the State longer than nine months (Laws 1817, ch. 147, secs. 9, 15.) The portions of this act which concern the present question were reënacted at the revision of the laws in 1830. The first and last sections of the title are in the following language:

"SEC. 1. No person held as a slave shall be imported, introduced or brought into this State on any pretense whatsoever, except in the cases hereinafter specified. Every such person shall be free. Every person held as a slave who hath been introduced or brought in this State contrary to the laws in force at the time, shall be free."

"SEC. 16. Every person born in this State, whether white or colored, is free. Every person who shall hereafter be born within this State shall be free; and every person brought into this State as a slave, except as authorized by this title, shall be free." (R. S., part 1, ch. 20, title 7.)

The intermediate sections, three to seven inclusive, contain the exceptions. Section six is as follows: "Any person, not being an inhabitant of this State, who shall be traveling to or from, or passing through this State, may bring with him any person lawfully held in Slavery, and may take such person with him from this State; but the person so held in Slavery shall not reside or continue in this State more than nine months; if such residence be continued beyond that time such person shall be free." In the year 1841, the Legislature repealed this section, together with the four containing other exceptions to the general provisions above mentioned. (Ch. 247.)

The effect of this repeal was to render the first and sixteenth sections absolute and unqualified. If any doubt of this could be entertained upon the perusal of the part of the title left unrepealed, the rules of construction would oblige us to look at the repealed portions in order to ascertain the sense of the residue. (Bassey agt. Story, 4 Bain & Adolph, 98.) Thus examined, the meaning of the statutes is as plain as though the Legislature had declared in terms that if any person should introduce a slave into this State, in the course of a journey to or from it, or in passing through it, the slave shall be free.

If, therefore, the Legislature had the constitutional power to enact this statute, the law of the State precisely meets the case of the persons who were brought before the Judge on the writ of *habeas corpus*, and the order discharging them from constraint was unquestionably correct. Every sovereign State has a right to determine by its laws the condition of all persons who may at any time be within its jurisdiction to exclude therefrom those whose introduction would contravene its policy, or to declare the conditions upon which they may be received, and what subordination or restraint may lawfully be allowed by one class or description of persons over another.

Each State has, moreover, the right to enact such rules as it may see fit respecting the title to property, and to declare what subject shall, within the State, possess the attributes of property, and what shall be incapable of a proprietory right. These powers may, of course, be variously limited or modified by its own constitutional or fundamental laws; but independent of such restraints (some are alleged to exist against this case) the legislative authority of the State over these subjects is without limit or control, except so far as the State has voluntarily abridged her jurisdiction by arrangements with other States. There are many cases where, it is true, the conditions impressed upon persons and property by the laws of other friendly States may and ought to be recognized within our own jurisdiction.

These are defined, in the absence of express legislation, by the general assent and by the practice and usage of civilized countries, and being considered as incorporated into the municipal law, are freely administered by the Courts. They are not, however, thus allowed on account of any supposed power residing in another State to enact laws which should be binding on our tribunals, but from the presumed assent of the law-making power to abide by the usages of other civilized States. Hence it follows that where the Legislature of the State, in which a right or privilege is claimed on the ground of comity, has by its laws spoken upon the subject of the alleged right, the tribunals are not at liberty to search for the rule of decision among the doctrines of international comity, but are bound to adopt the directions laid down by the political government of their own State.

We have not, therefore, considered it necessary to inquire whether by the law of nations, a country where negro Slavery is established has generally a right to claim of a neighboring State, in which it is not allowed, the right to have that species of property recognized and protected in the course of a lawful journey taken by the owner through the last mentioned country, as would undoubtedly be the case with a subject recognized as property everywhere; and it is proper to say that the counsel for the appellant has not urged that principle in support of the claim of Mrs. Lemmon.

What has been said as to the right of a sovereign State to determine the *status* of persons within its jurisdiction applies to the States of this Union, except as it has been modified or restrained by the Constitution of the United States, (Grover agt. Slemsater, 15 Pet. 449; Moore agt. The People of Illinois, 14 How. 8; City of New-York agt. Milne, 11 Pet. 131, 139.) There are undoubted reasons independently of the provisions of the Federal Constitution in conciliatory legislation on the part of the several States toward the polity, institutions, and interests of each other, of a much more persuasive character than those which prevail between the most friendly States which are unconnected by any political union; but these are addressed exclusively to the political power of the respective States, so that whatever opinion we may entertain as to the reasonableness, or polity, or even of the moral obligation of the non-slaveholding States to establish provisions similar to those which have been stricken out of the Revised Statutes, it is not in our power while administering the laws of the State in one of its tribunals of justice, to act at all upon those sentiments, when we see, as we cannot fail to do, that the Legislature has deliberately rejected them.

The power which has been mentioned as residing in the States is assumed by the Constitution itself to extend to persons held as slaves by such of the States as allow the condition of slaves, and to apply also to a slave in the territory of another State which does not allow Slavery, unaccompanied with an intention on the part of the of the owner to hold him in a state of Slavery in such other State. The provision respecting the return of fugitives from service contains a very strong implication to that effect. It declares that no person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, &c. There was at least one State which at the adoption of the Constitution did not tolerate Slavery; and in several of the other States the number of slaves was so small and the prevailing sentiment in favor of emancipation so strong, that it was morally certain that Slavery would be speedily abolished. It was assumed by the authors of the Constitution that the fact of a federative Union would not of itself create a duty on the part of the States which should abolish Slavery to respect the rights of the owners of slaves escaping thence from the States where it continued to exist.

The apprehension was not that the States would establish rules or regulations looking primarily to the emancipation of the fugitives from labor, but that the abolition of Slavery in any State would draw after it the principle that a person held in Slavery would immediately become free on arriving, in any manner, within the limits of such State. That principle had then recently been acted upon in England in a case of great notoriety, which could not fail to be well known to the cultivated and intelligent men who were the principal actors in framing the Federal Constitution.

A Virginia gentleman of the name of Stewart had occasion to make a voyage from his home in that colony to England on his own affairs, with the intention of returning as soon as they were transacted; and he took with him as his personal servant his negro slave, Somerset, whom he had purchased in Virginia, and was entitled to hold in a state of Slavery by the laws prevailing there. While they were in London the negro absconded from the service of his master but was retaken and put on board a vessel lying in the Thames bound to Jamaica, where Slavery also prevailed, for the purpose of being there sold as a slave.

On application to Lord Mansfield, Chief Justice of the King's Bench, a writ of habeas corpus was issued to Knowles as master of the vessel, whose return to the writ disclosed the foregoing facts. Lord Mansfield referred the case to the decision of the Court of King's Bench, where it was held, by the unanimous opinion of the Judges, that the restraint was illegal, and the negro was discharged. (The Negro case, 11 Hargrave's State Trials, 340; Somerset agt. Stewart, Lofft's Rep. 1.) It was the opinion of the Court that a state of Slavery could not exist by force of positive law, and, it being considered that there was no law to uphold it in England, the principles of the law respecting the writ of habeas corpus immediately applied themselves to the case, and it became impossible to continue the imprisonment of the negro.

The case was decided in 1772, and from that time it became a maxim that slaves could not exist in England. The idea was reiterated in the popular literature of the language, and fixed in the public mind by a striking metaphor which attributed to the atmosphere of the British Islands a quality which caused the shackles of a slave to fall off. The laws of England respecting personal rights were in general the laws of the Colonies, and they continued the same system after the Revolution by provisions in their Constitutions, adopting the common law, subject to alterations by their own statutes. The literature of the Colonies was that of the mother country.

The aspect in which the case of fugitive slaves was presented to the authors of the Constitution, therefore, was this: A number of the States had very little interest in continuing the institution of Slavery, and were likely soon to abolish it within their limits. When they should do so, the principle of the laws of England as to personal rights and the remedies for illegal imprisonment would immediately prevail in such States. The judgment in Somerset's case, and other principles announced by Lord Mansfield, were standing admonitions that even a temporary restraint of personal liberty by virtue of a title derived under the laws of Slavery, could not be sustained where that institution did not exist by positive law, and where the remedy by habeas corpus, which was a cherished institution of this country as well as in England, was established.

Reading the provision for the rendition of fugitive slaves in the light which these considerations offered, it is impossible not to perceive that the Convention assumed the general principle to be that the escape of a slave from a State in which in he was lawfully held to service into one which had abolished Slavery, would *ipso facto* transform him into a free man. This was recognized as the legal *consequence* of a Slave going into a State where Slavery did not exist, even though it were without the consent and against the will of the owner. *A fortiori* he would be free if the master voluntarily brought him into a Free State for any purpose of his own. But the provision in the Constitution extended no further than the case of the fugitive.

As to some cases, the admitted general consequence of the presence of a slave in a Free State was not to prevail, but he was by an express provision in the Federal compact to be returned to the party to whom the service was due. Other cases were left to be governed by the general laws applicable to them. This was not unreasonable, as the owner was free to determine whether he would voluntarily permit his slave to go within a jurisdiction which did not allow him to be held in bondage. That was within his own power, but he could not always prevent his slaves from escaping out of the State, in which their servile condition was recognized. The provision was precisely suited to the exigency of the case, and it went no further.

In examining other arrangements of the Constitution, apparently inserted for purposes having no reference to Slavery, we ought to bear in mind that when framing the fugitive slave provision the Convention was contemplating the future existence of States which would have abolished Slavery, in a country where it would continue to exist in others. It would naturally be supposed that if there were other cases in which the rights of slave owners ought to be protected in the States which should abolish Slavery, they would be adjusted in connection with the provision looking specially to that case, intended primarily for the protection of those to whom such slaves were due. It has been decided that the fugitive clause does not embrace the case of a slave voluntarily carried by the owner into another State. (Ex parte Simmons, 4 Wash. C. C. R. 396.) But the language is explicit, and each State is left to its own language.

The Constitution declares that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. (Art. 4, sec. 2.) No provision in that instrument has so strongly tended to constitute the citizens of the United States *one people* as this. Its influence in that respect is best estimated without a consideration of what would have been the condition of the people if it or some similar provision had not been inserted. Prior to the adoption of the articles of confederation, the British colonies on this continent had no political connection, except that they were severally dependencies of the British Crown. Their relation to each other was the same as that which they respectively bore to the other English colonies, whether in Europe or Asia.

When, in consequence of the Revolution, they severally became independent and sovereign States, each of them would have been competent to treat the citizens of the other States as aliens, subject to all the disabilities of alienage. This was an evil which the compact of union was intended to obviate. The articles adopted during the Revolution formed a friendly league for mutual protection against external force, but in order to secure and perpetuate mutual friendship and intercourse, the States agreed that the free inhabitants of each should be entitled to all privileges and immunities of free citizens in the several States. This was effected by the fourth article of that instrument, which declared that the free inhabitants of each of these States (paupers, vagabonds, and fugitives from justice excepted) should be entitled to all privileges and immunities of free citizens in the several States, and the people of each State should have free ingress and regress to and from any other State, and should enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof, respectively.

The Constitution organized a still more intimate Union, constituting the States, for great national purposes, one people and, for certain enumerated domestic objects, a single nation; but still the principle of State sovereignty was retained as to all subjects, except such as were expressly or impliedly delegated to the General Government or prohibited to the States by the Constitution. The social *status* of the people, and their natural and relative rights as respects each other, the definitions and arrangements of property, were among the reserved rights of the States. The provision conferring rights of citizenship upon the citizens of every State in every other State was inserted in the Constitution.

The question now to be considered is, how far the State jurisdiction over the subjects just mentioned is restricted by the provision we are considering, or to what extent, when the State governments [illegible] in a way that obliges the State Governments to recognize, in any way, within their own jurisdiction, the laws of other States which Slavery prevails, beyond the case of fugitive slaves. The language is that they shall have the privileges and immunities of citizens in the several States. In my opinion, the meaning is, that in a given State, every citizen of every other State shall have the same privileges and immunities, that is, the same rights, which the citizens of that State possess.

In the first place, they are not to be subjected to any of the disabilities of alienage. They can hold property by the same titles by which every other citizen may hold it, and by no other. Again, any discriminating legislation which should place them in a worse situation than a proper citizen of the particular State would be unlawful. But the clause has nothing to do with the distinctions founded on domicile. A citizen of Virginia, having his home in the State of Virginia, and never residing within the State of New-York, has not the same rights under our laws which a native born citizen, domiciled elsewhere would have, and so on. Either can be the proprietor of property here, but neither could claim any rights which our own citizens do not possess.

But where the laws of the several States differ, a citizen of one State asserting rights in another, must claim them according to the laws of the last mentioned State, not according to those which attain in his own. The position that a citizen carrying with him, into every State into which he may go, the legal institutions of the one in which he was born, cannot be supported. A very little reflection will show the fallacy of the idea. Our laws declare contracts depending upon games of chance or skill, lotteries, imaginary policies of insurance, bargains for more than seven per cent per annum of interest, and many others, void. In other States such contracts, or some of them, may be lawful.

But no one would contend that if made within this State by a citizen of another State they would be enforced in our Courts. Certain of them, if made in another State in conformity with the laws there, would be executed by our tribunals upon the principles of comity; and the case would be the same if they were made in Europe or in any other foreign country. The clause has nothing to do with the doctrine of international comity. That doctrine, as has been remarked, depends upon the usage of civilized nations and the presumed assent of the Legislative authority of the particular State in which the right is claimed; and an express denial of the right by that authority is decisive against the claim. How then, is the case of the apelliant aided by the provision under consideration?

The Legislature has declared, in effect, that no person shall bring a slave into this State, even in the course of a journey between two slaveholding States, and if he does, the slave shall be free. Our own citizens are of course bound by this regulation. If the owner of these slaves is not in like manner bound, it is because, in her quality of citizen of another State, she has rights superior to those of any citizen of New-York, and because, in coming here, or sending her slaves here for a temporary purpose, she has brought with her or sent with them the laws of Virginia, and is entitled to have those laws enforced in the Courts, notwithstanding the mandate of our own laws to the contrary. But the position of the appellant proves too much.

The privileges and immunities secured to the citizens of each State by the Constitution are not limited to time, or by the purpose for which in a particular case they may be desired, but are permanent and absolute in their character. Hence, if the appellant can claim exemption from the operation of the statute on which the respondent relies, on the ground that she is a citizen of a State where Slavery is allowed, and that our courts are obliged to respect the title which those laws confer, she may retain the slaves here during her pleasure; and as one of the chief attributes of property is the power to use it, or to sell or dispose of it, I do not see how she could be debarred of these rights within our jurisdiction as long as she may choose to exercise them.

She could not, perhaps, sell them to a citizen of New-York, who would at all events be bound by our laws, but any other citizen of a Slave State who would equally bring with him the immunities and privileges of his own State, might lawfully traffic in her slave property. But my opinion is that she has no more right to the protection of this property than one of the citizens of this State would have upon bringing them here, under the same circumstances, and that the clause of the Constitution referred to has no application to the case. I concede that this clause gives to citizens of each State entire freedom of intercourse with every other State, and that any law which should attempt to deny them free ingress or regress would be void. But it is citizens only who possess these rights, and slaves certainly are not citizens.

Even free negroes, as is well known, have been adjudged not to possess that quality. In Moore agt. The State of Illinois, already referred to, the Supreme Court of the United States, in its published opinion, declared that the States retained the power to forbid the introduction into their Territory of paupers, criminals or fugitive slaves. The case was a conviction under a statute of Illinois, making it penal to harbor or secrete any negro, mulatto or person of color being a slave or servant owing service or labor to any other person. The indictment was for secreting a fugitive slave who had fled from his owner in Missouri.

The owners had not intervened to reclaim him so as to bring the fugitive law into operation, and the case was placed by the Court on the ground that it was within the legitimate power of State legislation in the promotion of its policy, to exclude an unacceptable population. I do not at all doubt the right to exclude a slave, as I do not consider him embraced under the provision securing a common citizenship; but it does not seem to me clear that one who is truly a citizen of another State can be thus excluded, though he may be a pauper or a criminal, unless he be a fugitive from justice. The fourth article of the Confederation contains an exception to the provision for a common citizenship, excluding from its benefits paupers and vagabonds as well as fugitives from justice; but this exception was omitted in the corresponding provision of the Constitution.

If a slave attempting to come into a State of his own accord can be excluded on the ground mentioned, namely, because as a slave he is an unacceptable inhabitant, and it is very clear he may be, it would seem to follow that he might be expelled if accompanied by his master. It might, it is true, be less mischievous to permit the residence of such a person when under the restraint of his owner; but of this the Legislature must judge. But it is not the right of the slave, but of the master, which is supposed to be protected under the clause respecting citizenship. The answer to the claim in that aspect has been already given. It is that the owner cannot lawfully do anything which our laws do not permit him to do in the way of bringing slaves into this State. As a citizen of this State cannot bring a slave within its limits except under the condition that he shall immediately become free, the owner of these slaves is not entitled to do it without involving himself in the same consequence.

It remains to consider the effect upon this case of the provision by which the power is given to Congress to regulate commerce among the several States. (Art. 1, § 8, ¶ 3.) If the slaves had been in the course of a voyage on the navigable waters of this State in a vessel having a coasting license under the Act of Congress regulating the coasting trade, in the course of a voyage between two Slave States, and in that situation it is supposed that the State laws could not have interfered with them by writ of habeas corpus, I am not prepared to say that they could have been discharged under the provisions of the statute. So if in the course of such a voyage they had been driven into the State in consequence of a marine accident or stress of weather.

In either case they would, in strictness of language, have been introduced and brought into this State. In the latter case, their being here being involuntary, they would not be considered to have been *brought here* in the meaning of the statute. (See the case of the brig Enterprise, in the decisions of the Commission of Claims, under the Convention of 1853, p. 187.) But the case does not present either of these features. Its actual circumstances were these: Mrs. Lemmon being in Norfolk, in Virginia, chose to take them to the State of Texas for some purpose undisclosed, farther than that it was not to sell them.

Geographically, New-York is not on the route of such a voyage, but we can readily see that it would be convenient to bring them to that city from which vessels are frequently sailing to all ports of the Union, to be embarked from thence in a ship bound to a port in the extreme southern part of the Union. This was accordingly done. She came with the negroes to New-York by sea, in a steamship, as a passenger, and when the writ of habeas corpus was served, they were staying at a house in the city, ready to sail for Texas, and not intending to remain longer than should be necessary.

The act under consideration is not in any just sense a regulation of commerce. It does not suggest to the mind that it has any relation to commerce. It would have an extensive operation altogether independent of commerce. It is not, therefore, within the principle of the decision of the Supreme Court in the passenger cases. (7 Howard, 283.) In those cases the States of New-York and Massachusetts had imposed taxes upon passengers arriving by sea at the ports of those States. The Court, considering the carrying of passengers arriving from foreign countries, or being transported by sea between ports in different States, to be a regular branch of foreign and inter-State commerce, and holding moreover that the power to regulate commerce was exclusively vested in Congress, declared these acts to be a violation of the Constitution of the United States.

It may be considered as settled by those judgments that an act of State legislation acting directly upon the subject of foreign or inter State commerce, and being in substance a regulation of that subject, is void, whether its provisions were hostile to any particular act of Congress or not. But it is also the settled doctrine that a State law, enacted in the case of subjects which have relation to commerce, may be valid, if it does not come in conflict with any act of Congress. State legislation on those subjects is not void unless the subject has been covered by an act of Congress. The position is sustained by the case of Wilson agt. The Black Bird Creek Marsh Co. (2 Peters, 250.) The State of Delaware had authorized a corporation to erect a dam across a navigable creek in order to drain a marsh. The validity of the act was drawn in question on the ground that it was in conflict with the power of Congress to regulate commerce. The dam obstructed a creek in which the tide ebbed and flowed. In giving the opinion of the Court, Chief Justice Marshall said: "The measure authorized by this act stops a navigable creek, and must be supposed to abridge the rights of those who have been accustomed to use it.

But this abridgement, unless it comes in conflict with the Constitution or a law of the United States, is an affair between the Government of Delaware and its citizens, of which this Court can take no cognizance." "If Congress had passed any act which bore upon the case—any act in execution of the powers Commerce, the object of which was to control State legislation over these navigable creeks over which the tide flows—we should feel not much difficulty in saying that a State law being in conflict with such act would be void. But Congress has passed no such act. The repugnancy of the law of Delaware with the Constitution is placed entirely on its repugnancy with the power to regulate commerce with foreign nations and among the several States—a power which has not been exercised so as to affect the question." The same principle had been affirmed in Sturges agt. Crowinshield, (4 Wheat. 193) and in Moore agt. Houston, (5 Wheat. 1); and since the Passenger cases it has been again reiterated in the Pilot case, Cooley agt. The Board of Wardens of Philadelphia (12 How. 299). The application of the rule to the present case is plain. We will concede, for the purpose of the argument, that the transportation of slaves from one slaveholding State to another is an act of international State commerce, which may be legally protected and regulated by Federal Legislation. Acts have been passed to regulate the coasting trade, so that if these slaves had been in transitu between Virginia and Texas, in a coasting vessel, at the time the habeas corpus was served, they could not have been interfered with while passing through the navigable waters of a Free State by the authority of a law of such State. But they were not thus in transit at that time.

Congress have not passed any act to regulate commerce between the States when carried on by land, or otherwise than in coasting vessels. But conceding that, in order to facilitate commerce among the States, Congress has power to provide for precisely such a case as the present—the case of persons, whose transportation is the subject of commercial intercourse, being carried by a coasting vessel to a convenient port in another State, with a view of being there landed, for the purpose of being again embarked on a fresh coasting voyage to a third port, which was to be their final destination.

The unexercised power to enact such a law, to regulate such a transit, would not affect the power of the States to deal with the *status* of all persons within their Territory in the meantime, and before the existence of such a law. It would be a law to regulate commerce carried on partly by land and partly by water—a subject upon which Congress has not thought proper to act at all. Should it do so hereafter, it might limit and curtail the authority of the States to execute such an act as the present in a case in which it should interfere with such paramount legislation of Congress. I repeat the remark that the law of the State under consideration has no aspect which refers directly to commerce among the States. It would have a large and important operation upon cases falling within its provisions, and having no connection with any commercial enterprise. It is, then, so far as the commercial clause is concerned, generally valid; but in the case of supposable Federal legislation, under the power conferred upon Congress to regulate commerce, circumstances might arise where its execution, by freeing a slave cargo landed on our shores, in the course of an inter-State voyage, would interfere with the provisions of an act of Congress.

The present state of Federal legislation, however, does not, in my opinion, raise any conflict between it and the laws of this State under consideration. Upon the whole case, I have come to the conclusion that there is nothing in the National Constitution or the laws of Congress to preclude the State judicial authorities from declaring these slaves, thus introduced into the territory of this State, free, and setting them at liberty, according to the directions of the statutes referred to.

For the foregoing reasons, I am in favor of affirming the judgment of the Supreme Court.

POLITICAL.

—The State Executive Committee of Maryland have issued a call for a Republican State Convention, to be held at Baltimore on Thursday, the 26th inst., for the purpose of electing delegates to Chicago. On account of the short time intervening between the date of the call and the day for the assembling of the Convention, and also by reason of the political atmosphere of a Slave State, it may be difficult to arrange local meetings in some places. Under these circumstances, the precedents of the Conventions of 1848, 1852 and 1856 authorize us to say that a stiff rule as to credentials will not be laid down at Baltimore, provided only the ratio of State representation is not exceeded. Friends of the Republican cause in places where meetings cannot be held should make themselves delegates, and go to Baltimore on the 26th.

—A Republican County Convention met on Saturday, the 14th inst., at Occoquan, Prince William Co., Virginia, for the purpose of choosing delegates to the Wheeling Convention. Strong resolutions were passed in favor of the Republican party, protesting against the censorship of the press at the South, and demanding freedom of speech. After enumerating several of the absurd and burdensome provisions of slave legislation, they come out with the following resolution:

"And all this must be borne without a murmur on our part, or we shall be considered disloyal and disgraceful to Virginia. Thus after a careful review of the politics of the country, we are forced to the conclusion that in the coming contest we are to have no choice between the Democracy and the Republican party, as we have no hesitation in saying that the Democracy and every other party will be swept away by the issues of 1860."

—Fourteen Judges are to be elected in the State of Virginia on the fourth Thursday of May next. The whole number of Circuits and Circuit Judges in the State is twenty-one; the Circuit Judges to be elected this year in all but seven. The Circuit Judges are elected for eight years, and are required to be at least thirty years of age. Beside these, there are five Judges of the Court of Appeals, who are elected for twelve years, and who must be at least thirty-five years old.

THE CANAL BOARD AND CENTRAL RAILROAD.

From The Albany Statesman, April 18.

At a meeting of the Canal Board, held yesterday, the following resolution was unanimously adopted:

Resolved, That the rules and regulations heretofore adopted in regard to the [illegible] of the laws of 1851, be rescinded and applied to the Central Railroad Company [illegible] pursuance of said act.

At a meeting of the Commissioners of the Canal Fund, held yesterday, the following resolutions were unanimously adopted:

Resolved, That the Auditor of the Canal Department be and is hereby instructed to ascertain the amount of tolls due from the Central Railroad Company to the State, and from the several companies consolidated into the said Central Railroad Company, [illegible] July 1851, [illegible].

Resolved, That the Auditor be and he is hereby directed to demand of the said Central Railroad Company [illegible].

Resolved, That the Attorney General be and he is hereby directed to [illegible].

In pursuance of the authority thus conferred by virtue of the authority contained in the last resolution, the Attorney-General has retained the Hon. John H. Reynolds for the State. In the integrity, legal knowledge, intelligence, and high character of the Attorney-General and his associate, Mr. Reynolds, the people have a guarantee that the justice of their demand against the Central Railroad will be fully and faithfully presented.

With us the people will rejoice that this corrupt and corrupting monopoly will at last be brought before the highest judicial tribunal of the State, [illegible] the Legislature, and the press, but we do not believe the Court of Appeals will [illegible].

It is estimated that the tolls which the Central Company owes the State amount to $3,500,000.

In the act of consolidation, the Central Company assumed all the liabilities of all the roads that were consolidated, as will be seen in the following section:

SECTION 8. The rights of creditors of any corporation that shall be consolidated shall not in any manner be impaired by any such consolidation, [illegible] any liability which shall have been incurred by such corporation [illegible] in the same manner as if the consolidation had not taken place, and shall be pending.