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PROMPTLY AND NEATLY EXECUTED.
ORIGINAL PROSE.

[For the Democrat.]

Adieu to Home.

Adieu to home—adieu to home—
Home of the loved and dear—
The home's unspeakable joys, ye let
I'm leaving with ye leave.
Affection does not part its depth
I measured none and word—
But looks to a calmer rest
The front by which I start.
Woods are not for an hour like this
While heart to heart still speaks,
And each on foot the crowded world
The other vainly seeks.
The distant path I now must tread,
Will bright and brighten grow,
For prayer of love and tenderness
That leads me on I go.
And sweet, oh, sweet will be the thought
That distant though I be,
When friends are false no hearts unkind,
I still can come to thee.
That is the closest I can feel
There is no empty spot,
Where powerful voice with sudden beam
And darkness gathers out.
And say that strong protecting arm
Be still extended to distress—
The closest still may it shower,
Nor be its love less.
Oh, vital light, oh, life—
The Guardians of this Hill,
And from each rock and mingling back
The rays they send without.
And on the circle's path you see
United say we be—
That little band, so lately met,
Around the old reality.
And now, adieu—more meet!
Each fare you say—
The soul leaving words of love,
The soul leaving with ye leave.

THE VOLUNTEER COUNSEL.

A Tale of John Taylor.

[We copy the following from the New York Sun
Times. The subject, John Taylor, was born
in a remote town in Pennsylvania, and was
of Philadelphia. He was poor, but well
educated, and possessed extraordinary genius.
The genius of his prose, combined with the simplicity
of his style, enabled him to win the hand of a
beautiful beauty. Twelve months after the
wedding was celebrated by a wealthy firm in
the city of New York. As a heavy
revenue was levied, Taylor had to return to his
wife and infant son. He returned every week, but
returned no more to his wife. Six months elapsed,
when the husband received a letter from his
disappeared wife, in which she explained to him
the cause of her flight. She had been seduced
to Mississippi. There she met a lady who
dressed a disease by an act of the Legislature,
and again forthwith, and to complete the misery
of poverty and woe, had the name of Taylor's
name changed to Mackintosh by her second
marriage. This deeply wounded Taylor's
heart, and from that point, became erratic in
his conduct, and he was, in fact, a fever
case, and died at a comparatively early age.]
At an early hour, the 5th of April, 1850,
the court-house in Clarksville, Texas, was
crowded with wondering spectators. Never
before had there been witnessed
such a gathering in Red River county, while
the strongest feeling, apparent on every
face throughout the assembly, betokened some
great occasion. A concise narrative of facts
will sufficiently explain the matter.
About the close of 1829, George Hopkins,
one of the wealthiest planters and most influ-
ential men of Northern Texas, offered a gross
insult to Mary Elliston, the young and beau-
tiful wife of the overseer. The husband threat-
ened to chastise him for the outrage, where-
upon Hopkins loaded his gun, went to Elliston's
house, and shot him in his own door.—
The murderer was arrested and bailed to
answer the charge. This occurrence produced
the most intense excitement; and Hopkins, in
order to turn the tide of popular opinion, or
in order to mitigate the general wrath, which
at first was violent against him, circulated re-
ports infamously prejudicial to the character
of the woman who had already suffered such
cruel wrong at his hands. She brought her
suit for slander. And thus two causes, one
criminal, and the other civil, and both growing
out of the same tragedy, were pending in the
April Circuit Court for 1840.
The interest naturally felt by the commu-
nity as to the issues, became far deeper when
it was known that Ashley and Pike of Arkansas,
and the celebrated S. S. Prentiss of New
Orleans, each with numerous fees, had been
retained by Hopkins for his defence.
The trial, on the indictment for murder
ended on the 8th of April with the acquittal
of Hopkins. Such a result might well have
been foreseen, by comparing the talents of the
counsel on either side. The Texas lawyers
were utterly overwhelmed by the argument
and eloquence of their opponents. It was a
fight of dwarfs against giants.
The slander suit was set for the 9th of
April, and the throng of spectators grew in

numbers as well as excitement; and what
may seem strange, the current of public senti-
ment now ran decidedly in favor of Hopkins.
His money had procured pointed witnesses,
who served most efficiently his powerful advo-
cates. Indeed, so triumphant had been the
previous day, that when the slander case was
called, Mary Elliston was left without an at-
torney—they dare not brave again the sharp
word of Pike, and the scathing thunder of Prentiss.
"Have you no counsel?" inquired Judge
Mills, looking kindly at the plaintiff.
"No, sir; they have all deserted me, and I
am too poor to hire any more," replied the
beautiful Mary, bursting into tears.
"In such a case will not some chivalrous
member of the profession volunteer?" asked
the judge, glancing around the bar.
The thirty lawyers were silent as death.
Judge Mills repeated the question.
"I will, your honor," said a voice from the
thickest part of the crowd situated behind the
bar. At the tones of that voice many started
half way from their seats; and perhaps there
was not a heart in the immense throng which
did not beat quicker—it was so unearthly,
sweet, clear, ringing, and mournful.
The first sensation, however, was changed
into general laughter, when a tall, gaunt,
spectral figure, that nobody present remem-
bered to have seen before, elapsed his way
through the crowd, and placed himself within
the bar. His appearance was a problem to
puzzle the scribes herself. His high, pale
brow, and small, nervously twitching face
seemed alive with the concentrated essence
and cream of genius; but then his infantine
blue eyes, heavily visible beneath their massive
arches, looked dim, dreamy, almost un-
conscious; and his clothing was so exceed-
ingly shabby that the court hesitated to let
the cause proceed under his management.
"Has your name been entered on the rolls
of the State?" asked the judge, suspiciously.
"It is immaterial about my name being
on your rolls," answered the stranger, his
thin, bloodless lips curling up into a sort
of smile. "I may be allowed to appear
here by the courtesy of the court and bar—
his name is not on the highest tribunal
in America," he replied Judge Mills a
local parliament. The trial immediately
went on.
In the examination of witnesses the stran-
ger evinced but little ingenuity, as was com-
monly thought. He suffered each one to tell
his own story without interruption, though
he contrived to make each one tell it over two
or three times. He put few cross-questions,
which, with few exceptions, only served to correct
mistakes; and he made no notes, which,
in ordinary memories, only tend to embarrass.
The examination being ended, he turned to
the plaintiff, for he had a right in the opening
speech, as well as in the close; but to the as-
tonishment of every one he declined the
favor, and allowed the defence to find out—
Then a shadow might have been observed to
flit across the dim features of Pike, and to
darken even the bright eye of Prentiss.—
They saw that they had caught a Tartar; but
what it was, or how it happened, was impos-
sible to guess.
Col. Ashley spoke first. He dealt the jury
a dish of dry, close logic, which, years
afterwards rendered him famous in the Senate
of the Union.
The poet, Albert Pike, followed, with a
rich rain of wit, and a hail-bombard of ecstatic
rhetoric, in which you may be sure nothing
the plaintiff nor the plaintiff's legal attor-
neys was either forgotten or spared.
The great Prentiss concluded for the de-
fendant, with a geyser of gorgeous words
brilliant as showers of falling stars, and with a
flourish of oratory that brought down the
house in cheers, in which the sworn jury
themselves joined, notwithstanding the stern
"order" of the bench. Thus wondrously
differently susceptible are the southwestern
people to the charms of impassioned dis-
cussion.
It was then the stranger's turn. He had
remained apparently aloof during all the
previous speeches. Still, straight, and
motionless in his seat, his pale, smooth fore-
head shooting up like a mountain-peak of
snow; but for that eternal twitch that came
and went perpetually in his hollow cheeks,
you would have taken him for a mere man of
marble, or a human form carved in ivory. Even
his dim, dreamy eyes were invisible beneath
those grey, slanting eyebrows.
But now at last he rose—before the bar
railing, not behind it—and so near the
wondering jury that he caught the foreman
with his long, bony finger. With his eyes
still half shut, and standing rigid as a pillar
of iron, his thin lips curl as in measureless
scorn, slightly part, and the voice comes forth.
At first it is low and sweet, insinuating itself
through the brain as an itches tone, winding its
way into the deepest heart, like the melody
of a magic incantation; while the speaker
proceeds without a gesture or the least sign
of excitement, to tear in pieces the argument
of Ashley, which melts away at his touch as
before the sunbeam. Every one looked
surprised. His logic was at once so brief
and so luminously clear, that the rudest
peasant could comprehend it without effort.
"Now he came to the dazzling wit of the
poet-lawyer, Pike. Then the curl of his lip
grew sharper; his hollow face kindled up;
his eyes began to open, dim, and dreary no
longer, but vivid as lightning, red as fire
globes, and glaring like twin meteors. The
whole soul was in the eye—the full heart
streamed out on the face. In five minutes
Pike's wit seemed the foam of folly, and his
finest satire the most horrible profanity when
contrasted with the imitable sallies and exter-
minating sarcasm of the stranger, and inter-
persed with jest and anecdote that filled the
forum with roars of laughter.
Then, without so much as bestowing an al-
lusion on Prentiss, he turned short on the

perjured witnesses of Hopkins, tore their
testimony into atoms, and hurled in their faces
such terrible invective that all trembled as
with an ague, and two of them actually fled
dismayed from the court-house.
The excitement of the crowd was tremen-
dous. Their united life and soul appeared to
hang on the burning tongue of the stranger.
He inspired them with the powers of his own
passion. He saturated them with the poison
of his own malicious feelings. He seemed
to have stolen nature's long-hidden secret of
attraction. He was the sun to the sea of all
thought and emotion, which rose and fell and
boiled in billows, as he chose. But his great-
est triumph was to come.
His eye began to glare furtively at the as-
sisting Hopkins, as his lean, taper finger slowly
assumed the same direction. He homed
the wretch around with a circumlocution of
strong evidence and impregnable argument,
cutting off all hope of escape. He piled up
high bastions of insurmountable facts. He dug
beneath the murderer and slanderer's feet
ditches of dilemma, such as no sophistry
could overwhelm, and no stretch of ingenuity
evade; and having thus, as one might say,
impounded the victim, and put him about like
a scorpion in a circle of fire, he stripped him-
self to the work of massacre.
Oh! then, but it was a vision both glorious
and dreadful to behold the orator. His action,
before graceful as the wave of a golden wil-
low in a breeze, grew impetuous as the motion
of an oak in the hurricane. His voice be-
came a trumpet filled with wild whistlings,
deafening the ear with crashes of power, and
yet intermingled all the while with a sweet
under-song of the softest cadence. His face
was red as a dragoon's—his forehead looked
like a heated furnace—his countenance looked
haggard like that of a novice, and ever and
anon he flung his long bony arms on high, as
if grasping after thunderbolts. He drew a
picture of murder in such appalling colors,
that in comparison, hell itself might be con-
sidered beautiful. He painted the slanderer
so black, that the sun seemed dark at noon-
day, when shining on such a perjured mensur-
er; and then he fixed both portraits on the
shrinking brow of Hopkins, and he nailed
them there forever. The agitation of the audi-
ence nearly amounted to madness.
At last the speaker descended from his
pedestal height. His voice warbled out the
murdered deed, and described the sorrows of
the widowed being—the beautiful Mary,
more beautiful every moment, as her tears
flowed faster—till men wept and lovely women
sobbed like children.
He closed by a strange exhortation to the
jury, and through them to the bystanders.—
He entreated the panel, after they should bring
in their verdict for the plaintiff, not to offer
evidence in the defendant's behalf, but to offer
evidence in the plaintiff's behalf, and to let
the verdict be for God. This was the most
artful trick of all, and the best calculated to
insure vengeance.
The jury rendered a verdict for fifty thou-
sand dollars; and the night afterwards, Hope-
kins was taken out of his bed by footmen,
and beaten almost to death.
As the court adjourned, the stranger made
known his name, and called the attention of
the people, with the announcement—John
Taylor will touch here this evening at eight-
and-a-half o'clock.
The crowd of persons, all turned out, and
Taylor's surname recalled, if it did not sur-
prise, the scribes of his former efforts. This
was an exaggeration. I have listened to Clay,
Webster, and Calhoun—to Dewey, Tyler, and
Bancroft; but have never heard anything
in the form of sublime words ever remotely
approximating the eloquence of John Taylor,
massive as a mountain, and wildly rushing
as a cataract of fire. And this is the opinion
of all who have heard the marvellous man.

Passion for Tobacco.

Those who use tobacco know the strength of
the habit. It is as hard to break from it as
it is to abandon the use of intoxicating drink—
some say, even more difficult. The distin-
guished preacher, Burdett, thus relates his
own experience, in his anti-tobacco war.
"I was once," said he, "an inveterate
lover of tobacco, and I know how difficult it
is to break the habit of using it; still it can
be done. I indulged in the use of the weed
to a great excess; I loved it; but knowing
that its effects were bad, and especially ill
becoming a man of the gospel, I made up my
mind to quit it. With that resolution
I took a tremendous 'cut,' which was to
be my wind-off. I chewed it and chewed
it, rolled it in a sweet morsel under my tongue,
and from one cheek to the other, for three
weeks. It is certain tobacco never tasted so
good before, and I shed tears when I recollected
that it was my last indulgence. When its
strength was all gone, I threw it away; and
there, 'Burdett,' said I, 'there goes your
last cut—your omega of quids.' Well, for a
while, it was very hard going without it,
and I was often sorely tempted to try it
again. Old tobacco chowers would pull out
their rusty steel boxes, give them a scientific
snap and say, 'Burdett, have a chew!' and
for a long time, I involuntarily put my hands
into a tobacco box, I involuntarily put my
tongues to get hold of my pig tail. In fact,
I sometimes blundered dreadfully in my
sermons, my thoughts being mere upon tobacco
than upon the Lord. But I stuck to my
resolution; and neither cavendish nor pig-tail
has ever been between my teeth from that day
to this."
Upon a traveller telling Gen. Doyle, an
Irishman, that he had been where the bugs
were so large and powerful that two of them
would drain a man's blood in one night, the
general replied:
"My good sir, we have the same animals
in Ireland, but they are called *Amblygs*."

PROSE.

GIVE EVERY DAY.

Let us give something every day,
For one another's weal;
A word to make the gloomy gay,
Or the crushed spirit heal;
A look, that to the heart will speak
Of him that's poor and old;
A tear for her whose work was check
Pull many a tear hath rolled.
The objects of our love and care
In every path we see—
And when they ask a simple prayer,
O, shall we selfish be;
And turn away with haughty throat,
As if the God above,
Were partial to our pampered state,
And only to us did love?
Let us give something every day,
To comfort and to cheer;
To not for gold alone to give,
Whose riches fall away like snow;
They ask for kindness in our speech—
A tenderness of heart—
That to the lowliest soul will reach,
And warmth and life impart.
We all are give—the poor—the weak,
And be an angel guest;
How small a thing—to smile—to speak
And make the wretched blest!
These favors let us all bestow,
And scatter joy abroad,
And make the wales of sorrow glow
With the sweet smiles of God!

Homeopathic Broth.

Take a robin's egg,
Mind, the domestic society,
Put it in a tub,
Filled with water nearly.
Set it out of doors,
In a place that's shady,
Let it stand a week,
(Three days for a lady.)
Dip a spoonful in
A five-pail kettle,
It should be of tin,
Or perhaps bell metal.
Fill the kettle up,
Put it on a boiling,
Skim the liquor well,
To prevent its boiling.
For the thickening of it
Take of rice one kernel,
Use to light the fire,
—The Salina Journal.
Let the liquor boil
Half an hour—and no longer—
(It is for a man,
You may may make it stronger.)
Should you now desire
That the soup be savory,
Stir it once around
With a stalk of savory.
If of the oil you wish
Just get a splash in,
'Twill be favored five
If you dip your web in.
When the broth is done,
Strain it, to fill it;
Then three times a day
Let the patient smell it.
If he chane to die,
Say twice a day did it
But if he should get well,
Give the broth the six it.

EQUALITY OF THE SEXES.

At a convention of masculine women and
feminine men, recently held in Worcester, Mass.,
to consider the subject of woman's rights,
there were, in newspaper accounts, but true,
sundry declarations of sentiment, and some
to suit the most radical, and some to
suit the most moderate. As for instance
Wendell Phillips is reported to have said,
"that the cobwebs and superstitions of the
Bible ought to be swept away; that woman
is not out from the masculine arts, the
professions, and politics, and should descend
into an inferior caste; that she would be
strengthened up in society, in the trial by jury,
in representation, and in suffrage for her
self." He would not give two such
answers in the line, but give but one
paper, signed by Millard Fillmore. "It
was necessary," he said, "in securing woman's
rights, to break down the barriers of the
law and the Bible, (of feudal and Hebrew
despotism, and begin at the foundations of
Society." Abby Kelly Foster said—"We
have our rights, and the right to revolt, as
did our fathers against King George the
Third—the right to rise up and cut the tyrant's
throat." On this subject I want to tell
like a woman. We must give them the truth
and no twaddle. We must not be mealy
mouthed with our tyrants in broadcloth
and tulle. In short, in the language of
Abby, she simply demanded "that man and
woman should be treated as human beings,
all alike—that property and votes and offices,
civil, religious and military, even to the right
of cutting throats, should belong to woman as
well as to man. She urged that the work
should be commenced by educating both sexes
together, and that all the distinctions in society
between man and woman should be abol-
ished, and that a woman was just as well
qualified to be President as a man."
Lucretia Mott said that woman was "the
slave of superstition, and paid too much de-
votion to priestcraft and the Bible." The
husband of Abby Kelly Foster said a speech
(not, however, without his wife's putting in
a word; she could not have helped that had
her life been at stake) in which sentiments
similar to the above were expressed. He
was evidently in favor of adding to woman's
rights the right to use the sword as well as
the tongue against her male enslaver. Wil-
liam H. Channing said: "Why should there
not be an order of women composed of those
who do not choose to encounter themselves with
the ties of marriage? Why might not they
plant themselves on a domain; invest their
property, and engage in such industrial op-

THE FUGITIVE SLAVE LAW.

OPINION OF MR. CRITTENDEN.

ATTORNEY GENERAL'S OFFICE,
September 18th, 1850.

Sir—I have had the honor to receive your
note of this date, informing me that the bill
called the Fugitive Slave Bill, having passed
both Houses of Congress, had been submitted
to you for your consideration, approval, and
signature, and requesting my opinion whether
the sixth section of that act, and especially the
last clause of that section, conflicts with the
provision of the constitution which declares
that "the writ of habeas corpus shall not be
suspended, unless when, in cases of rebellion
or invasion, the public safety may require it."
It is my clear conviction that there is nothing
in the last clause, nor in any part of the
sixth section, nor indeed in any part of the
provisions of the act, which suspends, or
intends to suspend, the privilege of the writ
of habeas corpus, or is in any manner in
conflict with the constitution.
The constitution, in the second section of
the fourth article, 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 there-
in, be discharged from such service or labor,
but shall be delivered up on claim of the party
to whom such service or labor may be due."
It is well known and admitted, historically
and judicially, that this clause of the constitu-
tion was made for the purpose of securing to
the citizens of slaveholding States the com-
plete ownership in their slaves, as property,
in any and every State or territory of the
Union into which they might escape. (Prigg
vs. Commonwealth of Pennsylvania, 16 Pet.
520.) It devolved on the General Govern-
ment, as a solemn duty, to make that security
effectual. Their power was not only clear
and full, but according to the opinion of the
court in the above cited case, it was exclusive;
the States, severally, being under no obliga-
tion, and having no power to make laws or
regulations in respect to the delivery of fugi-
tives. Thus the whole power and with it the
sole duty, of carrying into effect this impor-
tant provision of the constitution, was with
Congress. And accordingly, soon after the
adoption of the constitution, the act of the 12th
of February, 1793, was passed, and that pro-
vision unsatisfactory and inefficient, by reason
(among other causes) of some minor errors in
its details, Congress are now attempting by
this bill to discharge a constitutional obliga-
tion, by securing more effectually the delivery
of fugitive slaves to their owners.
The sixth and most material section in sub-
stance declares, that the claimant of the fugi-
tive slave may arrest and carry him before any
one of the officers named and described in the
bill, and provides that these officers, and each
of them shall have judicial power and juris-
diction to hear, examine, and decide the case
in a summary manner, that if upon such hear-
ing, the claimant, by the requisite proof, shall
establish his claim to the satisfaction of the
tribunal thus constituted, the said tribunal
shall give him a certificate, stating therein the
substantial facts of the case, and authorizing
him, with such reasonable force as may be
necessary, to take and carry said fugitive back
to the State or territory whose he or she may
have escaped, and then in conclusion proceeds
as follows: "The certificate in this and the
first section mentioned shall be conclusive of
the right of the person or persons, in whose
favor granted, to remove such fugitive to the
State or territory from which he escaped, and
shall prevent all molestation on such person or
persons by any process issued by any court,
judge, magistrate, or other person whatsoever."
There is nothing in all this that does not
seem to me to be consistent with the constitu-
tion and necessary, indeed, to redeem the
pledge which it contains—that such "fugitives
shall be delivered up on claim" of their owners.
The Supreme Court of the United States
has decided that the owner, independent of
any aid from State or national legislation,
may, in virtue of the constitution and his own
right of property, seize and recapture his fugi-
tive slave, in whatsoever State he may find
him, and carry him back to the State or terri-
tory from which he escaped. (Prigg vs.
Commonwealth of Pennsylvania, 16 Pet.
530.) This bill, therefore, confers no right
on the owner of the fugitive slave; it only
gives him an appointed and peaceable remedy,
in place of the more exposed and insecure, but
not less lawful mode of self-redress. And as
to the fugitive slave, he has no cause to com-
plain of this bill, it adds no coercion to that
which his owner himself might at his own
will rightfully exercise; and all the proceed-
ings which it institutes are but so much of or-
derly judicial authority, interposed between
him and his owner, and consequently of pro-
tection to him and mitigation of exercise di-
rectly by the owner himself of his personal
authority. This is the constitutional and legal
view of the subject as sanctioned by the
decisions of the Supreme Court, and to that I
limit myself.
The act of the 12th of February, 1793, be-
fore alluded to, so far as it respects any con-
stitutional question that can arise out of this
bill, is identical with it. It authorizes the
like arrest of the fugitive slave, the like trial,
the like judgment, the like certificate, with
the like authority to the owner, by virtue of
that certificate as his warrant, to remove him
to the State or territory from which he escap-
ed. And the constitutionality of that act in
all those particulars, has been affirmed by ad-
judications of State tribunals, by the courts
of the United States, without a single dissent,
so far as I know. (Baldwin's C. C. R.,
577, 579.)
I conclude, therefore, that so far as the act
of the 12th of February, 1793, has been held
to be constitutional, this bill must also be so
regarded, and that the custody, restraint, and
removal, to which the fugitive slave may be
subjected, under the provisions of this bill,

CHILDREN.

How little do they who have grown up to
men's estate, trouble themselves about the
feelings of children. It would really seem as
if they fancied children were destitute of all
those fine delicate springs of emotion, which
are recognized in matured life, and are the
sources of all our joys and sorrows. It is
time that the grown up world went to school
to some one who has not forgotten the tender
susceptibilities of childhood; that they learn
to sympathize with the little sufferers. This
germinating bud has within its folded recesses
all the beauty and the fragrance of the flower;
the gentle distillations of heaven sink as sweet-
ly in its secluded shrine, and the sunbeams
there as soothingly, as on the prouder petals
that would claim all to themselves. How
many a sweet spirit withers beneath blighting
frown of an unsympathizing guardian; how
many a one retires to weep in solitude because
it is not loved as it would be, and is not com-
prehended in its affection! We little imag-
ine what arcana we read, when we read
of such is the kingdom of heaven." pass our
headed utterance.

RELIGION.

RELIGIOUS FANATICISM IN DEATH.—The
following laughable anecdote of the funeral
of a Bristol Alderman, is told by Southey:
As soon as he knew his case was desperate,
called together all the persons to whom he
was indebted in his mercantile concerns:
"Gentlemen," said he, "I am going to die
and my death will be an inconvenience to you
because it will be some time before you can
get your accounts settled with my executors;
now if you will allow me a handsome dis-
count, I will settle them myself at once."
The Alderman turned his death into nine hundred pounds
profit.

REMARKS.

are all lawful, and that the certificate to be
granted to the owners to be regarded as the
act and judgement of a judicial tribunal having
competent jurisdiction.
With these remarks as to the constitution-
ality of the general provisions of the bill, and
the consequent legality of the custody and con-
finement to which the fugitive slave may be
subjected under it, I proceed to a brief consid-
eration of the more particular question you
have propounded in reference to the writ of
habeas corpus, and of the last clause of the
sixth section, above quoted, which gives rise
to that question.
My opinion, as before expressed, is, that
there is nothing in that clause or section which
conflicts with, or suspends, or was intended
to suspend the privilege of the writ of habeas
corpus. I think so, because the bill says not
one word about the writ; because, by the Con-
stitution, Congress is expressly forbidden
to suspend the privilege of this writ, "unless
when in cases of rebellion or invasion the public
safety may require it;" and therefore the
suspension by this act (there being neither
rebellion nor invasion) would be a plain and
palpable violation of the Constitution; and no
intention to commit such a violation of the
Constitution, of their duty, and their oaths,
ought to be imputed to them upon mere con-
structions and implications, and thirdly, be-
cause there is no incompatibility between these
provisions of the bill and the privilege of
the writ of habeas corpus, in its most
constitutional latitude.
Congress, in the case of fugitive slaves, as in
all other cases within the scope of its constitu-
tional authority, has the unquestionable right
to ordain and prescribe for what causes, to
what extent, and in what manner, persons
may be taken into custody, detained or im-
prisoned. Without this power they could
not fulfil their constitutional duty, or perform
the ordinary and necessary duties of govern-
ment. It was never heard that the exercise
of that legislative power was an encroachment
upon or suspension of the privilege of the
habeas corpus. It is only by some confusion of
ideas that such a conflict can be supposed to
exist. It is not within the province or privi-
lege of this great writ to loose those whom
the law has bound. That would be to put a
writ granted by the law, in opposition to the
law—to make one part of the law destructive
of another. This writ follows the law. It is
issued upon proper complaint, to make in-
quiry into the causes of commitment or im-
prisonment, and its sole remedial power and
purpose is to deliver the party from "all man-
ner of illegal confinement." (2 Black, Com.,
151.) If upon application to the Court or
Judge for this writ, or if, upon its return, it
shall appear that the confinement complained of
was lawful, the writ in the first instance would
be refused, and in the last the party would
be remanded to his former lawful custody.
The condition of one in custody as a fugi-
tive slave, under this law, so far as respects
the writ of habeas corpus, is precisely the
same as that of all other prisoners under the
laws of the United States. The privilege of
that writ remains alike to all of them, but to
be judged—granted or refused—discharged
or enforced—by the proper tribunal, accord-
ing to the circumstances of each case, and to
the commitment and detention may appear to
be legal or illegal.
The whole effect of the law may be thus
briefly stated. Congress has constituted a tri-
bunal with exclusive jurisdiction, to deter-
mine summarily, and without appeal, who
are fugitives from service or labor under the
second section of the fourth article of the con-
stitution, and to whom such service or labor
is due. The judgment of every tribunal of
exclusive jurisdiction, where no appeal lies,
is of necessity conclusive upon every other
tribunal, and therefore the judgment of the
tribunal created by this act is conclusive upon
all tribunals. Wherever the judgment is
made to appear, it is conclusive of the right
of the owner to retain in his custody the fugi-
tive from his service, and to remove him back
to the place or state from which he escaped.
If it is shown upon the application of the
fugitive for a writ of habeas corpus, it prevents
the issuing of the writ—if upon the return it
discharges the writ and restores or maintains
the custody.
This view of the law of this case is fully
sustained by the decision of the Supreme
Court of the United States in the case of To-
bias Watkins, where the Court refused to dis-
charge, upon the ground that he was in cus-
tody under the sentence of a court of competent
jurisdiction, and that judgment was conclusive
upon them. (3 Pet. 202.)
The expressions used in the last clause of
the sixth section, that the certificate therein
allotted "shall prevent all molestation" of
the persons to whom granted, "by any pro-
cess issued," &c., probably mean, only that
the act of 1793 meant, by declaring a certi-
ficate under that act a sufficient warrant for
the removal of a fugitive, and certainly do not
mean a suspension of the habeas corpus.
I conclude by repeating my conviction, that
there is nothing in the bill in question which
conflicts with the constitution, or suspends,
or was intended to suspend, the privilege of
the writ of habeas corpus.
I have the honor to be, very respectfully,
sir, your obedient servant,
To the President. J. J. CRITTENDEN.