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BY THE HOUSE OF DELEGATES,

February 2d, 1860.

Read and ordered to be printed.

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R E P O R T

OF

THE SELECT COMMITTEE

OF THE

HOUSE OF DELEGATES OF MARYLAND,

TO WHICH WAS

REFERRED THE MEMORIAL OF BRADLEY T. JOHNSON, ESQ.,  
IN RELATION TO THE PROSECUTION OF CERTAIN  
PERSONS IN PENNSYLVANIA, CHARGED WITH  
KIDNAPPING FUGITIVE SLAVES.

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J.M. Johnson

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## R E P O R T .

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The Select Committee to which was referred the memorial of Bradley T. Johnson, in reference to the prosecution in Pennsylvania of certain citizens of Maryland, charged with kidnapping three fugitive slaves which had been legally recaptured and restored to their owners, having examined the memorial and accompanying report of the trial of Emanuel Myers, and considered the facts and circumstances therein set forth, beg leave to report :

That in June last three slaves which, before they escaped from their owners in Maryland, were retaken in Cumberland county, Pennsylvania, by Emanuel Myers, George W. Strasburger, William H. Smith and Isaiah Baker, citizens of Maryland, who were legally authorised by the owners of said slaves so to do, and were restored to their owners in Maryland.

That a few days after the said recapture, one John McCartney, the sheriff of Cumberland county, Pennsylvania, came into this State, together with one John Morrison, a citizen of Pennsylvania, and in Carroll county concerted together with one William Late, a resident of that commonwealth, a plan by which to decoy Myers into Pennsylvania, in order that the said McCartney might there arrest him. That said McCartney had there in his possession a warrant issued by a justice of the peace of the county of Cumberland, on the oath of a negro, for the arrest of Myers for kidnapping. That in pursuance of said plan, Myers, who lives near the State line, was decoyed by a pretended letter which Late held up to him, and called him to receive, across the boundary, and there within a few yards of Maryland soil, in sight of his family,

was seized, ironed, and dragged off to jail at Carlisle. That at the August term of the court of Quarter Sessions for the county of Cumberland, an indictment was found against Myers, Strasburger, Smith and Baker, and John A. Warfield, also a citizen of Maryland, charging them, under a Pennsylvania statute, with kidnapping and the arrest of three fugitive slaves in a violent and tumultuous manner. That at the November term of said court, Myers was convicted of kidnapping two of said slaves, and that the indictment against the other four named citizens of Maryland, is still pending. Your committee are informed, and believe that John A. Warfield, was not only not present and assisting at the capture of the slaves, but had not been within the territorial limits of Pennsylvania for one year, nor within Cumberland county in which the offence is charged to have been committed for three years prior to said capture.

Your committee find that the two slaves, for kidnapping of whom Myers has been convicted, were, in February 1858, ordered by the Orphans' court of Frederick county, to be sold as slaves for a term of years, and that this proceeding and order was duly offered in evidence in his defence. They also find that the court instructed the jury in the case, that such order was not evidence that said negroes were slaves, but only that they were ordered to be sold as slaves; and that said court further claimed and exercised the power to try the question whether said negroes were *legally* held as slaves in Maryland, and that, in fact, said court actually tried and determined the question of the right of said negroes to their freedom. In the opinion of the committee, a statement of these facts is all that is necessary to demonstrate, that, in the language of the Governor in his message, "no grosser outrage, no more complete and disgraceful violation, not only of good faith, but of solemn compact and sworn duty under it, can be imagined."

As the case of Myers will be reviewed by the Supreme Court of the United States, as far as it is possible, your committee have no recommendations to make as to that phase of it. But the insult to the soil of the State, the disregard of her sovereign rights, and the outrage perpetrated on her citizens in the capture of Myers, calls for prompt and decided action. They, therefore, recommend that the Governor be requested to appoint counsel to initiate and take charge of such proceedings, under the laws of Maryland, as will bring the perpetrators of this great wrong to that condign punishment which such an act deserves.

The honor of the State, and the safety of her citizens, as

well as a preservation of that good feeling which should exist between co-terminous States, require it. The claim of jurisdiction made by the Pennsylvania court to try the question of the *right* of fugitive slaves to their freedom can never be allowed without utterly destroying the right of recapture secured under the Federal Constitution, and the prosecution of our citizens, under such a construction of the law, must be considered such a grievance as requires relief. The General Assembly has heretofore, by the appointment of special commissioners to the Commonwealth of Pennsylvania, invoked from her Executive an exercise of that comity which should always exist and be exercised between neighboring and friendly States; and such interposition has been attended by the happiest results. They, therefore, recommend the appointment of two commissioners, by the General Assembly, who shall be instructed to proceed to Pennsylvania and lay before the Governor of that Commonwealth, all the facts connected with the pending prosecution against the beforementioned citizens of Maryland, and invoke him to interpose in such manner as will effectually protect them from all prosecution and penalty for said alleged offence. And in order to prevent future irritation between the people of the two States, arising from collisions on controverted questions of rights, under the constitutional provision for the recapture of fugitive slaves, that they be instructed to endeavor to procure such action by the authorities of Pennsylvania, as will provide for a submission of such questions as they arise, to the decision of the Supreme Court of the United States.

They, therefore, beg leave to submit the following resolutions:

1. Resolved by the General Assembly of Maryland, That the Governor be and he is hereby requested to cause such proceedings to be had in relation to the parties who captured Emanuel Myers, a citizen of Maryland, as stated by the Governor in his message to this General Assembly, as will determine their liability to the laws of this State. and bring them to trial, if liable thereto.

2. Resolved, That \_\_\_\_\_, Esqrs., be, and they are appointed commissioners, to proceed to Pennsylvania, and lay before the Governor of that Commonwealth the facts relative to the indictment now pending in the court of Quarter Sessions of the county of Cumberland, therein, against George W. Strasburger, William H. Smith, Isaiah Baker and John A. Warfield, citizens of Maryland, for kidnapping certain fugitive slaves, and invoke him to interpose

in such manner as will effectually protect said parties from further prosecution or penalty therefor ; and that said commissioners be instructed to endeavor to procure from the authorities of the Commonwealth of Pennsylvania, such action as will provide for a submission of all questions involving rights secured under the fourth article, second section and third clause of the Constitution of the United States, as they arise in the courts of that Commonwealth, to the decision of the Supreme Court of the United States.

GEO. FREANER,  
BARNES COMPTON,  
C. W. JACOBS,  
JOHN A. JOHNSON.





THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
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