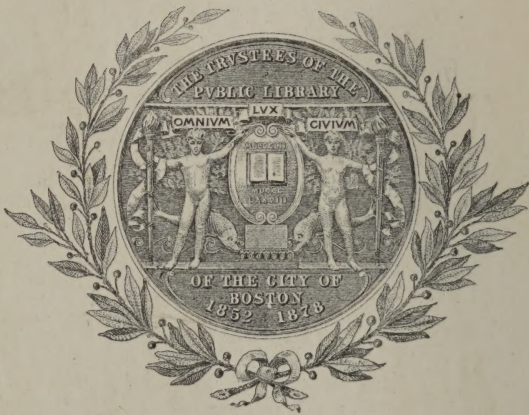


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A SERMON

ON THE
DUTY OF CITIZENS,

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WITH RESPECT TO

4265.347

THE FUGITIVE SLAVE LAW,

BY

REV. G. F. KETTELL,

OF THE METHODIST EPISCOPAL SOCIETY,

POUGHKEEPSIE, N. Y.

White Plains, N. Y.:
EASTERN STATE JOURNAL PRINT

1851.

A SERMON

ON THE

DUTY OF

CHILDREN

TO THEIR PARENTS

BY

THE FUGITIVE SLAVE LAW, 1850

REV. A. T. HAYWARD

OF THE METHODIST EPISCOPAL SOCIETY

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THE DUTY OF CITIZENS

WITH RESPECT TO THE

FUGITIVE SLAVE LAW.

“Let every soul be subject unto the higher powers, for there is no power but of God: the powers that be are ordained of God. Whosoever, therefore, resisteth the power, resisteth the ordinance of God, and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil, to all these then not be afraid of the power? Do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good. But if thou do that which is evil, be afraid: for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore, ye must needs be subject, not only for wrath, but for conscience sake.”—ROMANS 13, 1-5.

We understand these words to declare that God has instituted civil government among men. He has not, however, instituted any particular form of government; but any form which men may choose or consent to, has in virtue of its existence the Divine sanction. Whether a people tacitly allow a despotism to exist among them, or whether they have chosen to establish a republic, the general obligation to be subject to the government is not altered.

Whatever may be the *form*, the *powers* of government are ordained of God. When a republican government existed among the Jews, it was approved of God, and they were assisted by him in their civil and military enterprises; but when the nation changed its constitution, and established a monarchy, that form he also sanctioned, and their kings were called the Lord's anointed.

While, then, God has ordained that there shall be civil government; he has left the form thereof to be determined by each nation for itself. Any government existing by the choice, or with the consent of the nation, is a legitimate government, and an ordinance of God. “The powers that be are ordained of God,” and the ends of civil society as well as the law of God, require every man to render to the government under which he lives, submission and obedience. He is bound thereto not because he may judge it to be expedient and proper, but because God has imposed it upon him as a moral duty. He is under a sacred obligation to obey the laws antecedent to all

question of their propriety. "He must needs be subject not only for wrath, (or fear of punishment,) but for conscience sake."

There may indeed arise occasions which may justify men in *refusing obedience* to the law ; but no occasion can arise which will justify an individual in *forcibly resisting* the law. The teachings of the New Testament to this end are numerous and explicit. The words of our text, so emphatic and unequivocal, were addressed to Christians, living under the Roman government, which subjected them to cruel persecution, and to every species of torture and shame.

They were indeed bound to refuse obedience when commanded to do what God had forbidden, as in the case of worshipping idols. But in no case were they to raise their hands, or violently to oppose the civil power, but rather meekly to suffer the penalty of disobedience. The apostle Peter, also has these words. (Peter, 2, 13, &c.) "Submit yourselves to every ordinance of men for the Lord's sake, whether it be unto the king as supreme, or to governors as unto them that are sent by him,—for so is the will of God." The examples of the New Testament are no less conclusive. Our Lord Jesus Christ, through the whole course of his life, submitted himself to the law, and when finally arrested by a ruffian band, would suffer no resistance to be made, (though having legions of angels at his command,) but rebuked Peter for striking the servant of the High Priest, telling him that "they that take the sword shall perish by the sword"—of the civil authority.

The example of our Lord was implicitly followed by his apostles—when imprisoned, when beaten, when stoned, when driven from city to city, their constant language was, "we are ready to suffer for His sake." Though all of them were persecuted and most of them put to death, yet in no instance did one of them commit a violent act, or utter a violent word against the lawful authorities. But like Christ who was led as a sheep to the slaughter, and like Daniel who went into the lion's den, and the three Hebrew children who submitted themselves to the flames of the fiery furnace, they meekly suffered for their religion,—but raised no hand, struck no blow, resisted no power. The precepts and examples of the New Testament, clearly teach that individuals are not to resist the civil power. And the reason is doubtless found in the benign and peaceful character of the christian religion, which seeks as much as possible to prevent strife and evil passions. The *successful* resistance of an individual to an established government is of course hopeless, and can therefore avail nothing as a remedy. It can only aggravate the evils it seeks to correct. The Gos-

pel therefore requires the christian to suffer in his own person, rather than by a useless resistance to stir up bad passions and cause the effusion of blood, thereby creating far greater evils than he himself endures. Individuals may, under certain circumstances, refuse to obey, but in no case must they resist.

The case is indeed very different, when a whole people present a united and organized resistance against an unjust and tyrannical government, with the reasonable hope of securing to themselves a better. In such a case the resistance is designed as a remedy, and is hence justifiable. Such was the case with our Fathers, who as one people, organized resistance against a foreign and unjust government. And they succeeded in establishing a free constitution.

But it may perhaps be more important to consider what are the occasions that justify men in refusing obedience to the law? This is a question of such a nice and intricate character that it would be presumption in me to expect to settle it conclusively. But we think that we shall sufficiently cover all the ground which we propose to tread, if we assume the two following propositions:

1. A government has no right to demand of its subjects, anything contrary to the law of God.

2. A government has no right to demand of its subjects, anything contrary to its own constitution.

Should the acts of government be adjudged by competent authority, contrary to the fundamental law of the land, they may of course be treated null, and void of authority. But we think that the ends of civil society forbid individuals to set themselves up as ultimate judges of the constitutionality of the acts of government, and to assume each one, in his own person, to determine what law he shall obey, and what law he shall not obey. This, so far as the individual is concerned, would be the abrogation of government; and makes his private opinion supreme law, which we think is incompatible with social order, and the will of God. Should individuals take upon themselves to refuse obedience to the laws; they will do it at their peril, and must, until the laws which they venture to disobey shall be adjudged illegal, be accounted guilty of crime in resisting the ordinance of God.

But when, on the other hand, a government issues laws clearly in accordance with its constitution, and moreover intended to carry out the specific objects of such constitution, there can be no excuse for an individual who opposes them, except on the ground that they are contrary to the law of God. No human law can require a man to do what God has forbidden. But in laying down this proposition we at once run into a maze of difficulties as to what God's will is in a matter of this

kind. It was not difficult for the Apostles to decide this question, for they were guided by inspiration, and their acts were authenticated by miracles. It might not be difficult to determine it under a heathen government, where the question lies between Christianity and Paganism. But under a christian government, where it is not to be presumed that any of the fundamental principles of Christianity will be outraged, it may not be so easy to decide it. Questions which can arise at this age of the world, concerning a christian's duty to a christian government, must almost of necessity be of an unsettled and disputable nature, and where is the authority competent to decide them? Upon a thousand questions, of both theoretical and practical ethics, conflicting opinions are perpetually starting up, and there is no universal standard to which they can be referred. To say that the Bible is the standard, is to say nothing; for each sect and school has its peculiar mode of interpreting the Bible, and puts forth its own view as the authoritative will of God. But it is clear that the speculations of a particular school of moralists cannot be universally received as God's law. The theological dogmas of a particular sect are not God's law. The decisions of a particular church are not God's law, having an authority which shall be supreme above all civil government, and justify men in arraying themselves against the laws of their country.

Neither can what men may be pleased to call the dictates of their consciences, be taken implicitly as the law of God. The conscience, like every other faculty of the human soul, is an imperfect and erring faculty, and is influenced, and on many points controlled, by the peculiar ideas and prejudices of education. The consciences of men differ as much as their theology, not only upon questions of religion, but also upon many questions of morals; and the conscience of the same individual may differ in its decisions of the same moral questions, and hold a thing to be morally right to-day which yesterday, under the same circumstances, it held to be morally wrong; and no man can be certain, that many things which he calls right to-day, he will not call wrong to-morrow. Men moreover are so liable upon all contested questions to mistake their wills for their conscience, and to blend their passions and convictions together, that it would be exceedingly unsafe to acknowledge as the law of God what each individual may declare to be his moral convictions. It must often be a matter of doubt whether God has commanded what men's consciences declare to be his will, but it can never be a matter of doubt that he has commanded them to be subject to the civil power. We contend, then, that upon a doubtful and contested question, men are more certain to obey God by submitting to the law, than by opposing it. God's

law is supreme above all human authority; but so imperfect and variable a faculty as the conscience, is not its infallible interpreter, and to allow each individual to adopt its fancied suggestions as the rule by which to govern his allegiance to the constitution of his country, would be to abrogate all the government, and overthrow the ordinance of God.

How, then, are we to gather our conclusions of what God's law requires, that we may discern the occasions which justify us in disobeying the laws? We answer, that when a great and enlightened people; a people possessing a proverbial reverence for God's will, and possessing, moreover, all the advantages which the world affords, for deciding a great moral question—when such a people deliberately, and with devout prayer to God for wisdom, agree upon a constitution, as the best and wisest, which can be devised for their government, it is then to be presumed, that such constitution has the divine sanction, and that to maintain and support it in all its parts, is not contrary to God's will. If in any case, "the powers that be, are ordained of God," are they not in such a case? If this is not absolute and infallible proof, it is at least, we think, the highest kind of proof, that the nature of the case admits of. Upon a question of this kind, "the voice of the people is the voice of God."

If it is said, that after all, the voice of the many cannot rightfully control the consciences of the few, we may reply with at least equal reason, that the voice of the few cannot rightfully control the consciences of the many. If the majority believe the government to be a legitimate government, consistent with the law of God, and as such an ordinance of God,—then its acts are binding upon their consciences. Their consciences, as well as their judgments and interests, bind them to maintain it. And now shall the few who may differ from them, declare that for their sakes such a government shall be paralyzed, and such a constitution become a dead letter. If conscience is to decide, shall the few presume that they alone have consciences, and wilfully obstruct the operation of laws which the consciences of the many bind them to uphold. We contend, that when the consciences of men thus come into conflict, it is the duty of the few to submit to the consciences of the many; for if every man is to follow what he may please to call his own conscience, but which is to often his own will, or his own passions, what inextricable confusion and disorder would be introduced into civil society. The whole social fabric would indeed be disorganized. The fifth monarchy men in the reign of Cromwell, conceiving that the Lord Jesus was about to establish a personal reign upon the earth, were impelled by their consciences to attempt the overthrow of all civil government,

and issuing forth, with swords in their hands, attacked the constituted authorities with such fury, that they were only subdued after a sanguinary struggle. St. Paul declares, that he acted in "all good conscience" when he persecuted the saints and stoned Stephen. The ministers of the Inquisition inflicted their diabolical cruelties for conscience sake; and the devout Puritans burnt witches for the glory of God. Who can enumerate the absurdities which have been enacted, and the villanies which have been perpetrated under the sacred authority of conscience. And, if all the stuff which fanatics, both religious and political choose to utter about their consciences, is to have practical force, to what frightful anarchy would human society be reduced, and what contemptible mockeries would human governments become? We conclude, then, that when a constitution is adopted, with the concurrent will of an intelligent and religious people, competent, so far as men may be competent, to judge of its agreement with the law of God, it is to be presumed as near in accordance therewith, as any human instrument can be. And even though such constitution might contain some provisions, which, if they could be separated from the rest would not meet the approval of many; yet, if they are so incorporated with the rest that they cannot be separated, and it is upon the whole the nearest right, which it is the power of a Christian people to contrive, and the only one upon which all the people can agree, then we contend, that all are morally bound to respect and submit to it in all its parts. And further we contend, that every law passed to carry out the provisions of such constitution, is binding upon the consciences of all good citizens. Under such a government, a law is only contrary to God's law, when it is contrary to the constitution. If it should still be insisted that every man's conscience is law to him, and that he ought to disobey the civil law, when his convictions of duty are averse to it,—we can only say, men have it at their option to choose between the law and the penalty; if they will not obey the law, they should submit uncomplainingly to the penalty. The Christian religion forbids them, in any case, to make forcible resistance. If they suffer in consequence of having such eccentric consciences, it is surely no fault of a government, which is approved by the consciences of the great body of the people.

To apply these principles to our own constitution. The people of this country are a Christian people. They are an intelligent people. They are trained from their infancy in the knowledge of God's law. They are trained from their infancy to the discussion of political principles, and the settlement of political questions. They understand the nature and operation of laws, as no other people understand them. If there is

a people on the earth competent to judge of the agreement of a constitution with the law of God, it is the American people. The people of this country have given in their solemn adherence to the constitution. They have not submitted to it of necessity, they have adopted it of choice. For more than sixty years of its existence, on the 4th of July of each year, a thousand voices, coming up from every section of the land, and representing every sect, and party, and interest of the country, have uttered its praises. Divines of every shade of belief, Philosophers of every school, Statesmen of every party, have in their turn eulogized this immortal instrument. If it had been contrary to God's law, it is passing strange that the Christian intelligence of this great people has not to this day discerned it. We hold it to be the sense of the American people that the Constitution of these States is not contrary to the law of God, and that to obey it in all its parts is morally right.

And when we say this, we do not mean that every provision considered abstractly is just what all would approve of. The circumstances of the world do not admit of absolute perfection in any government. But we mean that, taken as a whole, it is the best that could be devised by an intelligent people, earnestly desiring to do right. If this is the case, and its parts are so cemented that they cannot be separated without the destruction of the whole fabric, are we not morally bound to approve of it? Should we not be guilty of greater moral wrong by rejecting it altogether, than by submitting to it as it is? Individuals may fix their eye upon some particular feature, which separated from the rest they cannot approve of. But the question should be, is the constitution as it stands, such that we are guilty of greater moral wrong by submitting to it, than we should be by rising against? Ought not the fact, that it meets with the approval of the great body of the people, to satisfy us upon this point? Is it not morally right to do the best we can, and to maintain the best system which the imperfection of human society, and the circumstances of the age admits of? And would it not be morally wrong to abolish such a system, in order to escape some unavoidable evils connected with it? Does the Gospel allow us to do a great evil, that a little good may come? Every body knows, that many cases arise in human life, when conflicting motives appeal to a man's conscience, some considerations making it his duty to act in one way, and other considerations making it his duty to act in a directly opposite way. But what does every good man do in such a case? He carefully examines the whole ground, weighs the conflicting motives, and then acts according to what, upon the whole, he believes to be nearest right, although in such a case he may do things which, if taken separately, his conscience would con-

demn. And we hold that that which is nearest right, is *absolutely* right. It is absolutely right for a man to do the best he can, although, under other circumstances, he might do better. And now if the Constitution of the United States is, upon the whole, the best that can be devised, we hold that it is morally right to obey it in all its parts, although, under a more perfect state of society it might be possible to improve it; and hence that we are morally bound to obey all laws passed to carry out its express provisions.

That this is especially the case with respect to all who accepted of the privileges of citizenship, we think undeniable. Every man who exercises the right of suffrage, does, in depositing his vote, recognize the authority of the constitution, which confers that right upon him; and he acknowledges his moral obligation to support the government, as a legitimate government and an ordinance of God, and virtually pledges himself thereto. In some of the States, indeed, a declaration to this effect is required under oath, before the individual can be permitted vote. This is the case, we believe, in all or most of the New England States, and is emphatically the case in all the States, with respect to such as hold office under the constitution. Now, we hold, that a man who in either of these ways—either by voting or holding office, has signified his allegiance to the constitution, has virtually declared his belief that it imposes no obligation, which his conscience forbids him to discharge. And we can conceive of no greater inconsistency, than for a man solemnly to acknowledge the authority of the constitution, and deliberately enter upon the exercises of the rights conferred by it, and then presume to say that his conscience does not permit him to obey it.

It is certainly a curious spectacle, to see a man calling himself a Christian, take a solemn oath; calling upon God to witness that he intends to violate his conscience; or to see the same man take oath to support the constitution, and then say, that his conscience requires him to commit perjury by acting in defiance of it. We think that every American citizen is bound by a double obligation to obey every constitutional law of the United States. 1. Because by the voice of the nation, it is not contrary to the law of God, which should satisfy his conscience that upon the whole it is right, and therefore binding as an ordinance of God. 2. Because, by his own act, he has signified his allegiance to it.

But now it may be asked on the other hand, what is the duty of citizens with respect to laws which are not constitutional? The simple answer is, that a law which has been adjudged by competent authority to be unconstitutional, is, by virtue of such decision, null and void. But no good citizen will presume a

law unconstitutional, and disobey it upon his own authority. On the contrary, the passage of a law by both houses of Congress, after due and unrestrained deliberation, should be taken as strong presumption of its unconstitutionality, and should make most men diffident of asserting the contrary.

But even where there is good reason to question the legality of public acts, they must still be submitted to, and obeyed as the laws of the land, until such time as their illegality shall be established. The citizen may doubtless enter his protest against such law, and take every legitimate step to obtain redress, should he be personally aggrieved by it, as was the case not long since in the City of New-York, where the imposition of certain custom duties by the Secretary of the Treasurer was judged by some merchants illegal. They nevertheless paid the duties, though under protest, with a view to obtain redress thereafter. But it is clear that all such questions must be determined, not by each man for himself, but by some competent tribunal, whose decision shall be final and authoritative. Such a tribunal is the Supreme Court of the United States, made by the constitution itself, the final interpreter of all its provisions, and the authoritative judge of all laws passed under it. To that tribunal any man may appeal who thinks himself aggrieved an unconstitutional law of the United States. But any law is to be presumed constitutional and submitted to as such, until that tribunal shall have declared to the contrary.

What now are the conclusions to which these remarks lead us?

1. We believe that any individual who in any case, and for any reason, forcibly resists the laws of the United States, is guilty of crime in resisting the ordinance of God, and must be condemned in the consciences of all good citizens.

2. We believe that for an American citizen to refuse obedience to the laws of the United States, on the ground of their unconstitutionality, or upon the plea of conscience, is absurd inconsistent, and fanatical.

3. We believe that if an individual persists in refusing obedience to the laws of the United States, on the plea of conscience, or because he is required to perform duties which his sensibilities or feelings revolt at—as to be hangman, or a jailor, he is bound still to honor the law by submitting quietly to the penalty. Let us now come to the application of these remarks:

The Congress of the United States, during its last session, passed a law providing for the arrest of Fugitive Slaves, and their restoration to their masters.

This law has caused unusual excitement at the North, and has been assailed by very strong, and in some instances, intem-

perate opposition. In some quarters, violent resistance has been threatened, should occasion require its being executed. The threat of resistance I regard as wicked and abominable, answering no end but to exhibit the ferocity and madness of those who make it, and exposing them to the just indignation of all good citizens. Opposition to the law in any form, we regard as utterly unjustifiable, except on one of the two grounds which we have before stated, viz., either that it is contrary to the law of God, or that it is contrary to the constitution. But we have endeavored to show that individuals are not to presume either of these cases upon their own responsibility. We have no right to presume a law morally wrong which is required by the constitution, for thereby we offend against the general sense of the nation, unless we are prepared to show that the nation has repudiated the constitution. If this Fugitive Slave Law be demanded by the constitution, we cannot judge it abstractly. The question is not, would it be right if taken by itself? but is it right as part of the constitution? If the constitution, as it stands, is upon the whole the best that the circumstances of the nation admit of, we are morally bound to submit to every part of it. We cannot make our conditions with the government, and say we will obey the constitution if this part be excepted; other men may deem it wicked to sell rum, and refuse subjection to a government which legalizes the rum traffic; others may except to other portions, and where would such a course end? If it is, as a whole, the best that can be, it is supreme law for the whole nation by the authority of God, and every man is morally bound to submit to every law required to carry out its provisions. The only proper question then is, is this law constitutional? and we have already shown that no man has a right to presume otherwise, until a competent authority has so decided; certain it is that no such decision has as yet been had; on the contrary, the highest judicial officer of the land has given his opinion that it is in accordance with the constitution. Here then we might rest our argument. This law is the law of the land, and every man is morally and religiously bound to render it respect and submission. But though we may not presume to accept of a law, purely upon our own judgments, it may nevertheless be gratifying to satisfy our judgments that it is what it is declared to be, constitutional; and in the opinion of the nation, not contrary to the law of God. I believe this law to be constitutional—not upon my own judgment alone, for I have reason to distrust my own judgment upon a matter of this kind—but because it has been so declared by the ablest men of this nation, some of whom gave it their sanction in Congress, and others of whom have approved of it since. The President of the United States has signed it;

the Attorney General has given an official opinion, approving of it; and it has been denied by no one that I know, except men who understand a great many other things better than they do law. I have endeavored to understand this law, and, in my humble judgment, can see no reason to doubt what so many able men have affirmed. I do not consider myself any high legal authority, but will, nevertheless, venture to state my views.

That the *object* of this law is constitutional no one can doubt. The constitution does, beyond all question, recognize the right of property in Slaves, and it guarantees to every man the enjoyment of his lawful rights. But it would be a manifest violation of such guarantee to allow men to be dispossessed of their property, whether in slaves or otherwise, contrary to the laws of the State in which they live. The very design of the constitution is to secure equal rights to all, without respect to state lines. Hence, if it recognize a slave as property, and that without respect to the place he may be in, it must guarantee unto the master the lawful possession and service of his slave, wherever he can find him. The lawful claim of the master is not vitiated by the removal of the slave a certain number of miles, but in the eye of the constitution the slave is his, wherever he can establish a legal title to him; and it follows that the constitution must protect him in the enforcement of his claim, in whatever part the United States the slave may be. It accordingly makes provisions that "no person held to service or labor in one State, under the laws thereof, escaping into another State, shall, in consequence of any law or regulation therein, 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." The constitution does not create slavery; it simply guarantees that the laws of one state shall not be annulled by the people of another state, and that therefore a slave under the laws of one state, shall not cease to be a slave by the removal of his person into another state. It is to carry out this object of the constitution that this obnoxious law has been passed.

But we apprehend that the chief objections to this law lie against the manner in which it provides for the accomplishments of its object. The law provides that the owner of a fugitive slave, or a person holding power of attorney from him, may, under a proper warrant, bring such fugitive before any court or judge of the United States, or any commissioner appointed by the courts of the United States, when it becomes the duty of such judge or commissioner to hear and determine the case in a summary manner; and upon satisfactory proof being made as to the identity of the person, and also as to the fact of his being really and truly a slave, to authorize the claimant to take the slave back to the place which he fled from.

It is objected to this mode of proceeding that it does not al-

low the slave to test the question of his slavery before a jury, but upon the mere proof of his identity, and that upon the affidavit of the opposite party, he is delivered up. We observe upon this objection, that the constitution is the highest law of the land—supreme above the common law, and above the statute laws of the several states. If it shall appear that the constitution contemplated this mode of procedure, it is idle to say that it is contrary to the ordinary mode of proceeding in a property question under the common law. Whatever may be the *ordinary* mode of proceeding, if the constitution has provided *for this particular case*, the question is settled. Judge Story, the highest law authority perhaps in this country, thus speaks upon the clause of the constitution under which this act was passed. Says he, “It is obvious that these provisions for the arrest and removal of fugitives contemplate summary ministerial proceedings, and not the ordinary course of judicial investigations, to ascertain whether the complaint is well founded or the claim of ownership be established beyond controversy. In the case of suspected crimes, the guilt or innocence of the party is to be made out upon his trial, and not upon the preliminary inquiries whether he shall be delivered up. All that would seem to be necessary in such cases, is, that there should be *prima facie* evidence before the executive authority, to satisfy its judgment that there is probable cause to believe the party guilty, such as upon an ordinary warrant would justify his commitment for trial. And in the cases of fugitive slaves, there would seem to be the same necessity, of requiring only *prima facie* proofs of ownership, without putting the party to the formal assertion of his rights by a suit at the common law. Congress appears to have acted upon this opinion; and, accordingly, in the statute upon this subject, (law of 1793,) have authorized summary proceedings before a magistrate, upon which he may grant a warrant for a removal.” Such was the opinion of Judge Story, twenty years before this law was passed.

Again, it is said, that the constitution itself provides that “the trial of all crimes shall be by jury,” which, it is said, this law violates. Those who quote these words, should read the next—“and such trial shall be held in the State where the said crime shall have been committed.” If it is a crime for a slave to run away, he certainly commits the crime in the state where he runs away and it is there that by the constitution he must have his trial; and surely there is nothing in this law to prevent it.

Again, it is said, that this law deprives the slave of the privilege of the writ of *habeas corpus*. This writ is a remedy against unlawful imprisonment. Any man put in prison or held in confinement, except under the sentence of a court, may apply to the Judge having jurisdiction, who forthwith issues a writ of *habeas corpus*, requiring such person to be brought be-

fore him, and cause to be shown why he was put in confinement. But after the sentence of a court, having ultimate jurisdiction, adjudging a man to imprisonment, there can be no such writ issued, for then the man is in custody according to law; and in the language of the Attorney General, "it is not within the province or privilege of this great writ to loose those whom *the law* has bound." It is not intended to nullify laws, but to prevent imprisonment contrary to law. Now those held as slaves under the laws of the United States, clearly cannot take out a writ of *habeas corpus* to try why they are held as slaves, any more than a man in the State Prison can take out such a writ to try why he is held in custody. *The laws have already decided it.* In both cases the person is in custody *by authority of law*, and it is surely absurd to talk of suing out a writ of *habeas corpus* to *make the law show cause* why it has put a man in custody. In the case of a fugitive slave, it is indeed necessary to prove that he is a slave before his custody is lawful. Accordingly, should a person be arrested on this plea and held in confinement, without due steps being taken to test the question of his slavery, a case might arise when a writ of *habeas corpus* would be had, and in such a case there is nothing whatever in this law to prevent the suing out such a writ. But by the provisions of this law, the *person is not held in confinement*, but is brought at once before a Judge or Commissioner, who is bound to hear and determine the case in a summary manner, and give to the claimant, (if his claim be established,) lawful authority to take his slave, after which a writ of *habeas corpus* can of course have no force. Mr. Crittenden, the Attorney General, after discussing the law at some length, thus speaks:—"I conclude by repeating my conviction, that there is nothing in this bill which conflicts with the constitution, or suspends, or was intended to suspend the privilege of the writ of *habeas corpus*."

But perhaps the strongest feeling of opposition has been expressed against that clause of the law which makes it the duty of citizens to assist in its execution, and empowers the officer having charge of its execution, to summon the by-standers to his aid, should circumstances render it necessary. Upon this clause of the law, a loud and pathetic wail has been raised, that free citizens are exposed to the liability of being degraded into *slave catchers*; and to hear some men talk, we might all expect to be summoned from our beds to hamstring negroes—and to see troops of screaming slaves flying through our streets, pursued by ruthless savages, with pistols and bloodhounds, and to be ourselves required to join in the ferocity of the hunt. Now those who raise this terrific complaint, should remember that citizens are at all times liable, in case of any obstruction

to the laws, to be called on to aid in their execution. In case of riot, or the arrest of an escaped convict, or suspected criminal, every citizen is bound by the law to obey the sheriff or constable, who may demand his assistance. But from whom is obstruction to this law to be feared, if at all? Why only from those who now clamor against it. If they will not oppose the law, there will be no need of any one to assist the officers in its execution. With the negroes alone they will be perfectly competent to deal. It would indeed be very revolting to one's feelings to be called on to assist in arresting a slave. But, practically, what does this provision amount to? How many of all the gentlemen who now tremble in their shoes, for fear of being required to lay hands on a slave, have ever been called on to assist in arresting a criminal? Probably not one in a thousand of all the people in the United States, ever saw a criminal arrested, and probably not one in a thousand of all the people in the United States, will ever see a fugitive slave arrested.

But who are the men who make the loudest opposition to this law? Why, the men, (I say it more in sorrow than in anger,) who have themselves, in a great measure, created the necessity for it. Men, who in violation of the constitution which they have sworn to maintain, wantonly invaded the rights guaranteed by the constitution to their fellow citizens—who not content to wash their hands of slavery, with their countrymen of the North—have gratuitously followed it to the South, and by inducing the slave to rise against the laws and escape from his master, have been instrumental in spreading the curse over the land. And through their wicked and officious meddling, SLAVERY NOW EXISTS AT THE NORTH, when, but for them, it might have existed only at the South. It is asserted that there are at this hour, three hundred lawful slaves in the City of Boston, and thousands more scattered throughout all the Northern States. Whose fault is it that this curse now exists among us, but theirs who have invited it here? And if northern men are now to be brought into contact with it, and to be slave catchers, who among them have so little reason to complain as these men themselves? They have brought the curse among us; they should not shrink from the work of removing it out of our sight. They have wrought the mischief; they, if any, should be willing to work the remedy, and thus make some little atonement for the wrong which they have done the North.

Had they acted before God as good citizens and christian men, in accordance with the principles of the Gospel and the example of Christ and his Apostles, and shown respect and submission to the laws, we should not have now been put to the loathsome necessity of contaminating our fingers with slavery; and we repeat it, no northern men have so little reason to complain as those who could not keep their fingers away from it, when placed by the law beyond their legitimate reach. A slave running away from his master, is none the less a slave under the constitution. Wherever there are lawful slaves, there is slavery, and if from the enticement of slaves to the North by northern men, Congress has been constrained to reassert and confirm this undoubted provision of the constitution, and

thus practically to revive slavery at the North, whose fault is it, I again ask, but theirs who have brought it here? This obnoxious law is but the result of a constitutional necessity growing out of the transportation of slaves to the North.

Before concluding these remarks, I wish to allude to an objection brought against this law, on the ground that it is contrary to the Scriptures. In various quarters a passage has been quoted from Deut 23, 15, "Thou shalt not deliver unto his master the servant that is escaped from his master unto thee, &c." Those who quote this text should remember, that most able commentators regard this text as referring to the slaves of another nation escaping into Judea; such were not to be delivered up. Dr. A. Clark has this comment on the passage—"that is, a servant escaping from an idolatrous master, that he might join himself to God and his people—otherwise it would have been injustice to have harbored him." A slave escaping into Judea from one of the surrounding nations was not to be delivered up; and such is to this day the law of nations, and the law of the United States. When a few years ago, a number of slaves escaped to this country from the West Indies, in the Spanish vessel *Amistad*, they were, by a decision of the United States Court, set at liberty, and were, I believe, only demanded by the Spanish authorities on the ground that the vessel was not within the waters of the United States when she was taken possession of. So that this passage of scripture so triumphantly quoted against this law, is at this moment the law of the United States. That slaves escaping from one tribe to another among the Hebrews, were not to be delivered up, has not been shown. But whatever might have been the regulation upon this point, it could not have affected very materially the condition of the slave, for slavery existed in all the tribes, and that with the express sanction of God, as is evident from Lev. 25, 44, &c. "Of the heathen shall ye buy bondmen and bondmaids; moreover, of the children of the stranger that do sojourn among you, of them shall ye buy and of their families which are among you, which they begat in your land, and they shall be your possession. And ye shall take them as an inheritance for your children after you, to inherit them for a possession."

In the New Testament, although the writers all lived under slaveholding governments, we find nothing forbidding the restoration of fugitives, if the civil law required it. On the contrary, St. Paul says, "Let as many servants (or slaves, as the word properly signifies,) as are under the yoke, count their own masters worthy of all honor."

One of the canonical books of the New Testament, the Epistle to Philemon, is a letter written by St. Paul to a slaveholder, and sent by the hands of a fugitive slave, in which the Apostle says, that he had sent the slave back, as without the master's consent, he considered it wrong to keep him, and asks the master to forgive him for running away. I do not allude to these texts and instances as arguments. I do not think that anything that can be found in scripture has any very conclusive bearing upon the subject in hand. The circumstances of the age and country are so different, that we can

infer nothing from them with certainty. But if men will quote Scripture against this law, we have a right to show what the Scriptures actually say.

If this law is morally wrong, it can only be so on the ground that slavery is morally wrong. To discuss the morality of slavery, is foreign to my present purpose. I am dealing simply with this law, as a measure to carry out the constitution under which we live. I repeat, we can only discuss it as a part of that constitution; what would be our judgment of it under other circumstances, is nothing to the case. It cannot be separated from the fundamental law of the land; and to pronounce it in such a connection morally wrong, is to offend against the moral sense of the nation, and oppose the ordinance of God.

If it be said that I am reasoning from false premises—that the moral sentiment of the nation condemns this law, my reply is, then let it be extinguished at once. “The voice of the people is the voice of God.” But we must not lose sight of the fact, that to abolish this law is to change the constitution, or at least, to render a portion of it a dead letter; and the question is not do the people condemn this law by itself, but do they condemn it, constitution and all? Although the laws and constitution must all bow before the majesty of the people, yet we should be sure that the people have spoken, before we take it for granted that the law and the constitution are abolished. Men should not be too hasty in presuming that their consciences have effected a revolution in the land. In this democratic country, we are very prone to imagine ourselves with the majority—to jump to the conclusion that our convictions are the convictions of the nation; especially is this the case upon an exciting topic of this kind. Men with their feelings wrought up touching this law, and with all its offensive features magnified to their vision, imagine that the whole nation are looking at it with the same horror-stricken gaze. It may be so. I do not deny it. But would it not be better to wait a legitimate expression of the nation’s will, through their representatives, before we proceed to break the law upon such a supposition. The assembled Congress of the nation, coming from all parts of the country, are far better able to judge of the feelings and wishes of the people than you and I. If this law is objectionable in its details, if it is more severe and injurious to the feelings of the North than is absolutely necessary to meet the requirements of the constitution, it should be forthwith amended. The people at large may and ought to express their demands for its amendment. The people of the South will, I believe, consent to its amendment, if it be asked in a spirit of conciliation.

You must observe, that there is a great difference between simply disliking this law, and demanding its absolute repeal in the face of the consequences which threaten to follow. It is not like a law which is simply not inconsistent with the constitution. Many such laws there may be, both good and bad, the passage or repeal of which do not affect, in any way, the integrity of the constitution. It might be constitutional to pass a law to build a dam across the

North River, but it would be a very bad and injurious law, and would be instantly repealed at the demand of the people.

But the Fugitive Slave Law is absolutely demanded to carry out an express requirement of the constitution, as much as laws establishing Custom Houses and Post Offices.

While all then contend that this law is essentially identified with the constitution, and cannot be separated from it, under the critical circumstances of the nation, without destroying the constitution, we may still allow that is harsh and repulsive to the spirit of the age. It is a part of the necessary machinery of a system which is itself a relic of barbarism, and which has been for the past six hundred years, steadily declining before the growth of popular ideas, and the march of Christian civilization. That men, whose interests are nowise identified with such a system, should love this law for its own sake, is not to be supposed. It was not passed at the choice of the North. It was submitted to from an unavoidable necessity; and in the spirit in which it was passed, should it now be received by the people. As long as slavery exists under our constitution, we have no choice but to submit to its inconveniences; and we submit to this law, not because we like it, but because the maintenance of the constitution demands it.

We do not forget that the will of the people is the ultimate law of the land; and if the time has come when the people of these States are ready to declare that they will no longer be subject to a constitution which recognizes slavery; that they will no longer, under any circumstances, or for any cause, participate in its regulations, or submit to witness its regulations in their midst; that at all hazards, and reckless of consequences, they will break off all connection with it; I say, if such is the will of the people, so let it be. But I pray God that they may pause well, and earnestly examine the ground on which they tread, before they take so momentous a step. They may nullify the constitution if they will. They may sever the Union of these States. They may split this great confederacy into fragments. They may revolutionize this continent. But the man who expects such a revolution, without blood and tears, and the horrors of a civil war, has not discerned the signs of the times. We should consider well the question whether our present Government with slavery, is not better than disunion, anarchy, and civil war, and slavery, after all? Will slavery be abolished by the overthrow of this confederacy? Will not rather its evils be multiplied and its extinction be put further off?

Much as I regret the necessity for any such law as the one we are now considering, yet I believe we are under moral and religious obligations to submit to it as indispensable to the present safety of the country. And in saying this, I do not admit the application to myself of the ungenerous taunts which have been thrown out, that those who would see the law maintained, are in "favor of slave catching." I claim to love my country, and to love righteousness, as well as other men. I have the same right to claim credit for honesty of views. I am not in favor of man catching. I am not in favor of slavery. I abominate it as a monstrous evil, and can any

man show me how it can be extinguished this day or this year, I will honor him as a prophet sent from God.

If I sincerely believed that a disunion of these States were possible, without blood, and that such a disunion would destroy the institution of slavery, with my whole soul would I recommend it this day. But I devoutly believe that the integrity of our constitution is the surest hope of the slave. I believe that the encroachments of free labor, and the moral power of the North, and the various influences which are pressing against slavery, will be exerted with tenfold more efficiency, while the Union is maintained, than they would be, were the North and the South divided; with national boundaries, and commercial and tariff regulations, to say nothing of antipathies and jealousies, erecting a barrier between them.

We stand perhaps upon the eve of great events. What may be in the future, no man can tell. Certain it is, that the wisest and best in the land, discern dangers gathering upon the sky. It is a time for the Patriot to be thoughtful and for Christian men to pray. Let us look with devout hearts to the God of our Fathers, that as he guided them in the day of their peril, he may now guide their sons through the difficulties which thicken around their path. Let us not wantonly stir up the elements of discord anew. We may kindle a fire that will indeed extinguish the Fugitive Slave Law, but which will at the same time consume all that is beautiful and fair in this goodly land. Let us in the fear of God, reverence the laws. Let us stand by the Union. The breath of fanaticism blowing from the North, and blowing from the South, has swelled into a fearful gale, which threatens to engulf the Constitution. The noble ship is reeling before the blast. It becomes all on board to have cool heads and true hearts. May God give her a good deliverance, and may all the people say Amen.





