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Judge Leavitt said he would give his decision, and the parties might afterward assert their rights they might conceive themselves possessed of.

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"Without taking time to set forth at length the facts appearing in the petition for this habeas corpus, and the returns made to it, I may say in brief that the question involved is, whether the Marshal or the Sheriff of Hamilton is rightfully entitled to the custody of the four persons named in these proceedings. At the time that this writ was send out a claim for these persons, with others alleged to be fugitives slaves, was pending and undetermined before a Commissioner of the County Court. In the progress of the investigation of this claim, the Commissioner, for the safe keeping of the alleged fugitives, had ordered them to be confined in the jail of Hamilton County, to be brought before him from time to time, as he might adjudge necessary. The Commissioner on the 20th of February issued an order to the Sheriff requiring him to produce the bodies of all the alleged fugitive—seven in number—in the morning of the next day at 10 o'clock, to answer to his final judgment in the premises. In pursuance of this order the Marshal made the attempt to get the possession of the persons mentioned, but the Sheriff refused to permit him to take them from the jail—the four persons in reference to whom the writ of habeas corpus issued. The return of the Sheriff sets forth as the ground of his refusal that the Grand Jury of Hamilton County had returned a bill of indictment against these four persons for the crime of murder in the first degree, a writ of capias was duly issued on the 20th of February, requiring him to take the said persons into his custody, to answer to the said charge; and that, on the same day, pursuant to the command of said writ, he arrested them, then being in the jail of Hamilton County, upon the order for their removal by the Commissioner as before stated, and made a return of such arrest on the writ of capias. And the Sheriff claims that he is rightfully in the possession of these persons in virtue of these proceedings, and cannot surrender it to the Marshal or his claim.

"The question presented on these facts is one of conflict between the Marshal and the Sheriff as to the legal custody of these persons, now in the jail by the counsel of the Marshal. That they were in his custody under the writ of habeas corpus is conceded, and that it was not competent for the Sheriff to arrest them, under the process of the State, while they were so held under the authority and by the authority of the laws of the United States. Or, the other hand, it is claimed by the counsel of the Marshal that the proceedings against them under the Fugitive Slave Act, then pending, and their commitment to the jail of Hamilton County, under the order of the Commissioner on a charge of a violation of the criminal law of the State of Ohio.

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"But without extending my remarks in this direction, I may observe that if the four persons named in the writ of habeas corpus were, at the time of their arrest by the officers of the Marshal, in the ordinary course of process issued by authority of a law of the United States, I do not see how this question can be fairly decided. And I may here remark that, speaking judicially, the question is not affected by the fact that the writ of the United States Marshal may have issued pursuant and these persons are in custody, may be viewed even by a majority of community as fugitives from service or labor, illegally executed, or adjudged void on the ground of unconstitutionality by the proper judicial tribunal of the land, they are to be respected and observed as law.

"In holding, as I must do in this case, that the right of the Marshal to the custody of the persons in question must be respected, I am not to be understood as asserting that the Sheriff of this county is not responsible for a violation of the criminal laws of the State to which he may have fled. It is the undoubted right of every State to punish crime committed within its limits. A State destitute of the right in its freest and fullest exercise could not be an equal member of sovereignty. And if an escaped slave could violate law with impunity, many States of this Union would be in a most defenseless condition. It is not asserted, therefore, that they are not liable to punishment, but merely that if they are in custody of an officer, under a law of the United States, they cannot be forcibly taken from the custody of an officer acting under the authority of another, and, for the purpose of this question, a State writ is no more than the arrest, by the same officer, at a subsequent arrest, to be delivered from such custody.

"In Dorr's case, 3 Howard Rep. 105, Judge McLean, in giving the opinion of the Supreme Court, strongly sustains the position just stated. That was an application for habeas corpus to deliver Dorr from imprisonment in the State of Rhode Island, and under a sentence for treason committed against that State. Judge McLean says: 'neither this nor any other Court of the United States, nor Judge thereof can issue a *habeas corpus* to bring up a prisoner who is in the custody under the authority or execution of a State Court, for any other purpose than to be used as a witness.' And he also remarked whether the imprisonment was under *civil or criminal* process.

"If it be true, as there asserted, that no Federal Court can interfere with the process of the lower jurisdiction of a State Court, either in a civil or criminal case, the converse of the proposition is equally true. And it results that a State Court cannot take from an officer of the United States, even on a criminal charge, the custody of a person in execution on a civil case.

"It is said in argument that if these persons cannot be held by the arrest of the Sheriff under the State process, the rights and dignity of Ohio are invaded without the possibility of redress. I cannot concur in this view. The Constitution and laws of the United States provide for a reclamation of these persons, by a demand on the Executive of Kentucky. It is true, if now remanded to the claimant and taken back to Kentucky as slaves, they cannot be said to have fled from justice in Ohio; but it would clearly be a case, within the spirit and intention of the Constitution and the act of Congress, and I trust that nothing would be hazarded by the prediction, that upon demand properly made upon the Governor of Kentucky he would order them to be surrendered to the authorities of Ohio to answer to its violated law. I am sure it is not going too far to say that if the existence of the law did not require this, an appeal to comity would not be in vain.

"But I cannot expand on this question. I should have been gratified if time and the nature of my engagements had allowed me to enter more fully into the consideration, and to have noticed the numerous authorities cited in the argument. In my present circumstances this has been impossible."

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Margaret, the presumed murderer of her child, was the centre of attraction. Deputy Marshal Jolliffe apparently depressed and disquieted. The little infant, Sala, was carried by Pre. Russell, the door keeper of the United States Court, and the crying woman, Pollock, the reporter of the proceedings in the United States Court, completed the group. The fugitives generally were safely lodged in the omnibus, which drove down to the Covington ferry-boat; but, although a large crowd was present, there was no exhibition of excitement or disapprobation were shown.

On arriving at the Kentucky shore a large crowd of negroes were present to witness the pleasure at the termination of the long proceedings in this city by transportation of the fugitives. Commodore sat below the jail, where they were safely incarcerated, and the crowd moved off to the Magnolia Hotel, where several toasts were drunk and speeches made. The crowd also were addressed from the balcony by H. H. Robinson, Esq., of the United States Marshal's office, and by the Southern District of Ohio, who declared that he had done his duty and no more, and that it was a pleasure to him to see that no act was added to the link to the glorious chain that bound the Union.

Mr. Robinson, in addressing the crowd, said he never loved the Union so dearly as now. It was proved to be a substantial reality.

Judge Hoadley also addressed the crowd one of his peculiar orations; and was followed by Mr. Ganoe, owner of Margaret and her children. After hearty cheering the crowd dispersed.

We regret to have to record that after these rejoicings were over, and the party of the fugitives, an outrage was perpetrated by a band of low ruffians upon a worthy and estimable member of the press. During the day, Mr. Babb, the reporter for the reporter of *The Gazette*, was taking notes. He was pointed out by some of the fugitive party as an Abolitionist on the trail as an Abolitionist—an accusation that we are not aware is warranted by any facts. On his return to the city, in the boat, the crowd set upon him, knocked him down, and kicked him about. He was then pursued through the streets, and, after receiving a shower of rain.

Many call, were then made, "Lynch him," "Tar and feather him," "Throw him on a rail;" at last a call was made that met with a hearty response: "Put the d—d Abolitionist over the river and drown him from a pier!" The crowd moved down toward the river, having the Reporter in their midst. Before they reached it most fortunately they encountered the same outrage. Mr. Lee, late Deputy under Marshal Ruffin—now Deputy under Marshal Robinson, protecting the fugitives safely through Cincinnati. At the sight of the ex-shooters the crowd fell back, and Mr. Babb was quickly rescued by Mr. Lee from further suffering severely from blows, kicks and bruises.

Mr. Babb, however, the act of unscrupulous rowdies, is much to be regretted, as tending to exasperate feelings already sufficiently excited. The object of the cowardly assault was a gentleman of bright fame and feeble constitution; his habits are inoffensive and his dispositions amiable; there is no evidence of a disposition to do harm, or to assail him. He enjoys the esteem of all who know him. A more unjust selection for such a display of brutality as in this case we cannot conceive. We hope the matter will be investigated.

The returned slaves, with several others who attempted to escape over the river, are now in the Hamilton County jail ever since, will it is said, be sent down to Vicksburg in a day or two, and so the matter ends.

Sheriff Brashears, it is rumoured, will be in a difficult position, he having obeyed a Court of which he was not an officer, instead of returning the *capias*, with a statement of the facts, to his own Court. The Marshal was under an injunction from Judge Burgoyne not to remove the children until his decision on the habeas corpus case regarding them should be delivered on Saturday next, at 3 o'clock. We cannot yet ascertain what notice will be taken of these irregularities.

CINCINNATI SLAVE CASE.

RENDITION OF THE FUGITIVES

DECISION OF JUDGE LEAVITT.

OUTRAGE AT COVINGTON.

Correspondence of The N. Y. Tribune.

CINCINNATI, Thursday, Feb. 29, 1856.

The case is ended!

This afternoon Judge Leavitt decided in a very brief manner that the custody of the parties belonged of right to the Marshal, and not to the Sheriff, that the arrest of the parties by the latter officer was illegal, and that the fugitives should be given over to the custody of the United States Marshal.

The Judge anticipated, according to Mr. Hoadley's view, the question whether an armed mob submitting to the rendition was illegal, and so the Sheriff made none. At about 4 p. m. the United States Marshal and his posse moved to the jail, took thence the negroes and carried them across the river.

So they are in the Paradise to which Mr. Funnel, in his speech in behalf of the claim, made such touching mention.

It has been during the trial (and I have not been absent from the Court-room much) a source of great wonder where such another set of officials from the Commissioner down to the Assistant-Deputy United States Special Marshal could be found. The Sims Brigade was bad enough but this was more depraved, which fact that by the various qualities necessary to "Union-saving officers." I noticed to-day at the jail one young man volunteering his services as a Marshal who in company with another youth (*par nobile*) attempted to free Kissane, the forger from his imprisonment, and was caught in the jail-yard with the tools, which if I remember correctly, in his hand. He is an intimate friend of Mr. Commissioner Pendery, an inmate of his office, and if we judge a man by the company he keeps, we cannot form a high opinion of the moral or legal acquirements of Mr. P. The following will give you a better idea of the posse than anything I can say:

Some 20 or 30 of them off-duty by an article in one of the morning papers called at the office to-day and demanded the name of the writer of the offensive article. The proprietor refused to give it. The band, after learning that two individuals whom they suspected were absent, threatened the proprietor with violence. After some parley the men went out in front way and the proprietor the back, and the matter ended.

The case has a North-side view and a South side.

Look at it from the former point of view some very important effects are seen.

The community are thoroughly and deeply moved with a philanthropy that is not satisfied with words, but goes to the pocket. A prominent merchant of this city yesterday met Mr. Jolliffe and asked how much over these people needed money to draw on him for $100, and if exigencies required it, to buy the children and the business-men of the city would make up the purse.

Ohio sees too, that no crime is too great to go unpunished when the Union dear sands the return of fugitives.

Seven slaves were carried back to-day, and it is some consolation to know that seven crossed the Ohio last night and are now safe on free soil. Peggy Garner and her three children were captured, but during her trial *fifteen of her relations escaped from Kentucky.*

A Democratic view, I have only to say, is not wholly favorable to the efforts of certain fanatics.

"Why, Sir," said a merchant to me to-day, "one of my best customers (a man from Cattenden, Ky.,) came to my store yesterday and paid him $31, and said he should hereafter deal in Louisville. He would not come to a place that treated the South so."

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The last act of the drama of the fugitives was yesterday performed by the surrender of the seven persons whose advent into the city, under the bloody auspices of murder, caused such a sensation in the community. After the decision of Judge Leavitt, Sheriff Brashears surrendered the four fugitives in his custody, under a requisition from the Court, to United States Marshal Robinson. An omnibus was brought to the jail and the fugitives were led into it—a crowd of spectators looking on.

Margaret, the presumed murderer of her child, was the centre of attraction. Deputy Marshal Jolliffe apparently depressed and disquieted. The little infant, Sala, was carried by Pre. Russell, the door keeper of the United States Court, and the crying woman, Pollock, the reporter of the proceedings in the United States Court, completed the group. The fugitives generally were safely lodged in the omnibus, which drove down to the Covington ferry-boat; but, although a large crowd was present, there was no exhibition of excitement or disapprobation were shown.

On arriving at the Kentucky shore a large crowd of negroes were present to witness the pleasure at the termination of the long proceedings in this city by transportation of the fugitives. Commodore sat below the jail, where they were safely incarcerated, and the crowd moved off to the Magnolia Hotel, where several toasts were drunk and speeches made. The crowd also were addressed from the balcony by H. H. Robinson, Esq., of the United States Marshal's office, and by the Southern District of Ohio, who declared that he had done his duty and no more, and that it was a pleasure to him to see that no act was added to the link to the glorious chain that bound the Union.

Mr. Robinson, in addressing the crowd, said he never loved the Union so dearly as now. It was proved to be a substantial reality.

Judge Hoadley also addressed the crowd one of his peculiar orations; and was followed by Mr. Ganoe, owner of Margaret and her children. After hearty cheering the crowd dispersed.

We regret to have to record that after these rejoicings were over, and the party of the fugitives, an outrage was perpetrated by a band of low ruffians upon a worthy and estimable member of the press. During the day, Mr. Babb, the reporter for the reporter of *The Gazette*, was taking notes. He was pointed out by some of the fugitive party as an Abolitionist on the trail as an Abolitionist—an accusation that we are not aware is warranted by any facts. On his return to the city, in the boat, the crowd set upon him, knocked him down, and kicked him about. He was then pursued through the streets, and, after receiving a shower of rain.

Many call, were then made, "Lynch him," "Tar and feather him," "Throw him on a rail;" at last a call was made that met with a hearty response: "Put the d—d Abolitionist over the river and drown him from a pier!" The crowd moved down toward the river, having the Reporter in their midst. Before they reached it most fortunately they encountered the same outrage. Mr. Lee, late Deputy under Marshal Ruffin—now Deputy under Marshal Robinson, protecting the fugitives safely through Cincinnati. At the sight of the ex-shooters the crowd fell back, and Mr. Babb was quickly rescued by Mr. Lee from further suffering severely from blows, kicks and bruises.

Mr. Babb, however, the act of unscrupulous rowdies, is much to be regretted, as tending to exasperate feelings already sufficiently excited. The object of the cowardly assault was a gentleman of bright fame and feeble constitution; his habits are inoffensive and his dispositions amiable; there is no evidence of a disposition to do harm, or to assail him. He enjoys the esteem of all who know him. A more unjust selection for such a display of brutality as in this case we cannot conceive. We hope the matter will be investigated.

The returned slaves, with several others who attempted to escape over the river, are now in the Hamilton County jail ever since, will it is said, be sent down to Vicksburg in a day or two, and so the matter ends.

Sheriff Brashears, it is rumoured, will be in a difficult position, he having obeyed a Court of which he was not an officer, instead of returning the *capias*, with a statement of the facts, to his own Court. The Marshal was under an injunction from Judge Burgoyne not to remove the children until his decision on the habeas corpus case regarding them should be delivered on Saturday next, at 3 o'clock. We cannot yet ascertain what notice will be taken of these irregularities.