

THE CRIMINAL CHARGE AGAINST THE NEGROES.

RETURN OF THE SHERIFF.

From The Cincinnati Gazette, March 1.

The Prosecuting Attorney, Joseph Cox, esq., drew the attention of Judge Carter yesterday afternoon to the return of the Sheriff in the matter of the four negroes, Margaret, Mary, Simon and Robert Garner, indicted for the murder of the negro child. He read the writ commanding him to produce the bodies of these persons, and the following return of the Sheriff: "HAMILTON COUNTY, Feb. 29.

"The within-named defendants, Margaret Garner, alias Peggy Garner, Susan Garner, senior, Robert Garner, alias Simon Garner, junior, and Mary Garner, were discharged from my custody on the 28th inst. by Humphrey H. Leavitt, Judge of the United States District Court for the Southern District of Ohio, under a writ of habeas corpus, issued from said Court, dated Feb. 25, 1856, and to me directed, which writ of habeas corpus is hereto attached; also the certificate of said Judge discharging said prisoners from my custody. G. BAUSTEANS, Sheriff,
"Hamilton County, Ohio."

After the decision of Judge Leavitt, he (the Prosecuting Attorney) issued another *ex parte* to which the Sheriff returned that he could not find the parties.

Judge Carter remarked that he had not the least hesitation in saying that it was competent for the Sheriff of this County, acting on the order of the Court in the issuing of the *ex parte*, to have arrested these defendants, no matter what may have been their position in reference to any other Court in the land. Under a Government like this there is no refuge for crime, and the perpetrator can occupy no position which would render him irresponsible to the laws which regulate the punishment of crime. It was therefore competent for the Sheriff to arrest the parties though they were before the United States Court on a trial as to whether they were fugitives from justice. It struck the mind of this Court that after the issuing of the *ex parte* by the State Court, it was the duty of the United States Court in all propriety, and even under the rules of comity, forthwith to have terminated their proceedings so far as the question of the negroes being fugitives from justice was concerned, and hand them over to answer for the crime committed in the meantime. To hold any other doctrine would be to say that fugitives from justice were irresponsible for crime. This would be entirely outrageous, to say the least of it. The Sheriff was, undoubtedly, bound to obey the writ of *habeas corpus* issued by the United States Court; he did so. But the United States Judge in his exceeding wisdom decided that the question of the negroes being fugitives was paramount to the charge of murder; and by the decision of that Court the Sheriff was obliged to deliver the custody of the parties to the Marshal of the United States. With this action of the Sheriff no fault could be found, but after he did that he might have served another *ex parte* on the parties before they reached the limits of the boundary of our State; though, probably, the remarkable expedition with which they were hurried off to the boundary line of another State did not give him time to inform himself as to his duty. Under the circumstance that the defendants were now without the jurisdiction of the State, the Court would suggest to the Prosecuting Attorney that he had better get a requisition from the Governor of Ohio.

Mr. Cox said he had sent to the Governor a statement of the facts, with a copy of the indictment, that he might take such action as he thought proper.

Judge Headley, in relation to the remark of the Court upon the subject of another *ex parte*, said that he had applied to Judge Leavitt to receive a supplemental return, setting up the fact that after the original return was filed, the Commissioner had proceeded to decide the case and grant his certificate, and that the claimants had received it. In the application to receive the amended return it was shown an affidavit had been made to the Marshal under the tenth section of the Fugitive Slave law, and he urged to the United States Judge that this changed the state of facts, and rendered it a controversy between the private right of the master and the right of the State, but Judge Leavitt refused to receive the supplemental return, though his decision covered the proposition therein. If a new *ex parte*, therefore, had been issued, it would have been followed by another order of the same kind. Here the subject ended.

PRESENTATION TO JOHN JOLLIFFE, ESQ.

CINCINNATI, Thursday, Feb. 28, 1856.

JOHN JOLLIFFE, ESQ.—Dear Sir: Your advocacy on frequent occasions, of the cause of fugitives from Slavery, entitles you to the grateful consideration of your fellow-citizens.

The stringent severity of the law by which the case of these victims of wrong has been adjudicated, has in most instances rendered futile your efforts in their behalf. If legal skill, earnest eloquence, and persevering exertion would have availed aught, their chains would have been broken. You, Sir, have this confidence, that what could rightly have been done for their sake, you have done.

In token of our approval of your services in their behalf, we beg to tender to your acceptance this purse and its contents.

The law known as the "Fugitive Slave Law," we believe to be in violation of the Constitution of the country, as well as of the common rights of humanity. By the operations of this law violence is done to every sense of public justice, as well as to the claims of philanthropy and the sympathies of our common humanity. Within a few days, because of its enactment, we, the inhabitants of a *Free State*, have been compelled to witness upon our own *free soil* many of the most odious and cruel features of the system of Slavery. We have seen a child perishing by the hands of its mother! That tragedy gives to us an illustration of the ruin wrought by that system upon the tenderest sensibilities of our nature. The dread of the wrongs it inflicts stifles the pleadings of maternal tenderness, and transforms the mother into the murderer of her child. We have seen the husband forcibly separated from his wife. In that act of wrong we have witnessed the utter contempt with which that system treats the authority of Him who has said, What God hath joined together let no man put asunder, as well as of its defiant disregard of the more sacred sympathies of the human heart; such laws pour contempt upon the dictates of justice and humanity, and are calculated to harden the heart, and benumb the conscience of every man who assents in their execution.

The great conflict between Freedom and Slavery must sooner or later come to a crisis. All neutral ground on this subject will be unknown. These two principles so opposite in their nature can never be made to harmonize.

But truth and justice will ultimately triumph, and although but few comparatively are, at present, ready to come to the rescue, yet there is no cause for despondency; remember that the mighty floods which roll down the Niagara and the Mississippi, are fed and supplied by springs and rivulets which scarcely murmur as they flow from their native hills. The cause of human freedom will thus progress. It is a majestic and perennial stream, which will deepen in its channel, widen in its course, extend in its flow and increase in its rapidity, until the foul stain of human slavery shall be forever blotted from the sight of Heaven.

D. ANDERSON, }
GEO. L. WEED, }
S. C. FOSTER, } Committee
JAS. B. HANSEY, }
& STRAIGHT, }

CINCINNATI, Friday, Feb. 29, 1856.

Messrs. D. ANDERSON, GEO. L. WEED, SETH C. FOSTER, J. B. HANSEY, & STRAIGHT:

GENTLEMEN: I have received with gratitude your letter of yesterday, and the well filled purse that accompanied it.

The acts of Congress you refer to do indeed violate the Constitution of our country, chiefly because they prevent the exercise of the duties of humanity, and compel all who aid in executing them to commit gross sin.

Thanks to the wisdom of those who made that Constitution, they have in the first amendment secured to every man in the United States the greatest of all rights, that of Religious Freedom, by taking away from Congress all power whatever, either directly or indirectly, to pass any law that may for an instant invade or impair or hazard that great right.

Any act of Congress that may require any man in the United States to commit a sin, is therefore merely null, and should be disregarded, otherwise the Constitution cannot be supported.

Yesterday we had a clear illustration of the iniquity of the act referred to—a whole family, to whom freedom is dearer than life, was taken from Ohio and delivered to their claimants in Kentucky, and this, too, by men sworn to support the Constitution of the United States and under the order of the District Court. Even the clear right of the State—a right never for a moment delegated, but expressly reserved—to try a charge for homicide committed within its limits, has been suspended and made subject to the will or the judgment of officers of another State.

You say that sooner or later the crisis between Freedom and Slavery must come. Gentlemen, it has come. It is upon us now and here. We must meet it as men, or shrink from it and bear the responsibility of desertion from our posts of duty. Religious Liberty, without which man is deprived of the highest dignity of his nature, lies to-day in dishonored dust in Ohio by the decision of Pendergast; and the right of the State, a right which every wandering horde of savages possesses—to inquire into an accusation for homicide within its limits—is made subservient to the will or judgment of the officers of another State. All this is without law and against law, and against the Constitution of our country; and it remains only to be seen whether the people of Ohio will arise as one man and assert their rights, or tamely submit to outrages upon them that would drive any other people to the very verge of madness.

I thank you for the kind and very flattering expressions in your letter.

I am, Gentlemen, with great respect, JOHN JOLLIFFE.