

Excellency, the Governor of Pennsylvania, that Mr Mitchell could not be surrendered. I have given you a very brief statement of this important case, because, it will hereafter form a precedent, the extent and application of which cannot now be fully ascertained nor foreseen. The decisions of the Courts of Pennsylvania had declared the issue of fugitive slaves, born in that state, to be free, without regard to the law of the state, where the fugitive may have fled. This principle I repudiated, as being in manifest contravention of the spirit and intendment of the Federal Constitution; which by acknowledging the fugitive condition, in a properly providing for the arrest and extradition of fugitives from service, may be considered, by evident propriety of construction, as having recognized all incidental rights, growing out of the laws of the state, from which the slave may have escaped. Upon the other point, it had been decided, that, no one can be demanded, as a fugitive from the justice of a state, unless he has been actually present, within its jurisdiction, engaged in the commission of the act charged.

The Constitutional Convention being in session, during the pendency of this case, manifested a great interest in its result. After my decision became known, the Convention was pleased to express its approbation of my course, by resolutions unanimously passed. In one of those resolutions, I was requested to "instruct the Attorney General to cause such proceedings to be set on foot, as that, the case of said Agents (of Mitchell) may be brought before the Supreme Court of the United States, for adjudication. Those Agents were George F. Alberti and James Frisby Price, both residents of the State of Pennsylvania; who had been previously tried and convicted, upon indictments similar to the one found against Mr Mitchell, and sentenced to a long term of confinement in the Penitentiary of that State. They are still there. It cannot be justly regarded as an unwarrantable interference with the affairs of another state, if I make some comments upon the case of these unfortunate men. If Mitchell was innocent of the commission of any crime against the law, in receiving, then, certainly Alberti and Price were equally guiltless, in delivering to him the child of his fugitive slave. The rights of Mitchell, under the Federal Constitution, which is paramount to the laws of Pennsylvania, should have been a shield to his Agents. Moreover, it has been represented to me, by one of the Counsel of Alberti and Price, that the child was not, in fact, born in Pennsylvania, but in New Jersey; which should have given additional strength to the defence, for being solely to the local adjudications, under which the parties were convicted. The all-sufficient defence, in morals, however, was, that those very agents, themselves, fearing to incur possible responsibilities, had repeatedly refused to take the child, with the mother; until, finally, overcome by the entreaties of the mother herself, they yielded to their feelings of benevolence, and assumed the risk, which has resulted in their severe and unmerited punishment. The evidence of this fact, as I am informed, was ruled out at the trial. I have had reliable assurances that, this entire proceeding met with the unqualified condemnation of many of the ablest and best men of the Philadelphia Bar; one of the most distinguished of whom has, recently, published a masterly review of the whole case, in consonance with the opinions here expressed. Thus, the unconstitutional decisions of the Courts of Pennsylvania have prevailed. Unfortunately for the prisoners, the judgment cannot be carried up to the Supreme Court of the United States, for revision, in such a form, as to disclose the true merits of the case, and to elicit an adjudication of the important principle involved. If it could, I entertain no doubt, but the learned Tribunal, to whose acknowledged wisdom our chartered liberties have been so largely entrusted, would expunge this illogical theory from the judicial reports of Pennsylvania. An appeal, as the case now stands, would carry up nothing but the record below; the indictment, the verdict, and the sentence. The indictment is in the ordinary form, setting forth none of the controulling facts. It does not appear from, from its averments, that the