

Annapolis, March 4th 1851

His Excellency

E. Louis Lowe, Governor of Maryland,

Sir,

Having carefully considered the communication from your Secretary of State, Mr O'Neal, bearing date on the first instant, I will proceed to reply to the several questions therein propounded. Before answering in detail each specific enquiry, I propose to examine the general character & effect of Article 4th Section 2^d in the Constitution of the United States, which controls and governs the enquiries, submitted for my consideration.

The clause in question is in these words "A person charged in any State with treason, felony or other crime, who shall flee from Justice and be found in another State, shall on the demand of the Executive Authority of the State from which he fled be delivered up to be removed to the State having jurisdiction of the Crime" with a view to carry out this article in the Constitution, Congress passed the act of 12th February 1793 Chapter 152 which enacts in its first section "That whenever the executive Authority of any State in the Union or of either of the territories &c shall demand any person as a fugitive from Justice of the Executive Authority, of any such State or Territory, to which such person shall have fled, and shall moreover produce the copy of an Indictment found or an affidavit made before a Magistrate of any State or Territory as aforesaid charging the person so demanded with having committed treason, felony or other crime, certified as authentic by the Governor or chief Magistrate of the State or Territory from whence the person so charged fled, it shall be the duty of the Executive Authority of the State or Territory to which such person shall have fled, to cause him or her to be arrested and secured and notice of the arrest to be given to the Executive Authority making such demand, or to the agent of such authority appointed to receive the fugitive and to cause the fugitive to be delivered to such agent when he shall appear" — It will be seen that the act of Congress and the clause in the Constitution of the United States, are in perfect harmony as to the terms in which they describe the class of persons to be demanded and delivered up — According to the plain import of both the Constitution and the act of Congress there must not only be a crime charged to have been committed in the State making the demand, but the person demanded must have fled from the State making the demand, and must be found in the State where his surrender is required: — so far as the Crime is concerned it is enough if it appears in the affidavit or Indictment produced with the requisition that a crime is charged to have been committed in the State making the demand. But the object of the act of Congress in requiring the production of an affidavit or copy of an Indictment, must necessarily have been to enable the Governor upon whom the demand was made to see that a Crime was charged to have been committed in the State making the requisition, otherwise there is no reason for producing such documents in evidence to the Governor, and it would have been sufficient to have provided for the requisition without any accompanying evidence. I am therefore of opinion that the Governor