

Maryland could well consider if he chose so to do, whether an Affidavit or
 Indictment sent to him, did in fact charge a Crime to have been committed
 in the State making the requisition:— In cases where an Indictment was produced
 the Governor would generally assume that it charged a Crime being found by a Grand
 Jury although it might eventually be quashed by the Court, where it was found, because
 it charged no Crime on its face. But where the charge of a Crime depends upon
 the private ex parte affidavit of a individual the Governor of Maryland before he
 complies with the requisition should see that it does on its face charge a Crime
 unless he is willing through Comity to assume that the Governor making the demand
 had examined into the legal sufficiency of the charge before sending for the Criminal
 & regard it therefore as a question for the consideration of the Executive, whether
 the affidavit or copy of the Indictment sent for his inspection does charge a Crime
 to have been committed in the State sending the requisition and however
 reluctant he should be to question the sufficiency of the charge yet cases may
 occur where it would be his duty to examine the law of his sister State & decide
 upon his responsibility whether a Crime was charged. And so in regard to the
 fact whether the person demanded is a fugitive from justice. I consider that the
 Governor who is asked to surrender the criminal has the undoubted right to decide
 whether "he has fled from justice" Why is it that the demand shall be made on the
 Governor of a state? Unless there was some good reason for it, the power to surrender
 might as well have been lodged in the Courts or any judge thereof:— But the
 Chief Magistrate of a State is the head of the political power of the State and such
 bound to protect his fellow Citizens and even transient sojourners from injustice and
 oppression while dwelling in the peace and under the sovereignty of the State:—
 Should the Governor refuse to surrender the Criminal, there is no redress for the
 sister State, no remedy provided by which acquiescence can be enforced.
 It is therefore a power left in the Chief Executive Officer from political
 considerations to be exercised or not, upon his conscience and responsibility,
 I consider it clear that the Criminal demanded must have fled from the
 State which seeks his recapture:— The words are plain and explicit — but it
 may be contended that a man may offend against the penal code of a State,
 without ever having been in that State. There can be no doubt, that the laws
 of a State may be so framed as to declare an act criminal though perpetrated
 out of its jurisdiction if the consequences are calculated to invade the
 peace and tranquility, or property of the Citizens of that State, and I do not
 deny that one of our Citizens might ^{be punishable by the criminal justice of Pennsylvania,} when in fact he never was in that State.
 But something more is required under the Constitution of the United States.
 He, must have fled from Pennsylvania before he can be demanded or
 surrendered. It is not enough to say that a man who has always been absent
 from the jurisdiction may be charged with a constructive Crime. Before he can
 be legally demanded in the State where he is residing the Constitution presupposes
 that he has fled from the State having jurisdiction of the Crime. Can a man who
 has never been in the jurisdiction of a State be considered by construction of
 law as having been legally present & then by another construction of law be
 declared to have fled from that State in which he was never in fact present
 at all?