

that the right of the party should be prejudged and conclusively settled, by the separate statements contained in the requisition. Thirdly - practically, the power to decide the question should be vested in the last resort in the Governor, who is called on to surrender, because his refusal is conclusive and there is no power to review or reverse his action: Upon this question there is a dearth of legal authority and after much research, I have not been able to find any adjudged cases directly in point. The case of the Mormon Prophet, Joseph Smith, reported in 3 McLean's Rep. 127, may however be consulted, as fully sustaining the views of this opinion: - (Indeed that case went much further for the Court on Habeas Corpus, not only went behind the requisition of the Governor of Missouri, but behind the warrant of the Governor of Illinois for the arrest and delivery of the Prophet, and going behind those documents they decided that he could not be surrendered, because he had committed no crime in Missouri, and incidentally remarks, that "It must appear that he fled from Missouri to authorise the Governor of Missouri to demand him", so far as I can inform myself of the practice of the Executive of Maryland it has been, even where ^{copy of the} indictment is produced as the foundation for a requisition to require an affidavit that the party has fled from justice, or that the deponent has ~~some~~ reason to believe so: - Otherwise one of our citizens who had gone for a few days on transient business to Philadelphia might be pursued by an enemy upon the charge of a trifling assault, and through the instrumentality of a requisition, dragged ignominiously back to the State where he had left his family and where he would have voluntarily returned perhaps the next day: - To guard against such abuses every Executive should require before he signs a requisition, the preliminary proof of the party having fled, and though even then, it would not be conclusive on the Executive upon whom the requisition might be made, it would measurably prevent the abuse of the power to make the requisition.

1st To your first enquiry therefore, I respond that you can go behind the requisition of the Governor of Pennsylvania to enquire into facts not apparent on the record and can take such evidence as may be satisfactory to yourself to dispute the jurisdiction of the State from whose Executive the requisition proceeds: - you can however enquire into the nature of the crime charged only so far as to see that there is an offence charged as against the Law of Pennsylvania and thereby made criminal, but you cannot say in denial of the requisition that no crime has been committed, according to the Law of Maryland.

2^d A person charged as an accessory, or conspirator cannot be claimed as a fugitive from the Justice of a foreign State, when in fact he was not personally present in the said State in connection with the crime charged;

3^d If the Law of a foreign State (being one of the United States) holds that the issue born in that State of a fugitive slave is pre which by the Law of Maryland is held to bond, and the same be recovered by the master of the mother, in an otherwise legal manner, then in my deliberate opinion the master cannot be charged with the crime of Kidnapping in the foreign State. It does not turn as your third enquiry seems to intimate upon the question which Law