

requisition proceeds, and is found in the State, to which it is directed.

Neither could I doubt as to the ^{third} point, that the issue of a Slave Woman, born of her in another State, whilst in a condition of a fugitive, is subject to the laws of the State, from which the mother had fled.

The federal Constitution recognizes the fugitive Condition. It is immaterial whether it continue for a day, or a year, the principle is the same. In the eyes of the federal Constitution, the fugitive has not thrown off the obligations of the *lex loci*, else freedom would result to the fugitive herself. Neither can her issue, born during her unlawful absconding, be vested with privileges in derogation of the law of the place, where she fled. Therefore, as, in Maryland, partus Sequitur Ventrem, and as the fugitive condition of the Slave mother, in Pennsylvania, could impart no independent right to her issue, I hold that the boy, Joel Henry Thompson, was, in fact, the slave of Mr Mitchell; and that the charge in the indictment is in fact, not criminal. The sole difficulty in my judgment consisted in the power to go behind the requisition and record, which are presented to me in due form. On this point (as also the others) I respectfully refer your Excellency to the lucid opinion of the Hon: R. S. Brent, Attorney General of Maryland, a copy of which is herewith enclosed.

Entirely concurring in opinion with the Attorney General, I have been brought to the conclusion, that it is my duty to examine into the facts of this case, before I can consent to issue a warrant, for the apprehension of Mr Mitchell. If upon the evidence of competent and credible witnesses, under oath, Mr Mitchell, shall make it appear to my satisfaction that the boy, Joel Henry Thompson, was the child of his (Mitchell's) fugitive slave, born during the period of her servitude to him; or, if he shall in the same manner prove to me, that he was not personally present in Pennsylvania, engaged either as principal or accessory in the perpetration of the act charged; I shall feel it my duty most respectfully to decline acting under the requisition of your Excellency.

In the former case, I would consider it improper on the part of a Governor of Maryland, to aid in subjecting, (voluntarily), one of his innocent constituents, (to whom he owes protection by all lawful means) to punishment and degradation, for quietly taking possession of that which the law of Maryland claims for him as his property, and which the federal Constitution recognizes by implication as such. In the second case, I should not consider the requisition of your Excellency warranted by the facts, in view of the pre-requisites contemplated by the article of the federal Constitution before referred to, in relation to fugitives from Justice.

On the other hand, if it shall appear that Mr Mitchell has made himself amenable to the injured laws of Pennsylvania, and afterwards fled from her jurisdiction; and should it turn out that, Joel Henry Thompson, was not, in fact, the slave of Mr Mitchell, as he alleges, but a free Citizen of the State of Pennsylvania as is alleged in the indictment, then, with no sympathy whatever,
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