

# HOUSE.....No. 35.

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## Commonwealth of Massachusetts.

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COUNCIL CHAMBER, *February 11, 1843.*

In compliance with the request of the House, I herewith transmit to them copies of all "the papers now on file in the Executive Department, written since the year 1834, touching the recovery of citizens of Massachusetts unlawfully imprisoned in any of the southern States."

Copies of the "Resolves relating to the imprisonment of citizens of this Commonwealth in other States," approved March 3, 1842, were "duly transmitted to the governors of the several States, to be communicated to the Legislatures thereof." But I do not find on the files, or records, of this department, any evidence that any other measures have been taken by the executive, under the power conferred by said resolves.

MARCUS MORTON.

*To the House of Representatives.*

## COMMONWEALTH OF MASSACHUSETTS.

COUNCIL CHAMBER, BOSTON, 22d Feb., 1836.

*To His Excellency, the Governor of North Carolina:*

Sir,—I have the honor herewith to transmit to your excellency certified copies of sundry papers, which have been placed in my hands, from which it appears that Mary Smith, a free citizen of Massachusetts, having been shipwrecked near Ocracoke bar, in North Carolina, is now detained in a state of slavery in that neighborhood. The facts of the case are not narrated as much in detail as could be wished; a circumstance unavoidably occasioned by the condition of the unfortunate woman, and the extreme difficulty of opening any communication with her. But the credibility of those from whom the testimony proceeds, is well ascertained, and is, in my judgment, entitled to full confidence.

The case will unquestionably appear to your excellency to be one of the deepest interest. My attention has been particularly called to it, with an earnest request that I would address you on the subject. This I do in the full persuasion, that you will take such steps as may be within your competency, to effect the restoration of the unfortunate person to liberty.

Her friends are distant from the place of her destination, destitute of pecuniary means, and ignorant of the steps, which might be taken before the legal tribunals of North Carolina, in a case of this kind. They have accordingly desired me to submit the papers to your excellency; and they place their sole reliance in your good offices, to be employed in such way as you may deem best calculated for the attainment of the desired end.

I am confident you will unite with me in the sentiment, that a case can scarcely be imagined more deserving of the interposition of the chief magistrate of one of the States of this Union, than that of rescuing a free citizen of a sister State, reduced to

a condition of perpetual bondage, in the peculiarly disastrous manner set forth in the papers transmitted.

I need not suggest to your excellency the inexpediency of giving to this communication a publicity, which might strongly tend to defeat its object.

I have the honor to be,

With high respect,

Your excellency's obedient servant,

EDWARD EVERETT.

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PORTSMOUTH, DISTRICT OF OCRACOCK, N. C., {  
April 29, 1836. }

*To His Excellency Edward Everett,*

*Governor of Massachusetts :*

SIR,—I have received a letter from his excellency Richard D. Spaight, Governor of this State, enclosing me a copy of a communication from your excellency, under date of the 22d February last, in regard to a colored female by the name of Mary Smith, stated to be detained in this neighborhood as a slave, having been cast away on her passage from New Orleans to New York. I believe I am acquainted with the circumstances of this case in part, and it is very different from the manner in which it has been stated to your excellency. The vessel was wrecked about 50 miles north of this place: the master, with the female named above in company, passing by this district, stopped at Ocracock Island. Mr. John Pike, a magistrate, observing the woman, inquired where she was from, and if she had free papers. It appears she had none, nor had the master any proof of her freedom, stating she came on board his vessel at New Orleans as a free woman, and he took her as a passenger. The laws of our State require all colored persons coming into it, to have free papers, or some proof at least of their freedom: there being some suspicious circumstances connected with

this case, besides—Mr. Pike concluded to detain her until he could get some information from Boston, where, she stated, she was born, or from New Orleans. Mr. Thomas H. Blount, collector of Washington, in this State, was here at the time, and offered to write himself on the subject, which he did, and from Boston got an answer from the post-master of that place, I believe, stating he had made, and caused to be made, particular inquiry about this woman, but no information could be had, and the persons she herself referred to, were not to be found; I have not heard whether any information was procured from New Orleans or not.

The woman never was held by Mr. Pike or any other person here, as a slave. The character of that gentleman would forbid even the most remote idea of such a thing; he is well known in Boston, New York, and other northern cities and towns, as a merchant of the best standing, and agent for many of the insurance companies. I presume, as I have understood lately she has gone to the north, that Mr. Pike, not having heard any thing satisfactory, either one way or the other, had suffered her to go where she pleased. I have no hesitation in stating this account has been altogether misrepresented, and Mr. Pike will make it appear so to the satisfaction of your excellency and the public generally.

I have the honor to be very respectfully,

Your obedient servant,

SILVESTER BROWN.

*May 2d.*

Since writing the foregoing, I have called on Captain Pike, and found the woman still at his house; as no proof whatever of her freedom, before your letter or a copy of it reached this place, had been produced, Capt. Pike, very properly, as he had taken her in charge, kept her, but not confined at all; went where she pleased, and could have made her escape without any serious difficulty; she informed me herself, she was well treated by Capt. Pike and his lady. I presume she will soon

be in Boston, as Capt. Pike informed me, he should find her the first passage. I have resided at this place for nearly four years, as collector of this port, and can say, without fearing contradiction, that Capt. Pike's character, where he is known, stands as fair as any man's; but in a community like this, immediately on the seaboard, and generally ignorant, persons are very liable to be slandered and have their enemies—Capt. Pike has, unfortunately, by doing his duty as a magistrate, and endeavoring to prevent the peace of the community from being constantly disturbed by drunkenness and quarrelling, incurred the displeasure of many—this has no doubt led to the falsehood against him in the case of the colored person named above.

Respectfully,

S. BROWN.

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COUNCIL CHAMBER, 4th May, 1836.

To His Excellency RICHARD D. SPAIGHT,  
*Governor of the State of North Carolina:*

SIR,—I have the honor to acknowledge the receipt of your excellency's communication of the 26th ultimo, informing me of the transmission of the first number of Devereux and Battles' Reports, and the laws passed at the last session of the Legislature of North Carolina, three copies of each work. A portion of these works have already come to hand, and the others are duly expected, and will be received with great satisfaction.

In reply to the request made in your excellency's letter, in compliance with the wish of the General Assembly of North Carolina, I have to regret that no authority at present exists for the transmission of the Term Reports of this Commonwealth to any other State; but it is confidently believed that the Legislature, at its next session, will authorize their interchange with the Reports of North Carolina.

Three copies of the acts of the last session of our Legislature will be duly transmitted, as soon as their publication is com-

plete. Three copies of the volume containing the Revised Statutes of this Commonwealth, were despatched to your address before the receipt of your excellency's letter.

On the 22d of February, I had the honor of addressing a letter to your excellency, accompanied by sundry documents setting forth the unfortunate case of a free woman, a native of this State, alleged to be held in slavery in North Carolina, and respectfully invoking your interference, as far as it could be exerted, to procure her liberation. The great anxiety felt by her friends, leads to frequent inquiries as to the success of this application ; and it would be highly gratifying to me, to be able to inform them that it had received your excellency's favorable consideration.

I have the honor to be, with high respect,

Your excellency's obedient servant,

EDWARD EVERETT.

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EXECUTIVE DEPARTMENT, N. C., }  
Raleigh, May 6, 1836. }

*To His Excellency the Governor of Massachusetts :*

SIR,—Your communication reached this place during my absence upon a visit to my plantation in the eastern part of the State, from which I did not return before the second of last month. Having no power to interfere in the case of the mulatto woman Mary Smith, brought to my notice by your letter, it belonging entirely to the judicial tribunals of the State, where the matter would have been adjudicated, had it been brought before them, I could perform no other act than to endeavor to procure information, which could be transmitted to your excellency, to be used by her relatives or friends in the legal forums of this State, to procure her release. Accordingly, I wrote to a gentleman residing near Ocracock, with whom I was acquainted ; from him I have obtained the following information : The

vessel bringing Mary Smith from New Orleans, was wrecked near Beaufort, and not at or near Ocracock; she, on her way northwardly with the master, went to Ocracock, where she was arrested upon the suspicion of her being a slave, by Capt. Pike, who is an acting magistrate. She could exhibit no free papers, nor other evidence of her freedom, and was accordingly detained. A letter was written to the postmaster at Boston, who, in reply to the questions asked, stated he could obtain no information, nor were the persons referred to to be found. Capt. Pike is stated to be a man of correct and moral deportment, an active magistrate, and man of business; known as such in Boston, New York, and other places: and acts as the agent of several insurance offices.

The gentleman to whom I wrote happened to have information of the circumstances under which the woman was arrested and detained, and of the means which Capt. Pike took to procure information of her true situation and character. The gentleman informs me, that, knowing the character of Capt. Pike—that he was above all suspicion of trying to run her off, he showed him the copy of your letter to me. Capt. Pike, the gentleman states, will send the woman to Boston by the first vessel.

I have delayed writing to you until I could get some information to communicate. It is only a few days since I received the answer to my letter. I hope this will be deemed a sufficient apology for not writing sooner.

I have the honor to be, with great respect,

Your excellency's obedient servant,

RICHARD D. SPAIGHT.

## COMMONWEALTH OF MASSACHUSETTS.

EXECUTIVE DEPARTMENT, }  
BOSTON, 24th Oct., 1839. }

SIR,—I have received your letter of the 11th of October, acquainting me with the reason for declining an unconditional compliance with the executive requisition, for the surrender of Wilkinson and Shearer, charged with the crime of kidnapping; and informing me that you have directed the sheriff of Fredericksburg, in the event of their acquittal or discharge, by the tribunal before which they now stand indicted, for an offence against the laws of Virginia, to surrender them to Mr. Ivers Phillips, the agent of this Commonwealth, or to retain them in custody till further order.

I beg leave to suggest for your consideration, inasmuch as it is understood not to be certain that evidence can be had of the commission of a crime in Virginia, and there is little doubt that ample evidence exists of its perpetration, in its most aggravated form, in this State, whether it might not be expedient for the prosecuting officer of Virginia, to enter a *nol pros.* in order to their more speedy trial within the jurisdiction where the kidnapping took place.

I understand from Col. Phillips, that, after his arrival in Virginia, an action was brought on a note of hand against Wilkinson, with a view no doubt to bring his case within the purview of the 7th section of the law of Virginia, passed 28th January, 1819. Such a process, it is believed, would not bring the case within the letter of the 7th section of the law; but if this were otherwise, it would no doubt be deemed by the executive of Virginia worthy of grave consideration, whether an enactment be constitutional, which renders completely nugatory the provisions of the constitution of the United States and the laws of the Federal Government relative to the surrender of fugitives from justice.



I am informed by Col. Phillips, that Wilkinson and Shearer are confined in a prison, stated by the jailer to be so insecure, that a guard is necessary for the safe-keeping of its inmates. On the representation of the jailer, that he had no authority to employ a guard at the public expense, and that if he did it, the expense would not probably be allowed, Col. Phillips requested him to employ a suitable guard, and promised to be responsible for the expense, which I believe was to be one dollar per diem. It will readily occur to you, that, under these circumstances, escape from prison can only be prevented by unusual vigilance.

The extreme atrocity of the crime which has been committed, and the just excitement which it has created, in this community, will, I am sure, be deemed by you to account sufficiently, for the interest here shown, to secure the trial of the persons charged with the offence. Great satisfaction has been felt here at the promptness of the authorities in Virginia, in giving information of the arrest of the kidnappers, and entire confidence is felt, that no proper steps will be omitted by her government, to secure their being effectually brought to justice.

Whenever information shall be received, that the persons above-named, or any others included in the executive requisition of the 5th inst., will be surrendered on demand, an authorized agent will again be dispatched to receive them.

I am, sir, with great respect,

Your honor's obedient servant,

EDWARD EVERETT.

*His Honor H. L. HOPKINS, Acting Governor of Virginia.*

## COMMONWEALTH OF MASSACHUSETTS.

EXECUTIVE DEPARTMENT,  
*Boston, 28th Oct., 1839.*

SIR,—You may remember that on the 2d May last, I requested an official letter from you to Mr. Stevenson, the American minister in London, in favor of the Rev. Mr. Felt, whom it was then proposed to send to England as an agent to obtain copies from the public officers of Great Britain, of official documents pertaining to the history of Massachusetts. That design has, for the present, been suspended, in the belief that the most important part of the documents can more conveniently be obtained in another way. No use has been made of the letter to Mr. Stevenson, which you were good enough, at my request, to forward to Mr. Felt.

The most important portion of the documents which we desire to obtain, are the public records of the council of Massachusetts, from the year 1765 to 1775 inclusive. It is supposed that these very valuable documents fell into the hands of some officer under the command of General Gage, in the early period of the war of the Revolution, and were by him sent to London. In this case, they would be brought within the provisions of the 7th article of the treaty of 1783, which stipulates that his "Britannic Majesty shall order all archives, records, deeds and papers belonging to any of the said States or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong."

It may be proper to state, that the absence of these records from our archives, though known, has been particularly noticed for the first time, of late, in consequence of a thorough examination and arrangement of the public documents.

This circumstance will account for the fact, that the effort to recover them is now first made. The omission of the British government to comply with the stipulations of the treaty, (supposing these records to have fallen into their possession,) is

cheerfully ascribed to the fact, that they may have been concealed among the mass of the papers in the public offices at London—where it was not to be expected that a search should be instituted for that for which no application had been made.

I have now to request that you would be pleased to instruct the minister of the United States at London, to make application in due form, for the restoration of the records above specified, agreeably to the 7th article of the treaty of 1783, should they be found to be in the possession of her majesty's government.

I have the honor to be, Sir,

With great respect,

Your ob't serv't,

EDWARD EVERETT.

HON. JOHN FORSYTH,

*Secretary of State.*