SOUTHERN RESPONSE TO THE "SLAVE-STEALERS" AND EXTRADITION CONTROVERSIES

By

DAVID LEE AMSTUTZ

Bachelor of Science
University of Nebraska, Kearney
Kearney, Nebraska
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Master of Arts in Education
University of Nebraska, Kearney
Kearney, Nebraska
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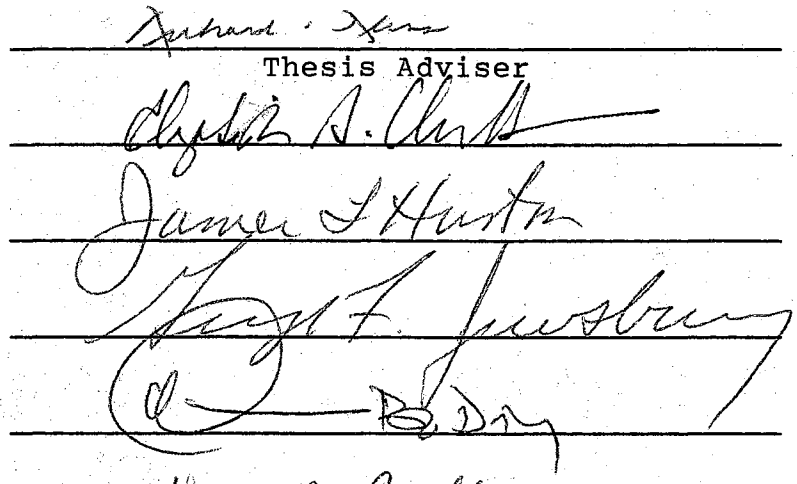

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Dean of the Graduate College

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CHAPTER I

INTRODUCTION

Sectional tensions between North and South escalated in the late 1830s and early 1840s. The belief that remaining in the Union threatened southern interests had emerged earlier in South Carolina during the Nullification Crisis,[1] and, after northern antislavery efforts took on a political nature in the late 1830s, many southerners became concerned that the interests of the slave states were in danger.[2] While no southern state seriously considered secession in the 1840s, many individuals throughout the South began to wonder if they occupied a disadvantaged, minority position within the Union.[3] Any attack on slavery endangered the southern economy, as well as the social structure which existed in the slave states.[4] Valuing a stable society and seeking to protect their interests, southerners became increasingly defensive in regard to the peculiar institution of slavery.[5]

As political antislavery spread in the North, southerners became increasingly aware of the way in which the political and legal systems of the United States could affect the peculiar institution. Southern politicians responded to the rise of the Liberty Party and the antislavery positions of some northern Whigs[6] by making the peculiar institution the paramount political issue in the

South. Southern Whigs and Democrats practiced the "politics of slavery" in which they competed to show their differing policies as being in the best interest of the peculiar institution.[7] The Amistad case, in which United States Supreme Court Justice Joseph Story ruled against Spain's claim that a group of Africans were slaves,[8] underscored how important the federal judiciary could be in protecting or undermining slavery. Court rulings which maintained the perceived rights of slave owners were invaluable in protecting the peculiar institution, while legal precedents which questioned slaves' status as property could endanger that institution.

As the South sought to preserve the legal status of slavery, many controversies over state and federal laws developed between the northern and southern states. Many southerners hailed the 1842 United States Supreme Court decision in the case of Prigg v. Pennsylvania as a triumph because the opinion stated that the federal government was to ensure the return of escaped slaves. Northern states accepted the ruling and maintained that the decision freed them from any obligation to assist in returning such fugitives.[9] Other disputes typically concerned the status of slaves who traveling southerners brought into free states.[10] The fledgling Liberty Party involved itself in this debate and pressured the New York legislature to repeal a state law permitting southerners to keep their slaves in New York for nine months.[11] Although the Fugitive Slave Law of 1793, as well as the slave states' laws, defined

slaves as property, the slaves' humanity caused tremendous legal complications.[12] Comity, the respect of a jurisdiction's laws by the courts of another jurisdiction, was breaking down among the states before the Civil War.[13]

During the extradition controversies of the late 1830s and early 1840s, each of the slave states had to evaluate its position in the Union and decide whether to involve itself in sectional conflict to protect the institution of slavery. The disputes, which began before the Prigg decision and continued after the ruling, inhibited the ability of two slave states--Georgia and Virginia--to prosecute individuals alleged to have violated the southern states' slave laws. At a time when antislavery elements were mobilizing in the North, this matter was of grave concern.

The extradition disputes threatened slavery. These controversies concerned southern demands on northern states for the rendition of individuals accused of removing slaves from the South. While the North did not protest the return of the slaves themselves, many southern states reacted with alarm when the governors of two northern states declined to extradite the free individuals who supposedly aided the slaves in escaping. Unless these alleged "slave-stealers"[14] stood trial for violating southern state laws against absconding with slaves, a precedent dangerous to the South was certain to result. Abolitionist activists and antislavery agitators could assist slaves in fleeing, and then return to the North without fear of prosecution. In the first of these controversies, which occurred between Maine and

Georgia, the northern position rested on the legal technicality of whether the individuals in question actually were fugitives from justice.[15] Subsequent disputes, between New York and Virginia and New York and Georgia, were of even greater importance to the South. In both of these cases, New York Governor William Henry Seward argued that extradition was not warranted because removing a slave did not constitute a crime in a non-slave state. In addition to acquiescing in the physical removal of slaves from the South, Seward's position questioned slaves' legal status as property.[16]

The controversy between Virginia and New York became the focal point of the extradition issue. It was the first case in which Seward expressed his opinion, and the first of the disputes in which a southern state passed retaliatory legislation.[17] The Old Dominion tried to involve the rest of the South by requesting the intervention of the other slave states.[18] New York's large population and position of financial leadership within the Union made any stand that state took appear particularly compelling.[19]

Virginians had little doubt that the individuals accused in the Virginia case, Peter Johnson, Edward Smith, and Isaac Gansey, had violated the Old Dominion's law. The case began in July 1839, when a Virginia slave named Isaac stowed away on the Robert Center, a schooner. The slave had been working as a carpenter on the ship, and Johnson, Smith, and Gansey, all free blacks and members of the crew, permitted him to remain on board when the Robert Center left Virginia for New

York. Isaac's owner, John G. Colley of Norfolk, realized that the slave had absconded, and organized a party under the leadership of James M. Caphart to bring Isaac back to Virginia. Caphart reached New York City before the Robert Center, and found Isaac concealed on board. The slave returned to Virginia, while Colley reported the matter to the Norfolk authorities. Justice of the Peace M. King presented an affidavit for the extradition of the three sailors to Virginia's Lieutenant Governor Henry L. Hopkins, who forwarded the request to New York.[20]

Robert H. Morris, the Recorder of New York City, made the initial decision to release Johnson, Smith, and Gansey from custody. Upon receiving Hopkins' request for extradition, a New York sheriff arrested the three sailors and incarcerated them, pending the governor's approval of extradition. Seward learned of the situation shortly before leaving Albany on unrelated business and left a message saying that he was going to "pass upon the subject within a few days." While the governor was away, Morris called the accused sailors before him upon a writ of habeas corpus and listened to Caphart's testimony. Caphart and his associate, Elias Gay, stated that they had indeed found Isaac on board the Robert Center, and that Johnson, Smith, and Gansey were the only other blacks on the ship. The slave told Caphart that one of the three sailors had suggested leaving Virginia, as there were "good wages north." Deeming this insufficient evidence that the three individuals had removed the slave, Morris ordered Johnson, Smith, and Gansey released.[21]

Seward's secretary, Samuel Blatchford, wrote the governor and explained that no answer to Lieutenant Governor Hopkins' request was necessary because Morris had already handled the matter.[22]

Future Liberty Party leader James G. Birney pressured Seward to deny extradition. On 31 July 1839, Birney presented a preamble and resolutions concerning the dispute to the National Antislavery Convention in Albany. He described the case as a matter of great importance. Maintaining that the United States Constitution did not enumerate specific offenses deserving extradition, Birney claimed that only acts which "the laws of all civilized societies" deemed criminal warranted interstate rendition. A governor had no obligation to grant extradition for an act which that governor's state did not define as a crime. The resolutions maintained that surrender of the sailors was a concession to laws against philanthropy and a humiliation for New York. Approving the report and resolutions, the convention appointed a committee of Birney, Lewis Tappan, and William C. Chaplin to transmit these sentiments to Governor Seward.[23]

Seward incorporated Birney's legal arguments into his own position on the Virginia controversy. Virginia's Lieutenant Governor Hopkins repeated his request for extradition,[24] and Seward responded with a lengthy constitutional argument in September 1839. In addition to questioning whether or not the Virginia affidavit gave sufficient proof that the three sailors had violated Virginia

law, the New York governor stated that

> the right to demand and the reciprocal obligation to surrender fugitives from justice between sovereign and independent nations, as defined by the law of nations, include only those cases in which the acts constituting the offense charged are recognized as crimes by the universal laws of all civilized countries.

Expressing the position Birney had developed, Seward went on to say that the United States Constitution's Fugitives from Justice Clause established the states as "independent, equal, and sovereign communities" in matters of extradition. Thus, when the clause specified "treason, felony, or other crime" as reasons for extradition, the phrase referred only to acts which all the states defined as crimes. No law of New York acknowledged that one person could own another as property, and so Seward refused to return Johnson, Smith, and Gansey.[25]

Throughout the Virginia controversy, Seward remained firm in his position. Although he had always opposed slavery on moral grounds, the New York governor had been reluctant to advocate antislavery for many years because it had not been politically expedient. This changed with the rise of political antislavery in the late 1830s. With the support of many politicians and antislavery reformers, Seward took a bold stand against the peculiar institution.[26] In a letter to New York Congressional Representative Christopher Morgan, Seward maintained that the politicians in Washington "may say what they please about the Virginia correspondence," but declared "I know I am right and nobody hereabouts will maintain to the contrary."[27]

Seward reiterated his views during a subsequent

extradition dispute with Georgia. This controversy began in spring 1841, when seaman John Greenman allegedly aided Kezia, a female slave, in escaping from Savannah area planter Robert Willis Flournoy. While Flournoy recovered the slave on board the ship Wilson Fuller, Greenman returned to New York. Georgia's Governor, Charles J. McDonald, sent a request to Seward for Greenman's extradition. The Georgia governor included two affidavits, one charging Greenman with the theft of Kezia's belongings, and the other charging the sailor with the theft of the slave herself. Seward and McDonald corresponded throughout 1841, and, although the New York governor maintained that the Georgia affidavits were too vague to prove any form of theft, he refused to concede that removing a slave constituted a crime.[28]

Many southern states responded vigorously to the extradition controversies because they believed the peculiar institution's security to be in question. While a large number of southern newspapers denounced Maine's refusal to return the two alleged fugitives in that case, southerners were even more active in protesting Seward's contention that removing a slave was not a crime. At the root of this argument was the belief that a human being could not constitute property, a concept capable of undermining slavery if it became precedent. The support which many New York politicians and reformers, as well as John Quincy Adams,[29] gave to Seward further emphasized the southern need to refute the New York governor's argument. Virginia's call for cooperation from the other slave states in late 1840 forced

the issue, and the southern states analyzed the entire extradition matter in subsequent legislative sessions.

The degree to which the slave states cooperated in protecting slavery during the extradition controversies indicates the extent of southern unity in the late 1830s and early 1840s. Unity, or cohesion, may be defined as the ability to work together in securing a shared goal. If the South were a united, monolithic region, then any attack on slavery in one state represented an assault on the peculiar institution throughout the South. The argument that removing a slave did not count as a crime could have questioned the legality of slavery anywhere in the United States, and it is understandable that the southern states would have united in trying to refute the northern position in the controversies. Examination of each individual slave state's response to the disputes reveals the extent to which the southern states were willing and able to cooperate. The southern response to the extradition disputes is an effective gauge of southern unity at this time.

Although there are extremely few secondary sources which deal with this topic,[30] constitutional historian Paul Finkelman claims that the slave states acted as a cohesive block in opposing Seward's position.[31] This author notes that several slave states adopted resolutions in response to the controversy, and discusses the "united front" which the South presented against New York. Finkelman maintains that a distinctive feature of southern states' rights theory was a willingness to work in conjunction with other states. He

argues that this occurred during Virginia's dispute with New York.[32]

Finkelman further contends that the slave states cooperated in supporting Virginia.[33] Citing the resolutions which some states approved, the author says

> the other slave states agreed that New York's conduct was an assault on their domestic institutions and not just on Virginia's. Thus, Virginia sought and received the solidarity and aid of other states, and the controversy evolved from a dispute between two states to a dispute between one state and a group of states.

Maintaining that the slave states concurred in their willingness to support Virginia, Finkelman asserts that the southern states believed Seward's actions called for retaliation.[34]

Finkelman argues that all the slave states opposed federal intervention in the extradition controversies. According to the author, southern politicians refused to expand the authority of the federal government because of their commitment to states' rights.[35] Although admitting that Georgia passed a set of resolutions requesting the federal government to resolve the dispute with Maine in 1839, Finkelman states that Georgia's representatives in Congress opposed the measure.[36] Finkelman asserts that the South condoned punitive actions against Seward, and claims that these strategies were in accord with a commitment to decentralized government. The author discusses the state laws and secessionist threats of some slave states in response to the matter.[37]

Philip J. Schwartz contends that slaves exerted an impact on Virginia's legal system. This author discusses the Old Dominion's slave laws, and claims that Virginia modified its statutes according to slaves' behaviors.[38] Because rebellion on the part of a slave violated state law and threatened white authority, slaves' actions always possessed a political significance.[39] Schwartz notes the dispute between New York and Virginia, maintaining that removal of slaves on a large scale would have made it much more difficult for Virginians to enforce laws relating to slavery. This author notes that Virginia passed additional legislation on fugitive slaves in the 1840s, but makes no mention of other states' reactions to the dispute with New York.[40]

Southerners' views on government were too diverse for the slave states to act together in responding to the extradition controversies. Some states did approve laws against New York, but many southerners advocated federal intervention in the matter. Desire for an appeal to Congress was as strong and as prevalent throughout the South as was the call for punitive state action. Finkelman does not discuss intrastate debate on responding to the controversies,[41] although disagreements arose in many state legislatures. In states with two-party systems, legislators often divided along party lines. While some southern states discussed whether to enact punitive state laws or appeal to the federal government, others debated if they should take any action at all in the matter. In several states, large legislative minorities protested the actions which their

states decided upon.

The slave states which acted in the extradition matter used contradictory means in pursuing a shared objective. These states sought to block a precedent dangerous to slavery by forcing northern compliance with southern demands. While agreeing that they could prevent Seward's position from setting precedent by coercing the New York governor into granting extradition, several of these states sought to pressure Seward with state laws, while one strongly advocated federal intervention. State laws reinforced the concept of decentralized state government because these acts, which placed restrictions on northern states' shipping, extended the judicial authority of these southern states. Moreover, because the laws regulated shipping, they allowed these states to exert economic influence over other states. The call for federal intervention, which advocated transferring the power of extradition from the state governors to the federal judiciary, urged an extension of federal authority. While the states which passed laws did so with a belief that the states possessed all powers which the United States Constitution did not expressly bestow on the national government, the state which requested federal intervention sought to confer new powers on the federal government.[42]

Many slave states passed resolutions on the extradition controversies, but took no action in the matter. The resolutions of several states denounced Seward's position as unconstitutional and pledged nominal support to Virginia. In an effort to protect their own interests in slave

property, these states attempted to confirm the legality of slavery by proclaiming a construction of the Constitution which recognized the peculiar institution. These states typically sent their resolutions to all the states in the Union, but, after having done this, perceived no need for active involvement in the matter. Rather than expressing a concern for the well-being of Georgia or Virginia, these states sought to pursue their own interests within the Union.

Two border states urged New York and Virginia to reconcile their differences for the sake of the Union. These states, which would have suffered commercial and economic setbacks in the event of sectional hostilities,[43] approved resolutions which stressed the necessity of interstate harmony. While maintaining that the easiest solution to the controversy was for Seward to return the accused sailors to Virginia, these states also criticized southern efforts to enact punitive measures against New York. Slavery was legal in both these border states, but, while wanting to protect their interests in slavery, these states also wanted to maintain good relations with the North.

Several slave states took no interest in the extradition controversies. Rather than having protracted debates on whether to take action in the disputes, the legislators of these states ignored the issue and declined to discuss Virginia's request for cooperation. The leaders of these states concerned themselves with unrelated issues at both the state and national level, and were largely apathetic to the extradition matter.

Political diversity over the extradition issue was more complex than division along national party lines. A stable, national two-party system had emerged in the United States by the late 1830s, but partisan differences over the extradition matter occurred at the state level. Nationally, the Whigs tended to advocate active government, especially in regard to manufacturing, commerce, transportation, and internal improvements. The Democrats typically opposed expansion of the federal government.[44] While Whigs tended to represent protestant, native-born Americans, and Democrats had a much more heterogeneous constituency,[45] the parties' platforms were not consistent throughout the South. Settlement patterns, as well as personal rivalries, exerted a tremendous influence on party formation in the southern states. In many states, political factions merged with the national parties because it was expedient, rather than because of shared policies.[46] The parties' positions varied greatly from state to state, and in some areas Whigs were the leading opponents of an expanded federal government. When debating responses to the extradition matter, southern politicians usually expressed their state political factions' views on government.

The slave states were unable to act in unison during the extradition controversies because constitutional thought was diverse throughout the South. At both the intrastate and interstate levels, southerners disagreed on the federal government's role in defending slavery. Many southern politicians viewed the national government with mistrust,

and accordingly believed that state governments should deal with the extradition controversies. The authority of the federal government enticed many other southerners, who believed that the best means of protecting southern interests was to appropriate the federal government's power on behalf of the South. While some individual southern leaders threatened secession in the disputes,[47] a majority fully accepted their states' positions as members of the Union, and attempted to safeguard their own interests in the Union by arguing a pro-slavery construction of the Constitution. Still other southerners concentrated so heavily on unrelated issues encountered in the Union that they took no notice of the extradition matter. Many southern leaders viewed each extradition dispute as a separate case, and, because of this, the concept of either northern or southern regional unity gained little credence in the South during the extradition controversies. The rise of political antislavery alarmed many southerners, and many in the South opposed Seward's position that removing a slave did not constitute a crime in the North, but the extradition disputes provoked a wide and contradictory array of responses and impulses, rather than southern unity.

ENDNOTES

[1]John McCardell, The Idea of a Southern Nation: Southern Nationalists and Southern Nationalism, 1830-1860 (New York: W. W. Norton and Company, 1979), 7.

[2]Frederick Bancroft, The Life of William H. Seward, 2 vols. (New York: Harper and Brothers, 1900), 1: 106.

[3]McCardell, Idea of a Southern Nation, 7.

[4]Avery Craven, The Growth of Southern Nationalism, 1848-1861 (Baton Rouge: Louisiana State University Press, 1953), 392.

[5]Clement Eaton, The Mind of the Old South (Baton Rouge: Louisiana State University Press, 1967), 31. An in-depth look at antebellum southern conservatism appears in Dickson D. Bruce, Jr., The Rhetoric of Conservatism: The Virginia Convention of 1829-1830 and the Conservative Tradition in the South (San Marino, CA: The Huntington Library, 1982), xvi, 73.

[6]Vernon L. Volpe, Forlorn Hope of Freedom: The Liberty Party in the Old Northwest, 1838-1848 (Kent, OH: Kent State University Press, 1990), 34-35. The Liberty Party formally organized as an independent third party in spring 1840. Its founders were estranged members of the American Antislavery Society, which fragmented in 1839. The internal differences that tore the American Antislavery Society apart included disagreements over the role of women in the antislavery movement and William Lloyd Garrison's purely moral strategy in advocating abolition. The Liberty Party organized in New York, and Myron Holley, James G. Birney, Garret Smith, Elizur Wright, and Alvan Stewart were key players in its founding. In April 1840, Holley presided over a convention in Albany that selected Birney and Pennsylvania Democratic abolitionist Thomas Earle as candidates for the presidency and vice-presidency. The new party faced political opposition from the antislavery Whigs. While southern politicians typically competed to show themselves as the true defenders of slavery, these northerners strove to use antislavery as a campaign issue. Ironically, the rise of political antislavery caused disunion among some antislavery forces.

[7]William J. Cooper, Jr., The South and the Politics of Slavery, 1828-1856 (Baton Rouge: Louisiana State

University Press, 1978), xii, 96.

[8]Howard Jones, Mutiny on the Amistad: The Saga of a Slave Revolt and its Impact on American Abolition, Law, and Diplomacy (New York: Oxford University Press, 1987), 9, 29, 193 describes the Amistad affair. This case arose in 1839. After a mutiny on the Latin American slave ship Amistad, the vessel reached Connecticut, and a controversy between Spain and the United States resulted over whether international law dictated the return of the ship's human cargo. Massachusetts congressional representative John Quincy Adams defended the Amistad's mutineers, whom slavers had recently transported from Africa, and Supreme Court Justice Joseph Story delivered the opinion. Adhering to a strictly legal interpretation of the facts, Story ruled that the Africans were to return to their native continent because Spain had not proven them to be slaves. Jones contends that three separate philosophies existed in the antislavery movement prior to the case. Some abolitionists and antislavery advocates stressed moral suasion as the best means to bring about emancipation, while others applied this approach in a more specifically Christian context by arguing that slavery was a sin. A third faction urged political action. Jones maintains that the Amistad matter united these differing outlooks because the case appealed to all three viewpoints. Northern concern for the Amistad Africans gave southerners the impression that strong antislavery sentiments existed in the North. Moreover, Story's decision demonstrated the way in which legal precedents could undermine the institution of slavery. The justice's ruling suggested that in cases where one party claimed that another person or persons were slaves, the burden of proof lay on the party making the claim. Such a precedent was capable of interfering with the recovery of fugitive slaves. This opinion could apply to both domestic and international cases, and could encourage slave escapes. These developments were particularly alarming to southerners because they coincided with the mobilization of political antislavery. Southerners wanted to establish legal precedents that ensured the security of the peculiar institution.

[9]Paul Finkelman, An Imperfect Union: Slavery, Federalism, and Comity (Chapel Hill: University of North Carolina Press, 1981), 10.

[10]Ibid.

[11]Liberator (Boston), 27 March 1840.

[12]Thomas D. Morris, Southern Slavery and the Law, 1619-1860 (Chapel Hill: University of North Carolina Press, 1996), 442.

[13]Ibid.; Finkelman, Imperfect Union, 10.

[14]Southern politicians and legal experts commonly used the term "steal" when discussing removal of slaves which violated southern state laws. When Lieutenant Governor Henry L. Hopkins of Virginia sent New York Governor William Henry Seward a request for the extradition of three individuals accused of removing a slave from Virginia, the enclosed affidavit claimed that the individuals in question "did feloniously steal and take" the slave away from his legal owner. See Henry L. Hopkins to William Henry Seward, 30 August 1839, Document Accompanying the Governor's Message, Correspondence Between the Governor of New York and the Lieutenant-Governor of Virginia (Albany: New York State Senate, 1841), 43; Richmond Enquirer, 16 February 1841.

[15]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1837 (Milledgeville: P. L. Robinson, State Printer, 1838), 29.

[16]Seward to Hopkins, 16 September 1839; Seward to Charles J. McDonald, 15 June 1841, The Works of William Henry Seward, ed. George E. Baker, 5 vols. (Boston: Houghton, Mifflin, and Company, 1888), 2: 453, 523. McDonald was then Governor of Georgia.

[17]For a copy of Virginia's law, which required all ships from New York to undergo inspection before leaving Virginia, see House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, 13 March 1841, 1840-1841 sess., Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 79-82. The law took effect on 1 May 1842.

[18]Thomas Walker Gilmer to James K. Polk, 12 November 1840, James K. Polk Papers, Tennessee State Library and Archives, Nashville, Tennessee. Gilmer was then Governor of Virginia. He mailed identical requests for cooperation to the governors of all the slave states.

[19]When the Virginia House of Delegates debated the controversy with New York in February 1841, the legislators emphasized New York's commercial power within the Union, and the significance this gave to any position the Empire State might take. See Richmond Enquirer, 16 February 1841.

[20]Seward to Hopkins, 16 September 1839, 24 October 1839, Works of William Henry Seward, 2: 449-450, 467-468; Liberator (Boston), 9 August 1839. These documents contain a summary of the facts in the affair.

[21]Seward to Hopkins, 24 October 1839, Works of William Henry Seward, 2: 467-468; Liberator (Boston), 29 January 1841. A message from Recorder Robert Morris to Seward, which describes the facts of the case and appears in the 24 October 1839 letter, does not make any reference to which one of the sailors allegedly made this statement to Isaac.

[22]Samuel Blatchford to Seward, 2 August 1839, William Henry Seward Papers, University of Rochester, Rochester, New York.

[23]Liberator (Boston), 16, 30 August 1839.

[24]Hopkins to Seward, 30 August 1839, Correspondence Between the Governor of New York and the Lieutenant-Governor of Virginia, 43.

[25]Seward to Hopkins, 16 September 1839, Works of William Henry Seward, 2: 449-454.

[26]Glyndon G. Van Deusen, William Henry Seward (New York: Oxford University Press, 1967), 65-66. Other measures that the state of New York took on behalf of its black population included an 1840 law guaranteeing a jury trial for anyone accused of being an escaped slave, and an 1841 law which emancipated any slaves which travelling southerners brought into New York. Also, the state passed a law in 1841 that ensured black children public education. Seward strongly supported all of these developments. For further discussion of free blacks in New York, see Paul Finkelman, "The Protection of Black Rights in Seward's New York," Civil War History 34 (September 1988): 212.

[27]Seward to Christopher Morgan, 11 January 1840, Seward Papers.

[28]Seward to McDonald, 15 June 1841, 14 July 1841, 12 October 1841, 26 October 1841, 27 December 1841, Works of William Henry Seward, 2: 519-547.

[29]For letters of support which Seward received from New York politicians and antislavery advocates, see Morgan to Seward, 6 January 1840, Anson Brown to Seward, 23 January 1840, Samuel Parsons to Seward, 7 February 1841, Seward to J C. Hathaway, et al., 13 February 1841, Seth M. Gates to Seward, 31 March 1841, Jabez D. Hammond to Seward, 3 April 1841, 26 April 1841, John A. Collier to Seward, 6 October 1841, Seward Papers. During this time, Adams was the leading opponent of Congress's "twenty-first rule," which banned abolitionist petitions. The Massachusetts representative claimed that the rule was evidence of southern efforts to control the North. Although he denounced abolitionists for provoking hostility in the South, and also accused his northern political adversaries of submission before southern

demands, Adams did direct criticism toward the southern states. See William W. Freehling, The Road to Disunion: Secessionists at Bay, 1776-1854 (New York: Oxford University Press, 1990), 342-345; Paul C. Nagel, John Quincy Adams: A Public Life, A Private Life (Alfred A. Knopf: New York, 1998), 355-356. Adams took a great interest in the extradition controversies. He discussed the matter with former New York Whig congressional representative John Dean Dickinson, and described the affair as being of "more vital importance to the Union than the bank, the tariff, the currency, or the land and state debts questions, or than all of them together." Dickinson told Adams that Whig Gulian C. Verplanck was the only New York state senator to disagree with Seward's position, but Adams worried that "the leading men of the North are all truckling to southern slavery," and "are ready to desert Seward in the stand he had taken." See Charles Francis Adams, ed., Memoirs of John Quincy Adams, Comprising Portions of his Diary from 1795 to 1848, 12 vols. (Freeport, NY: Books for Libraries Press, 1969), 10: 401, 456, 462, 463; Albany [New York] Argus, 5 January 1841 for Verplanck's party affiliation. Seward discussed the extradition controversies with Adams. See Seward to Adams, 5 April, 20 April 1841, Seward Papers.

[30]Van Deusen, William Henry Seward, 65-66; Bancroft, Life of William H. Seward, 1: 101-107 contend that Seward opposed slavery, but declined to take any action against the peculiar institution until political antislavery gained support in the late 1830s. At this time, the New York governor believed he had enough support to take an antislavery stand in the extradition controversies.

[31]Paul Finkelman, "States' Rights North and South in Antebellum America," in An Uncertain Tradition: Constitutionalism and the History of the South, ed. Kermit L. Hall and James W. Ely, Jr. (Athens: University of Georgia Press, 1989), 125-157.

[32]Ibid., 134.

[33]Paul Finkelman, "States' Rights, Federalism, and Criminal Extradition in Antebellum America: The New York-Virginia Controversy, 1839-1846," in German and American Constitutional Thought: Contexts, Interaction, and Historical Realities, ed. Hermann Wellenreuther, Claudia Schnurmann, and Thomas Krueger (New York: St. Martin's Press, 1990), 293-340.

[34]Ibid., 313-314.

[35]Finkelman, "States Rights North and South," 134. The southern concept of states' rights was that the federal government was supreme in the powers which the United States Constitution expressly delegated to the federal government, but that the federal government could not acquire any new

powers. The Constitution's Tenth Amendment left any powers, responsibilities, or authority not delegated to the federal government to the states. Congressional intervention in the extradition controversies meant requesting Congress to transfer the power of extradition to the federal judiciary. Thus, this measure provided for increasing the jurisdiction of the federal government while reducing the powers of the state governors. Finkelman claims that southerners consistently opposed such a measure.

[36]Ibid., 139-140.

[37]Finkelman, "States' Rights, Federalism, and Criminal Extradition," 313; Finkelman, "Seward's New York," 223, 225.

[38]Philip J. Schwartz, Slave Laws in Virginia (Athens: University of Georgia Press, 1996), 7.

[39]Philip J. Schwartz, Twice Condemned: Slaves and the Criminal Laws of Virginia, 1705-1865 (Baton Rouge: Louisiana State University Press, 1988), 34.

[40]Schwartz, Slave Laws in Virginia, 135.

[41]Finkelman, "Seward's New York," 211-234; Finkelman, "States' Rights, Federalism, and Criminal Extradition," 293-340; Finkelman, "States' Rights North and South," 125-157.

[42]Larry Gara, "The Fugitive Slave Law: A Double Paradox," Civil War History 10 (September 1964): 229-240 discusses southern debate over the expansion of federal power which the Fugitive Slave Law of 1850 entailed.

[43]John A. Munroe, History of Delaware, 2d ed., (Newark: University of Delaware Press, 1984), 103; James S. Van Ness, "Economic Development, Social and Cultural Changes: 1800-1850," in Maryland: A History, 1632-1974, ed. Richard Walsh and William Lloyd Fox (Baltimore: Maryland Historical Society, 1974), 220.

[44]Daniel Walker Howe, The Political Culture of the American Whigs (Chicago: University of Chicago Press, 1979), 16.

[45]Joel H. Silbey, The Partisan Imperative: The Dynamics of American Politics Before the Civil War (New York: Oxford University Press, 1985), 75.

[46]Richard P. McCormick, The Second American Party System: Party Formation in the Jacksonian Era (Chapel Hill: University of North Carolina Press, 1966), 154, 165, 208, 221, 235, 308.

[47]Finkelman, "States' Rights, Federalism, and Criminal Extradition," 313.

CHAPTER II

GEORGIA:

INDECISION IN THE EXTRADITION CONTROVERSIES

Georgia's politicians believed that they had to prosecute northerners who absconded with slaves in order to preserve the institution of slavery. In the 1830s, events such as the emergence of William Lloyd Garrison's Liberator, mob confrontations in New York, abolitionist literature arriving in the South, and abolitionist petitions reaching Congress created the impression that hostility to slavery existed throughout the North. Meanwhile, Nat Turner's revolt in Virginia demonstrated the existing potential for unrest among slaves. Opposition to slavery equalled a threat to economic livelihood and social stability in Georgia, as well as the other slave states. When two sailors from Maine aided a slave in escaping from Georgia in 1837, Georgians perceived this as a dangerous example. Northern abolitionists could encourage slaves to escape, or, worse yet, assist the slaves in running away. In an effort to prevent this from happening, Georgia's leaders focused on the state's legal system and tried to enforce existing statutes against absconding with slaves.[1]

Slavery was an established political issue in Georgia

during the Maine dispute. The state's legislators expressed concern over federal interference with the peculiar institution as early as 1827, when they opposed congressional aid to the African Colonization Society. A two-party political system had existed in Georgia since the 1820s,[2] and the state's parties incorporated concerns about slavery into their platforms. Each of Georgia's parties claimed to to be the true defender of the peculiar institution, while denouncing the other as unsympathetic to the South. In 1840, while the Maine controversy proceeded, politician George M. Troup claimed that Georgia's Democrats and Whigs were "cutting one another's throats in the controversy as to which of the two belongs the higher degree of abolitionism."[3] Georgia practiced a "politics of slavery" in which debate centered on policies for the shared goal of protecting the peculiar institution.[4]

Political dissension between the Democrats and the States' Rights/Whig Party prevented Georgia from taking action in the extradition matter in the late 1830s and early 1840s. In response to the Maine controversy, Democrats advocated an appeal to Congress, while States' Rightists favored a state quarantine law against Maine's shipping. Each party effectively blocked the other's efforts to act. Although a similar dispute between Virginia and New York further convinced Georgians of the need to punish those who absconded with slaves, the state's politicians remained too divided to take any kind of stand on the matter. It was only after a third controversy between Georgia and New York that

Georgia's leaders reached a consensus and approved state shipping restrictions against all northern states. Georgia's politicians had intended to prevent similar cases, but Virginia took the lead in responding to the extradition controversies many months before Georgia passed its law. The political gridlock in Georgia occurred along party lines, and partisan politics delayed the state's reaction to the extradition controversies for years.[5]

The controversy between Maine and Georgia began in May 1837. Sailors Daniel Philbrook and Edward Killeran, citizens of Maine, removed a slave named Atticus from Georgia. When the schooner Boston docked in the port of Savannah, Philbrook and Killeran permitted Atticus to return to Maine with them. James Sagurs, the slave's legal owner, laid the matter before a magistrate in Chatham County, Georgia, who issued a warrant for the arrest of the two sailors. Democratic Governor William Schley of Georgia requested Maine Governor Robert P. Dunlap, also a Democrat, to extradite Philbrook and Killeran. In August 1837, the Maine governor responded, refusing to have the two seamen arrested.[6] Sagurs recovered Atticus shortly after his escape, and Georgia's political leaders began efforts to place Philbrook and Killeran on trial for theft.[7]

Governor Schley viewed the dispute in a broad context of sectionalism. In his annual message to the Georgia General Assembly of November 1837, the governor maintained that "the rights of the South must be respected." Georgia's request for extradition was in accord with the Fugitive Slave

Law of 1793. A refusal on Dunlap's part rendered constitutional provisions on escaped slaves a "dead letter" and permitted any "thief" from Maine to abscond with Georgia's property. Insisting that Georgia could not compromise on the issue of slavery, Schley stated that if the United States Constitution proved too weak to protect the property rights of slave owners, Georgia would have to adhere to the principles of the American Revolution by "providing new guards for our future security."[8]

Governor Schley discussed ideologically incompatible strategies for responding to the controversy in his statement. Strengthening the federal government to protect slavery would compromise state sovereignty, while passing a state law would complicate interstate relations and could endanger the Union. According to the governor, this was "a state of things which no patriot desires to witness." Schley stressed that Georgia had to act, but described the state's options as mutually exclusive.[9]

Georgia's political situation predisposed the state's leaders to division over the diametrically opposed strategies Schley described.[10] A two-party system had prevailed in Georgia since personal loyalties divided the state's politicians in the 1820s. Heirs of settlers from Virginia united under the lead of William H. Crawford and George M. Troup, while heirs of immigrants from North Carolina followed John Clark. Both groups opposed the Tariff of 1828, but differed on what methods to use in expressing their discontent. The Clark group professed loyalty to the Union

and organized into a Union Party.[11] After suffering a defeat in the 1831 state elections and denouncing President Andrew Jackson's handling of the Nullification Crisis, the Troup faction remodeled itself into a State's Rights Party. The Union Party merged with the national Democratic Party to form the Union Democratic Republican Party, and both groups held state conventions by 1835.[12] The States' Rightists supported Hugh Lawson White for president in 1836, and formally united with the national Whig Party four years later.[13] The tendency of Georgia's Democrats to support the Union and accept the centralized authority of President Jackson made the Democrats more likely to view matters in a national context. Accordingly, Georgia's Democrats united in support of federal action in the extradition matter. The opposition States' Rightists, who united with the Whigs because it was a politically expedient way to oppose the Jacksonians, consistently advocated state laws in the extradition controversies.[14]

In the lower house of the Georgia General Assembly, the House of Representatives, the Committee on the State of the Republic reviewed the case and criticized Governor Dunlap's position. The committee, which included ten Democrats and ten States' Rightists,[15] summarized the matter in a preamble and set of resolutions in December 1837. The Maine governor in part based his stand on a legal technicality. As the deponent in the case, Sagurs had stated that he was "informed and believes" that removing a slave constituted a crime in Georgia, and Dunlap maintained that belief in the

felonious nature of an act was not sufficient to warrant extradition. Pointing out that Sagurs' charges referred to a specific felony, the legislators questioned whether the Maine governor was aware that every state in the Union defined larceny as a high crime.[16] The Maine governor claimed that Philbrook and Killeran were not fugitives from justice because they did not flee from Georgia, but rather returned home in a typical and orderly fashion. The committee members maintained that when Atticus's owners arrived in Maine they found him "concealed" in a barn and could not locate either of the sailors. This gave the impression of flight.[17]

The committee's report included extensive sectionalist rhetoric. It scrutinized the Fugitive Slave Law of 1793 and the Fugitives from Justice Clause of the United States Constitution, contending that Maine was behaving unconstitutionally. The report claimed that the South could conceivably have no choice but to resort to "civil conflict" if other states imitated Dunlap's "unhallowed example."[18] The committee members found the Maine governor's denial of extradition particularly upsetting because it coincided with increasing antislavery activity in the North. Dunlap's refusal was, at best, an inclination to tolerate depredations against Georgia's property, and possibly an attempt to encourage abolitionist activity. If the latter were true, and if such efforts continued, it "must inevitably lead to a speedy dissolution of the Union."[19]

Committee members evaluated Georgia's options for

enacting legislation against Maine and made contradictory proposals. Prohibiting Maine's vessels from docking in Georgia's ports violated constitutional provisions for interstate trade, as did invoking a non-intercourse policy against citizens of the northern state. The legislators also rejected the ideas of taxing property in Georgia belonging to citizens of Maine and holding residents of the northern state hostage. While the committee recommended the adoption of five resolutions calling for federal intervention in the extradition matter, the committee's report claimed to be "strongly disposed" to passing quarantine restrictions against vessels from Maine. The committee was inconsistent in its suggestions because its members could not agree on what tactics to use in the dispute. The report and proposed resolutions represented a blank check to the House of Representatives, indicating that the committee had not decided on a strategy to follow.[20]

Claiming that the United States Constitution failed to provide adequate protection of slave property, the committee called on Congress to amend the Fugitive Slave Clause. Georgia's congressional representatives were to request alterations in the Fugitive Slave Clause to ensure the return of anyone charged with removing slaves.[21] This was the best way to alleviate the dispute because an amendment to the United States Constitution applied to all the states, and the South needed to check the budding spirit of abolitionism whenever possible.[22]

States' Rightist Alexander H. Stephens suggested

postponing the call for congressional intervention. Stephens, a member of the House of Representatives from Taliaferro County, proposed several amendments to the committee's resolutions. These amendments provided for sending the committee resolutions and all documents pertaining to the case to the President of the United States, each state governor, and Georgia's senators and representatives in Congress. If Maine continued its course, and neither the federal government nor any of the northern states did anything to facilitate the return of the sailors, Georgians were to hold a state convention and "devise the course of her future policy, and provide all necessary safeguards for the protection of the rights of her people."[23] Typical of the Georgia States' Rightists who became Whigs, Stephens placed his trust in the institutions of his state, rather than the national government.[24]

Charles J. Jenkins, a States' Rights representative from Richmond County, opposed an appeal to Congress. In lieu of Stephens' proposed resolutions, which accepted the possibility of congressional intervention, Jenkins suggested a statement that made absolutely no reference to federal involvement. The Richmond legislator called for the governor to make another formal request of Dunlap for extradition. In the event that Maine's governor declined, the Georgia executive was to send copies of Georgia's resolutions to each state governor, the President of the United States, and Georgia's congressional members. If Maine's legislature made no move to grant extradition in its session immediately after

dissemination of these resolutions, Jenkins advocated calling a state convention to deliberate what to do next.[25]

Jenkins' proposed resolutions placed the state in charge of handling matters of comity. His suggestions demanded that the legislatures of non-slaveholding states take "decisive action upon this subject." The northern states were to "restrain their people within constitutional bounds" and use "penal laws" to prevent northerners from violating the southern states' slave codes. If Georgia did not obtain satisfaction, its legislature was to take further steps in protecting the "interest and safety" of its people.[26]

The House of Representatives approved the basic elements of Jenkins' proposals. The resolutions which both houses of the General Assembly formally adopted authorized the governor to renew correspondence with Maine. If the northern state proved uncooperative, the Georgia chief executive was to send the resolutions to the states, the president, and Georgia's congressional representatives. In the event that Maine still did not capitulate, the Georgia governor was to call a state convention so that Georgia could adopt "all necessary safeguards" for the property rights of its slave owners. While not outlining specific measures for Georgia to follow, the resolutions declared that the state was obligated to "seek and provide protection for her people in her own way."[27]

Maine did not return Philbrook or Killeran to Georgia, despite continued correspondence between the states' governors. In April 1838, Georgia's States Rights Governor,

George Rockingham Gilmer, sent a formal request for extradition to Edward Kent, the new chief executive of Maine.[28] Kent, a Whig, informed Gilmer that he was going to maintain Governor Dunlap's position.[29]

Georgia's 1837 resolutions prevented the state's General Assembly from taking any action on the Maine controversy in 1838. In his annual message, Governor Gilmer noted that the resolutions provided for a state convention only if Maine's legislature took no action in its session following disbursement of the resolutions. Georgia's General Assembly met in November and December, while Maine's did not convene until after the first of the year.[30]

Governor Gilmer, a States' Rightist, treated the dispute as a controversy between two states, and avoided making a request for federal intervention. Noting that Maine's legislature agreed to an act making extradition the prerogative of the governor, Gilmer claimed that "opposition to the institution of slavery" existed in Maine. Reasoning that this law reflected public sentiment, the Georgia governor insisted that if the alleged offense in the dispute had been anything other than "stealing" a slave, there would have been no problem in securing extradition.[31] Although cautioning that Georgia should take measures capable of "disturbing the harmony of the Union" only out of the gravest necessity, the governor claimed that the state possessed the "power to protect its own institutions." He offered no definite plan of action, but concurred with the principle of the 1837 resolutions.[32]

Maine's legislature did nothing to resolve the controversy. In its 1839 session, the northern state's legislature upheld its 1838 act and declared that it was inappropriate to debate Georgia's request, which was an executive matter. Gilmer wrote to Democrat John Fairfield, Kent's replacement, in August and inquired where the dispute stood. In response, Fairfield sent Gilmer the proceedings of the Maine legislature and made no move to return Philbrook or Killeran.[33]

Governor Gilmer urged the Georgia General Assembly to use state laws against citizens of Maine in his 1839 annual message. The General Assembly was justified in defining all citizens of Maine in Georgia's jurisdiction as intending to remove slaves, and officials were to deal with these northerners according to state statutes. While he declined to call a state convention, partly because the General Assembly had not provided adequate funding and partly because it had organized another convention on unrelated issues, Gilmer contended that Georgia had to use its own authority in defending slavery.[34]

States' Rightists began efforts to enact state laws against Maine in the Georgia House of Representatives. In December 1839, Robert Toombs, a States' Rightist from Wilkes County, proposed a bill that provided for state officials to confiscate property belonging to Maine residents who visited Georgia, and also to seize such individuals. Offering a less drastic suggestion, States' Rightist George W. Crawford from Richmond County suggested quarantine restrictions on all

vessels from Maine. Upon leaving Georgia, each craft would undergo an inspection for stowed slaves.[35]

The States' Rightists in the House abandoned Toombs' suggestion in favor of Crawford's, while the Democrats divided. The House approved a bill for quarantine restrictions against Maine's shipping with a vote of 141 to 45. Of the representatives who favored the bill, seventy-five were States' Rightists, sixty-four were Democrats, and two remain unidentified by party. Of those who voted in opposition, forty-three were Democrats but only two were States' Rightists.[36] The Democrats who supported the bill did so because of geographic reasons. Attempts to remove slaves from Georgia on ships were likely to occur near the port of Savannah, and all the Democratic representatives from Chatham County, location of Savannah, favored quarantine restrictions. While many Democrats opposed the bill, others from Georgia's northern and central regions joined their Chatham County colleagues in supporting the act.[37]

The Georgia Senate also contemplated state action against Maine. The Senate requested a transcript of Georgia's correspondence with Maine,[38] and Senator A. J. Lawson proposed a policy of non-intercourse toward the northern state. Lawson, a States' Rightist from Burke County,[39] suggested restrictions on all commercial relations between Georgia and Maine, including maritime trade.[40] Georgia's upper house abandoned the Lawson proposal only after the lower house submitted its own bill to regulate shipping.[41]

The Senate divided along party lines as it decided not to act on the House bill. Andrew J. Miller, a States' Rightist from Richmond County, suggested tabling the bill for the remainder of the session and the Senate adopted this proposal with a vote of thirty-nine to thirty-four. Of those wanting to terminate discussion of quarantine restrictions, thirty-six were Democrats and three were unidentified by party. Of those who advocated further consideration of the bill, twenty-eight were States' Rightists and six were Democrats. Apparently, Miller's proposal had been an effort to force the issue, because he voted against the motion to table the bill. Instead of beginning deliberation of the matter, the Senate Democrats prevented the bill for quarantine restrictions from going into effect by ending discussion of it.[42]

Believing that the Senate was going to approve the quarantine restrictions against Maine, States' Rightist Charles J. Jenkins proposed altering the process of interstate extradition in the House of Representatives.[43] Saying that no means existed for the general government to enforce the United States Constitution's provisions on fugitives from justice,[44] Jenkins called on Congress to amend federal procedures for extradition. In a set of resolutions, he said that state governors should make requests for extradition before circuit judges of the United States having jurisdiction in the states of the fugitives' residence. In such cases, the judges were to issue warrants for the apprehension and return of fugitives

to federal marshals. Jenkins proposed these resolutions before the Senate tabled discussion of the quarantine bill.[45] He later claimed to believe a state law was the best way to deal with the Maine issue, and that he had not intended the resolutions as a specific response to that dispute.[46] This apparently was true because Jenkins voted against his resolutions after the Senate tabled the quarantine bill.[47]

House member George R. Hunter, a Democrat from Crawford County, proposed a series of amendments to Jenkins' resolutions which conceded further power to the federal government. Proposing to have Congress amend the Fugitive Slave Law of 1793, this representative argued that district judges should be in charge of returning fugitives from justice. Hunter's suggestions required extradition of all fugitives charged with any acts defined as crimes in the states where the alleged offenses took place. In addition to having Congress take powers relating to the return of fugitives from justice away from state governors, Hunter wanted to bestow those powers on Congress and the federal judiciary. This Democratic representative seized upon Jenkins' resolutions as a vehicle for broadening federal authority in response to the Maine controversy.[48]

The General Assembly approved Jenkins' resolutions with Hunter's amendments by a party vote. In the House, the measures passed with a vote of sixty-seven to fifty-four. Of those in favor of congressional intervention, sixty-three were Democrats and four were States' Rightists. Of those who

opposed, forty-seven were States' Rightists and seven were Democrats.[49] The Senate agreed to the resolutions on the same day.[50]

By 1839, Georgia's parties had divided ideologically over how to handle the Maine controversy. Long leery of federal institutions, Georgia's States' Rightists viewed the Maine dispute as a controversy between two separate states and advocated state laws in the matter.[51] The Georgia Democrats had emphasized the Union and the United States as a nation for the past decade, and accordingly looked to federal institutions as a means of protecting slavery. In addition to approving a request for congressional intervention on behalf of the South, these politicians blocked efforts to enact state laws against Maine. While transferring the power of extradition to the federal government was a large step, it applied uniformly to every state in the Union, and, in theory, was not going to perpetuate conflicts between individual states. For this reason, the Democrats perceived federal involvement in the controversy as a way to prevent interstate tensions.[52]

Mark A. Cooper, a States' Rights Whig from Georgia in the United States House of Representatives, opposed the resolutions for congressional intervention. In a letter to Georgia's Democratic Governor, Charles J. McDonald, Cooper insisted that both the United States Constitution's provision on escaped slaves and the Fugitives from Justice Clause were "nothing more than an agreement between the states." The federal government had no power to enforce them.[53]

Edward J. Black, also a Georgia representative in the United States House of Representatives, believed state action to be a less complicated solution to the Maine controversy than federal intervention. Black, a States' Rights Whig, argued for a state quarantine law against Maine's shipping in a letter to Governor McDonald. Black maintained that congressional involvement would constitute another "force bill" because it would give the national government power to coerce the states. Conceding extradition to the federal government could end the dispute with the northern state, but empowered the federal government with the potential to menace the South in the future.[54]

Cooper and Black, along with Walter T. Colquitt, were leaders of a distinct faction in Georgia politics. These politicians had been sympathetic to nullification in the early 1830s, and, as the decade progressed, they maintained a close allegiance to South Carolina Senator John C. Calhoun.[55] Georgia's Calhounites stayed in the States' Rights Party until around 1840, when they joined the Democracy. While in the States' Rights camp, Cooper, Black, and Colquitt were more favorable to President Martin Van Buren than to northern Whigs whom they denounced as enemies of the South. Even after merging with the Democrats, these Calhounites constituted a militant states' rights faction within Georgia politics.[56]

While Cooper, Black, and Colquitt merged with the national Democratic Party because of their loyalty to Calhoun, who joined the Democracy in the late 1830s,[57] the

views of Georgia's Calhounites on the Maine controversy were in accord with those of Georgia's Whig Party. The tenets of the Georgia Calhounites rested on an extreme mistrust of northerners, a belief that the states never formed a single, united nation, and a willingness to accept momentary loss rather than concede an ideological principle. The last of these beliefs accepted that any move toward increasing the power of the national government was in the worst interest of the South and slavery. Accordingly, Cooper and Black both urged Georgia to act on its own in the Maine dispute.[58]

The rest of Georgia's delegation to the United States House of Representatives refused to request congressional intervention in the extradition controversy. These representatives, who included four Whigs, a States' Rights Whig, and a States' Rights Democrat,[59] informed Governor McDonald that they would not comply with the General Assembly's resolutions. It was possible to view the Maine matter as a dispute between Georgia and the individual fugitives, or as a controversy between the states of Georgia and Maine. Neither way of defining the controversy justified granting additional power to the federal government.[60]

If Georgia defined the case as a dispute between the state of Georgia and the individual fugitives, the federal government had no authority to act in the matter. The federal government had a limited jurisdiction, and was able only to use powers which the United States Constitution stated expressly. The Eighth Section, First Article cited virtually all these powers, and made no reference to

controlling extradition. Moreover, the federal government could enforce only federal laws. While the 1793 act did call for the return of fugitives from justice, neither Congress nor the federal judiciary had jurisdiction over state laws. The law which Philbrook and Killeran broke by removing a slave was an act of the state of Georgia, and the national government, therefore, had no authority.[61]

Viewing the controversy as a case between the states of Georgia and Maine could undermine Georgia's ability to enforce its own laws. Under the Constitution of the United States, there was one way in which Congress could bestow upon circuit or district judges powers similar to those requested in the resolutions. This was in a case involving at least two states and in which the Supreme Court held concurrent jurisdiction. A case such as this would originate when an individual filed suit and the case reached the Supreme Court. The situation would remove Georgia's right to try offenders against its laws in its own courts, and ruling in cases involving fugitives from justice would depend on the arbitrary will of a single judge. Because of increasing hostility to slavery in the North, many federal judges were likely to give rulings which disregarded southern state laws dealing with slavery.[62]

These congressional representatives practiced the Georgia Whigs' policy of state sovereignty in the name of slavery. They included much pro-slavery rhetoric in their discussion of the resolutions for federal intervention. Claiming that they were aware of the Maine controversy's

serious implications for Georgia's slave property and the Union, these representatives maintained that only a "higher duty" to their constituents compelled them to ignore the resolutions for congressional involvement. Georgia possessed the right to regulate its property in slaves even prior to the ratification of the Constitution. In the current environment, where many northerners conspired to rob the South of its slaves, Georgia should never surrender any of its rights to the national government.[63]

In March 1840, Democrat Wilson Lumpkin introduced the resolutions for congressional intervention in the United States Senate. Acknowledging that Georgia's representatives in the House opposed the resolutions, Senator Lumpkin refused either to advocate or criticize the proposals. He admitted that the subject had great bearing on harmony within the Union and claimed that if Congress were going to transfer the power of extradition to the federal judiciary, it should do so quickly to avoid similar disputes in the future. If Congress determined itself unable to take this measure, the states would have to deal with the extradition issue.[64] The Senate referred the resolutions to the Judiciary Committee, which ignored them.[65]

In his remarks to the Senate, Lumpkin expressed a pragmatic attitude toward the Maine dispute. Unlike the other Georgia politicians, who possessed ideological commitments to a policy of either national or decentralized government, Lumpkin stated that the parties' strategies for action in the Maine controversy were not mutually exclusive.

While the States' Rights Party opposed the resolutions, supporting them did not make Georgians less respectful of states' rights. All Georgians believed that the general government was one of limited, enumerated powers, and no one questioned the constitutional right of Georgia to regulate its slave property. Moreover, no one doubted that the state had authority to pass laws in response to the Maine controversy. Underscoring the need to determine a course of action, Lumpkin claimed that conceding control of extradition to the federal government could help Georgia punish those who violated its laws. Such a measure could make it easier for Georgia to prosecute individuals who violated a punitive state law against Maine by ensuring extradition of alleged criminals.[66]

In March 1840, Democratic Governor McDonald responded to Georgia's representatives in Congress and maintained that an appeal to the federal government did not endanger Georgia's autonomy. Doubting that state authorities had the right to refuse extradition requests, McDonald maintained that all state laws deserved equal respect under the Constitution of the United States. He claimed the Constitution entrusted Congress with the responsibility for extradition because it did not delegate the obligation to any other party. Georgia's 1839 resolutions for transferring extradition to circuit or district judges proposed the best way to prevent controversies such as the Maine dispute. At the same time, the resolutions in no way suggested increasing federal power because they made no mention of conferring any new judicial

authority on the national government.[67] The resolutions did no more than insist that the federal government discharge a duty which the states had conceded when they ratified the United States Constitution. While existing federal laws were not sufficient to protect Georgia's rights, the 1839 proposals were in the best interest of all the states.[68]

Disagreement among Georgia's politicians continued in spring 1840 as Charles J. Jenkins argued a states' rights viewpoint. Jenkins, who had presented the original form of the 1839 resolutions in the Georgia House of Representatives, criticized United States Representative Edward J. Black in an angry editorial which the Whig Columbus Enquirer published. In a letter to Governor McDonald, Black had stated that Jenkins proposed the resolutions "in lieu of more decisive and appropriate measures" such as a state law. Noting that he had not proposed transferring the power of extradition to the federal government until after the House approved the quarantine bill, Jenkins maintained he had intended this amendment for the general good. It was not a specific response to the Maine controversy. Jenkins believed the quarantine law was the best method for obtaining satisfaction in that dispute, and had voted against the resolutions after he learned the Senate was going to adopt them as a substitute for the shipping regulations. Jenkins insisted that the call for federal intervention in the controversy would be a "deep and lasting humiliation" for Georgia. Although both advocates of state action in the Maine dispute, Jenkins and Black quarreled as Jenkins protested Black's insinuation that

Jenkins sided with the Democrats in recommending federal intervention.[69]

As Georgians debated how to proceed in the Maine dispute, they took note of the extradition controversy between Virginia and New York. The Virginia matter was common knowledge in Georgia by December 1839, when the Democratic Southern Banner described the affair as being "similar" to Georgia's dispute with Maine.[70] Rather than compelling Georgia's legislators to cooperate in the extradition matter, the Virginia affair perpetuated Georgians' disagreement. The fact that another extradition controversy had begun reinforced the need to act in the minds of Georgia's leaders, but both advocates of a state law and supporters of federal intervention in Georgia incorporated the Virginia matter into their arguments. Georgia's States' Rightists/Whigs and Democrats each cited the Virginia case as another reason for adopting their proposals in the extradition matter.

Believing it easier to argue for congressional intervention when describing the extradition issue as being national in scope, Governor McDonald discussed the Virginia controversy in the context of Georgia's dispute with Maine. In his message to the 1840 session of the General Assembly, the Georgia governor noted that the Maine affair was still unresolved and that Georgia's representatives in Congress had declined to support the 1839 resolutions.[71] Three days later, he transmitted to the General Assembly a copy of resolutions which Virginia had passed on the New York

controversy in March 1840.[72] Lamenting that the Old Dominion's statement proposed no "definite, ultimate measure of redress," the Georgia governor maintained that the South could expect little from a northern governor who did not recognize the right of states to pass laws within their borders. While urging his state's General Assembly to pledge "the cooperation of Georgia" in any action the Old Dominion took against New York, McDonald reiterated that transferring the power of extradition to circuit or district judges was still the most efficient way to handle such matters. Without federal control of extradition, disputes similar to the Georgia and Virginia cases would continue to arise and subject the Union to "perpetual disturbance."[73]

McDonald continued agitating for an appeal to Congress when Virginia requested Georgia's cooperation in the New York dispute. The Georgia governor forwarded to the General Assembly a communication from Virginia Governor Thomas Walker Gilmer, which asked all the slave states to support the Old Dominion against New York. McDonald noted that Virginia was not acting hastily and still had not determined a definite strategy. Taking this opportunity to campaign for federal intervention, McDonald included a lengthy exposition saying that the United States Constitution had imposed the duty of extradition on the national government.[74]

A majority of the Georgia House Committee on the State of the Republic incorporated the Virginia dispute into its argument for state action on the extradition issue. After considering Governor McDonald's messages on the

controversies, Robert Toombs presented the committee's majority report. This statement maintained that the Maine controversy and Virginia's dispute with New York were vital concerns for all slave states and that the South needed to resolve the issue as quickly as possible. Toombs' report included two resolutions authorizing the governor of Georgia to continue correspondence with Virginia and also to open communications with the other slave states. These state governors were to devise a "remedy" to end the existing controversies and prevent new ones. These resolutions empowered the Georgia governor to convene the state's General Assembly for approving a plan of action. While not averse to cooperating with other states in the disputes, the committee preferred to keep the matter on a state level.[75]

The committee's minority, which favored an appeal to Congress, also discussed the Maine controversy and the Virginia matter as related cases. Georgia was "necessarily affected by the position of Virginia, (from coincidence of policy and interest)." Although promising to cooperate with "any necessary and proper measure of redress, which Virginia may be forced to adopt," the minority report insisted that transferring the power of extradition to federal circuit judges was the best way to avoid future controversies. Unlike northern state governors, who could allow personal prejudices against slavery to influence their decisions, federal judges would consistently grant extradition in all cases involving state laws. Enabling the national government to fulfill its constitutional duty of returning fugitives

from justice would protect the South from northerners who absconded with slaves.[76]

The committee's minority opposed shipping restrictions against Maine. A quarantine law was unconstitutional because its provisions applied to only one state and violated the United States Constitution's Privileges and Immunities Clause. Moreover, such an act interfered with the national government's power to regulate interstate commerce. Although working within the Union was still possible, the minority claimed to prefer leaving the federal compact to enacting state regulations against Maine. These committee members believed a punitive state law to be an act of war. Maintaining that a national system of justice should prevent interstate disputes, the minority stated that it was better for Georgia to pursue its interests outside the Union than to engage in conflict with Maine. This sentiment was rhetorical in nature and expressed the minority's aversion to a state law.[77]

The Whigs had a greater tendency to treat the Maine and New York disputes as separate cases because the policies of the Georgia Whigs emphasized states' rights and states' independence.[78] The Georgia House postponed discussion of the committee reports,[79] and Whig Alexander H. Stephens proposed a bill directed solely at Maine. This proposal provided for seizing the "persons" of Maine residents and citizens visiting Georgia.[80] Two days later, the House decided to table the committee reports, and Whig G. W. Crawford of Richmond County[81] moved to refer the Stephens

bill to an ad hoc committee.[82] The House approved this motion by a vote of 102 to 69. Of those in favor of the motion, seventy-eight were Whigs, twenty-two were Democrats, and two were not identified by party. Of those opposing, fifty-two were Democrats and seventeen were Whigs. Possessing a greater commitment to state autonomy, the Whigs were less likely than the Democrats to view the extradition matter in a sectional or national context. For this reason, the Whigs had less of a tendency to view the controversies as related cases.[83]

Despite opposition from the Democrats, the Whigs in the House approved a bill for action against Maine only. Crawford, a member of the committee analyzing Stephens' proposal, suggested an amendment. Advocating quarantine restrictions against incoming vessels from Maine, Crawford wanted to require all ships from the northern state to undergo inspection before leaving Georgia.[84] In a final vote of ninety to seventy-nine, the House approved the quarantine restrictions. Of those supporting the proposal, sixty-seven were Whigs, twenty-two were Democrats, and one was not identified by party. Of those who opposed, fifty-five were Democrats, twenty-three were Whigs, and one was not identified by party. A majority of the Whigs advocated the state law, while most Democrats retained their commitment to federal intervention. A states' rights perspective prevailed in the Georgia House.[85]

In the Georgia Senate, the Whigs united in favor of the quarantine restrictions, while the Democrats divided among

themselves over an amendment to the House bill. P. Lindsay, a Democratic senator from Butts County, suggested modifying the bill to stipulate that all restrictions against Maine would become void upon the return of Philbrook and Killeran.[86] The Senate agreed to this amendment by a vote of forty-six to sixteen. Of those in favor of the measure, thirty-one were Whigs, thirteen were Democrats, and two were not identified by party. Of those dissenting, fourteen were Democrats, one was a Whig, and one was not identified by party.[87] The House agreed to the Lindsay amendment,[88] and the Senate approved a final form of the bill in a party vote of thirty-six to thirty-one. Of those senators favoring a quarantine act, thirty were Whigs, four were Democrats, and two were not identified by party. Of those who protested, twenty-six were Democrats, four were Whigs, and one was not identified by party.[89]

Lindsay's proposal won enough support from the Democrats to pass the quarantine restrictions. The amendment guaranteed that Georgia was going to reestablish amicable relations with Maine as soon as the extradition matter reached closure. While the Democrats advocated transferring the power of extradition to the federal judiciary and were more likely to perceive the extradition issue as national in scope, their predisposition toward the national government compelled them to denounce interstate conflicts that could disrupt the Union. By placing strict limitations on the proposed shipping restrictions, and specifying exactly when Georgia was to remove them, the Lindsay amendment calmed

Democratic concerns about increasing tensions among individual states.[90]

After the passage of the Quarantine Bill, the Senate approved a plan for Georgia to involve itself in the Virginia matter. Days before the bill passed, the Georgia Senate Committee on the State of the Republic presented majority and minority reports on the extradition controversy, which were verbatim copies of the reports which the House had tabled previously.[91] The Senate approved the majority report, which authorized the governor of Georgia to communicate with the other slave states to resolve the existing extradition controversies. The minority report, which called for transferring the power of extradition to the federal government and promised to support Virginia in its stand against New York, failed in a party vote of twenty-five to thirty-four. Democrats overwhelmingly favored the minority statement and the Whigs opposed it.[92]

Georgia was unable to take any action on the Virginia matter because the Georgia legislators could not agree on a course to follow. After the Senate approved the majority report, Alfred B. Reid, a Whig senator from Monroe County, protested that no good could come from further discussion of the Maine dispute. Moreover, the House declined to act on either its own reports or the one the Senate approved.[93] The Virginia controversy sparked debate in the Georgia General Assembly, but the state's politicians were unable to unite in requesting assistance from other slave states or offering support to the Old Dominion.

Georgia's newspapers divided along party lines as the state waited for Governor McDonald to approve or veto the Quarantine Bill. According to the Whig Columbus Enquirer, shipping regulations were "absolutely indispensable" to protect property rights. The paper accused Governor McDonald, a Democrat, of "temerity" because he considered vetoing the bill. Maintaining that Georgia's honor was at stake, the Columbus Enquirer hoped that the bill would become law.[94] The Democratic Southern Banner referred to the Virginia controversy while arguing for an appeal to Congress. Playing on sectional tensions, that paper insisted that a northern Whig would never extradite individuals accused of absconding with slaves. The southern states needed to work together in requesting Congress to transfer the power of extradition to the general government. This was the only "peaceful" means of resolving and preventing such controversies.[95]

The Democrats concentrated on the Virginia dispute more than the Whigs. Members of the Georgia Democracy cited the Virginia matter as another example of the need for federal involvement. By indicating that controversies similar to the one with Maine were likely to occur between states, the Democrats attempted to demonstrate a need for a national, comprehensive solution. The Democrats often used a sectionalist argument in this effort by asserting that the South had to appropriate the federal government's power for southern ends. Ironically, these legislators also believed that transferring responsibility for extradition to the

national government was in the best interest of the Union because it could prevent interstate conflicts. While the Georgia Whigs concurred with Virginia's stand in the matter, they retained their belief that matters of extradition had to be settled among states. Some Whigs were not averse to acting in unison with other slave states, but the desire for a state law compelled many to support a quarantine act applying solely to Maine. Rather than providing an impetus to overcome Georgia's political division, the Virginia controversy became part of Georgia's partisan debate.[96]

Democratic Governor McDonald prolonged Georgia's inactivity on the extradition matter by vetoing the bill for quarantine restrictions. In explaining his action, the governor offered a constitutional objection to the proposed act. The bill provided for non-intercourse with Maine and violated the United States Constitution's Privileges and Immunities Clause. Moreover, the bill did not resemble quarantine acts designed to protect public health because it hampered all commerce with Maine. Perhaps growing weary of his state's inaction, McDonald conceded that shipping restrictions could become necessary if Maine and New York continued to resist. For shipping regulations to be appropriate, the southern states would have to enact them in a special convention. Until this time arrived, however, deferring to the United States Constitution's supremacy guaranteed southern rights. If the nation permitted one unconstitutional act to stand, others were sure to follow.[97]

McDonald urged Virginia Governor Thomas Walker Gilmer

to support congressional intervention in the controversies. Although pledging that "the people of Georgia" would support Virginia in "any necessary and proper measure of redress," McDonald claimed that the Old Dominion's situation proved "the necessity of settling, in some authoritative manner, the means by which the provision of the Constitution, which requires the delivery of fugitives from justice, shall be executed."[98]

The plan which McDonald suggested to Gilmer implied a broad recognition of the federal government's authority. Claiming that giving control of extradition to the national government was the most effective way to protect southern states' slave property, the Georgia governor contended that states' rights did not permit fugitives to take refuge in their home states. Rather,

> the states have no power to protect their citizens against the authorities of the general government, seeking to arrest them under the Constitution, as fugitive criminals; nor can they consider the entrance into their limits for the purpose, an invasion of their territorial rights.

McDonald cited regulations for the United States Post Office as proof that the federal government could enact and enforce laws to carry out responsibilities which the United States Constitution enumerated. Saying that Congress itself, instead of federal judges, ought to handle extradition matters, the Georgia governor concluded that "Congress should be required to execute this provision of the Constitution by its own officers."[99]

Throughout spring 1841, Georgia's Whigs derided Governor

McDonald's veto of the Quarantine Bill while they observed Virginia's handling of the New York controversy. The Whig Columbus Enquirer noted that the Old Dominion had passed a law for inspections of New York ships leaving Virginia, which was to take effect on 1 May 1842.[100] The paper maintained that Georgia's General Assembly had approved a similar act which would have protected Georgia's slave property and upheld the honor of the state. Making a partisan attack on McDonald, the Columbus Enquirer hoped that Virginia's governor proved to be "a man of a different mold,"[101] and applauded the Old Dominion for taking a "noble and unflinching stand."[102]

The Democratic Southern Banner continued to campaign for an appeal to Congress. Noting that Virginia's Governor Gilmer resigned rather than return an accused forger to New York, the Southern Banner argued that existing methods of returning fugitives from justice were unacceptable. Not only were Maine and New York sheltering citizens who removed slaves from southern states, but Virginia was also undermining the United States Constitution's Fugitives from Justice Clause. Permitting the federal government to handle extradition requests was the only hope for preserving comity and ensuring the enforcement of all states' laws.[103]

While political gridlock paralyzed Georgia's leaders in the extradition matter, another dispute arose between Georgia and New York. This affair began in April 1841 when Governor McDonald submitted an extradition request to New York Whig Governor William Henry Seward. The Georgia

governor demanded the return of John Greenman, who had allegedly taken a female slave, Kezia, from Chatham County planter Robert Willis Flournoy in 1841. Greenman, a transient seaman, had aided the slave in escaping. When Flournoy's agents found Kezia aboard the ship Wilson Fuller in the port of Savannah, they returned her and Greenman went to New York. The affidavits accompanying McDonald's request charged Greenman with larceny in two instances. One of these was for removing Kezia. The other alleged that taking her personal articles constituted a separate case of theft.[104]

McDonald argued that the United States Constitution required Greenman's extradition. Writing to Seward, the Georgia governor maintained that state executives could not judge the validity of extradition requests. The Constitution's Fugitives from Justice Clause and the Fugitive Slave Law called for the return of such individuals, and the governor of New York had no right to "organize himself into a court" and determine if a fugitive acted with felonious intent. Repeating his argument for federal intervention, McDonald claimed that it was fully constitutional for the federal government to enforce extradition. This was merely serving in a ministerial capacity to fulfill provisions of the Constitution.[105]

Denying extradition, Seward used both legal technicalities and constitutional arguments in his response. The New York governor repeatedly claimed that the Georgia affidavit was too vague to warrant extradition. He also expounded a states' rights argument and maintained that the

federal government could not coerce a state governor to grant extradition without probable cause. Most significantly, Seward claimed that removing a slave was not a crime in New York because slavery did not exist there. Even after McDonald provided a formal bill of indictment against Greenman, Seward maintained that there was not sufficient cause for extradition.[106]

In his 1841 message to the General Assembly, McDonald claimed that New York's antislavery agenda necessitated federal involvement. Seward had proven that the South could not trust northern governors to return individuals who allegedly violated southern laws. A New York law of 1840, which guaranteed alleged fugitive slaves a jury trial,[107] indicated that Seward was not alone in his reluctance to respect southern property. With these views prevailing in the North, Congress had to act in defense of southern property rights. Southern states would never be able to punish northerners who removed their slaves as long as state governors controlled extradition.[108]

After receiving McDonald's message, Democrats in the Georgia Senate began to wonder if a state law was preferable to inactivity on the extradition matter. Upon the request of Charles Spalding, a Democratic senator from McIntosh County, an ad hoc committee of three Democrats and two Whigs took up discussion of the issue.[109] Suggesting an act similar to Virginia's Inspection Law, the committee proposed having vessels departing from Georgia give bond, or verify, that they were not carrying escaped slaves.[110] Committee member

James Smith, a Democrat from Camden County, advocated making the act null and void for steamboats and small craft from adjoining slave states and Florida Territory. Taking commercial interests into account, Spalding suggested that "regular trader" ships should have to give bond only once a year. The Senate agreed to these proposals and passed a bill for the shipping restrictions. These regulations applied nominally to all the states, but the southern states were to receive special exemptions. Georgia's politicians had been unable to unite on a strategy for dealing with the Maine dispute for five years, and, after taking note of similar controversies, the Democrats began to consider yielding in their commitment to federal intervention. Because the proposed law affected all northern states, and nominally applied to the entire Union, the measure did not technically violate the Constitution's Privileges and Immunities Clause. Moreover, the Georgia legislators were becoming desperate to take some kind of action. By fall 1841, Georgia faced two extradition controversies with different states, and Governor Seward of New York had proclaimed that absconding with a slave did not constitute a crime in the North. If this argument became precedent, slaves' legal status as property, as well as the peculiar institution itself, could come into question.[111]

Governor McDonald's outrage over the Greenman case broke the political gridlock which had immobilized Georgia. McDonald found it especially upsetting that New York, a state which occupied a position of economic and political

leadership in the Union, expounded the argument that removing a slave did not count as a crime.[112] When Seward declined to return Greenman despite a bill of indictment,[113] the Georgia governor became so frustrated that he abandoned his party's commitment to federal involvement. The Senate had approved its Inspection Bill by this time, and McDonald informed both houses of the General Assembly that he would approve any "constitutional" measure to protect Georgia's slave property.[114] The House agreed to the Senate proposal, and the bill--The Better to Secure and Protect the Citizens of Georgia in the Possession of their Slaves--became law in December 1841.[115]

Georgia's law had little impact. The act went into effect before the Virginia law, and a South Carolina law requiring inspection of New York ships leaving that state,[116] but Virginia had already taken the lead in voicing southern discontent. After three successive Maine governors had refused to extradite Philbrook and Killeran, there was no reason for Maine to change its position, and, before the Georgia law went into effect, Seward had declared that no state act could compel him to alter his stand.[117] The New York governor's contention that it was not a crime to remove a slave had become the focal point of the extradition matter, and Seward had already formulated and defended his constitutional arguments in the Virginia case. The Old Dominion's request for the support of the other slave states raised the issue throughout the South, and the other southern states concentrated on determining whether they should act

on Virginia's behalf. Rather than acting in accord with Virginia, Georgia passed its own law with different stipulations than those of the Virginia or South Carolina acts. This caused Georgia to appear dissident, and ensured that the slave states could not act together on the extradition matter. Because of the long delay in Georgia's reaction to the issue, the state's eventual stand had little impact on Maine or New York.[118]

Within a year, Georgians came to oppose the Inspection Law for economic reasons. The act handicapped Georgia's maritime trade, and when the provisions failed to obtain satisfaction from either Maine or New York, legislators began to question whether the law was worth maintaining.[119] The Inspection Law was most damaging to Savannah's commercial interests, and Mr. Arnold, who represented Savannah in the Georgia Senate,[120] proposed repealing the act during the 1842 session of the Georgia General Assembly.[121] The General Assembly agreed to exempt Savannah and its port from the provisions of the law, although the act still remained in place. While Georgia ensured that it could begin enforcing the provisions of the Inspection Law again, this 1842 amendment restored commercial relations with the rest of the Union because Savannah was the only port where the law had any practical effect.[122]

Partisan politics incapacitated Georgia in responding to the extradition controversies. Georgia's parties divided over how to handle the Maine dispute in 1837, with the States' Rightists favoring state laws against Maine, and the

Democrats preferring congressional intervention. This division remained after the States' Rightists merged with the national Whig Party, and Georgia's politicians continued to disagree until late 1841. Because the Democrats and the States' Rightists and Whigs each effectively opposed the other's policies, neither group was able to implement any action on the issue for many years. By the time Georgia acted, Virginia's position on the New York controversy had become the focal point of the extradition issue throughout the South.[123]

The controversy between New York and Virginia exacerbated political division in Georgia by further convincing both sides of the need to act. The Democrats, campaigning for federal intervention, cited the Virginia affair as proof that the extradition issue was national in scope and deserving of congressional action. The Whigs became more determined to enact state laws. In response to Virginia's request for cooperation in the New York dispute, many Georgia Whigs advocated acting in a block with other slave states. While these states were to act in unison, the Georgia Whigs specified that the extradition issue had to be settled at the state level. Georgia's Democrats prevented this. They neutralized efforts to correspond with Virginia about the controversies,[124] and approved a state act that functioned independently of Virginia's Inspection Law.[125] Because Georgia's leaders were unable to agree, the state could neither initiate a southern response to the extradition controversies nor

follow Virginia's lead in the matter.

The law Georgia belatedly passed was a political concession to the state's Whigs. Georgia passed its act only after the Democrats became sufficiently frustrated with Governor Seward to abandon their campaign for federal intervention. Although the law differed from the acts of Virginia and South Carolina, it was in accord with the constitutional construction of the Georgia Whigs because it in no way increased the authority of the federal government.[126]

An inconsistency existed in the ideology of the Georgia Democrats. Throughout the 1830s, Georgia's Democrats had emphasized the importance of the Union, and were also more likely than the Georgia Whigs to advocate an active national government. While the Democrats stressed loyalty to the Union, they also focused on the sectional interest of slavery, and sought to protect the peculiar institution within the federal compact. These politicians believed that expanding the authority of the federal judiciary through an act of Congress was the best way to protect slavery during the extradition controversies. Insisting that state laws were likely to increase interstate strife and sectional tensions, the Democrats maintained that entrusting the federal government with the power of extradition would resolve the matter while preserving harmony among the states. The Democrats' strategy, if implemented, could have endangered the Union by creating tremendous sectional resentments. It is likely that many northerners would have

protested increasing the power of the federal government to protect southern interests, especially when such a measure reduced the authority of the northern states.[127]

The ideologies which led to the Civil War existed in Georgia during the extradition controversies. The Whigs remained committed to the typical southern states' rights view, which perceived that, while the federal goverment was supreme in the duties which the United States Constitution expressly delegated, the national government should not acquire any additional authority. Believing that the states should retain all powers which the Constitution did not specifically give to the federal government or deny to the states, the Whigs believed that states had to settle disputes over extradition. Some Georgia Whigs advocated cooperation among slave states to protect the shared sectional interest of slavery. Ultimately, an emphasis on southern unity encouraged the development of southern nationalism by stressing the common interests of the slave states and implying that, under some circumstances, the slave states should prosper as a cohesive block outside the Union.[128] The Democrats believed that the federal government offered the best means of defending slavery, and advocated expanding federal authority for this end. As happened frequently after 1848, efforts to increase federal power for the sake of slavery created sectional competition for control of the national government.[129] In 1860, when the South lost control of the national government, southerners adopted an extreme states' rights stand and seceded.[130]

The division among Georgia's politicians prevented the state from uniting in favor of a sectionalist ideology. Although Georgia's Whigs expressed beliefs typically associated with the national Democratic Party, and the Georgia Democrats' proposals on the extradition matter were in accord with the principles of the national Whig Party, Georgia's political apparatus functioned within the national two-party system.[131] Georgia's politicians discussed their differing constitutional interpretations in a two-party political arena, where opposing factions each blocked the other and kept the other from taking any measures in the disputes. The Georgia Whigs defeated efforts to appeal to the federal government, but the Democrats delayed a state law long enough to prevent Georgia from having much impact in the extradition matter. As a result, Georgia did not precipitate northern apprehensions about southern influence on the national government, concern about southern unity, or resentment over a state law. Sectionalism was possible where a state or a region could unite in favor of a policy for protecting the interests of that area. While Georgia's Whigs and Democrats shared the objective of defending slavery, they channelled their efforts into intrastate debate, and kept Georgians from any sort of unity. Partisan division rendered Georgia ineffective in the extradition controversies.

ENDNOTES

[1]Patrick Noble to Martin Van Buren, 25 January 1840, Martin Van Buren Papers, Library of Congress, Washington, D. C. Noble was then governor of South Carolina. The South Carolina legislature drafted a set of resolutions on the Maine/Georgia controversy in 1839 that included the chronological facts of the matter. Noble sent a copy of these resolutions to President Van Buren. For an analysis of increasing sectional tensions, see Avery O. Craven, The Growth of Southern Nationalism, 1848-1861 (Baton Rouge: Louisiana State University Press, 1953), 392. Craven claims that an intense antislavery sentiment developed in the North between 1830 and 1860. To the South, this represented a blow to economic interests and the existing social structure. Rising antislavery attitudes and increasing abolitionist activity also had the potential to encourage rebellion among slaves.

[2]Anthony Gene Carey, Parties, Slavery, and the Union in Antebellum Georgia (Athens: University of Georgia Press, 1997), 20-24.

[3]Ibid., 51.

[4]William J. Cooper, Jr., The South and the Politics of Slavery, 1828-1856 (Baton Rouge: Louisiana State University Press, 1978), xii.

[5]Ibid.

[6]Noble to Van Buren, 25 January 1840, Van Buren Papers. For the governors' party affiliations, see Robert Sobel and John Raimo, eds., Biographical Directory of the Governors of the United States, 1789-1978, 4 vols. (Westport, CT: Meckler Books, 1978), 1: 292, 2: 600.

[7]Paul Finkelman, "States' Rights North and South in Antebellum America," in An Uncertain Tradition: Constitutionalism and the History of the South, ed. Kermit L. Hall and James W. Ely, Jr. (Athens: University of Georgia Press, 1989), 139.

[8]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1837 (Milledgeville: P. L. Robinson,

State Printer, 1838), 29.

[9]Ibid.

[10]There is no evidence that Schley deliberately divided Georgians on the issue of how to respond to the extradition controversy. If he did not wish Georgia to take any action on the matter and worked toward this end by fostering disagreement within the state, he ranks as one of the antebellum era's shrewdest politicians. Perhaps the governor wanted Georgia to raise a loud protest as a symbol of self-expression but did not desire any change in policy that could impair interstate relations or endanger commerce.

[11]Carey, Antebellum Georgia, 20-24.

[12]Ibid., 35.

[13]Ibid., 36, 51.

[14]Thomas E. Schott, Alexander H. Stephens of Georgia: A Biography (Baton Rouge: Louisiana State University Press, 1988), 42.

[15]Macon Georgia Messenger, 16 November 1837 lists party affiliation for all members of the General Assembly. Names of the committee members appear in House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1837, 55. Between 1798 and 1843 Georgia used a county-based plan for apportionment to the General Assembly. Each county had one senator and at least one representative. Some counties received as many as three additional representatives based on population. A complete discussion of representation in Georgia appears in Carey, Antebellum Georgia, 121.

[16]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1837, 405.

[17]Ibid., 407.

[18]Ibid.

[19]Ibid., 404. The report did not mention a specific instance of abolitionist activity other than Maine's position on the extradition controversy.

[20]Ibid., 407.

[21]Ibid., 408.

[22]Ibid., 407.

[23]Ibid., 409.

[24]Schott, Alexander H. Stephens, 37.

[25]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1837, 410.

[26]Ibid., 411-412. Jenkins' resolutions did not mention a specific strategy for Georgia to follow if Maine declined to return the sailors.

[27]Ibid., 413. The Journal of the House of Representatives does not identify who drafted the final form of the resolutions, or identify how the House members voted on them.

[28]Noble to Van Buren, 25 January 1840, Van Buren Papers. For the governors' party affiliations, see Sobel and Raimo, Governors of the United States, 1: 289, 2: 601. Gilmer wrote to Kent on 27 April 1838.

[29]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1838 (Milledgeville: P. L. Robinson, State Printer, 1839), 20. Kent responded to Gilmer on 25 June 1838.

[30]Ibid.

[31]Ibid.

[32]Ibid.

[33]Noble to Van Buren, 25 January 1840, Van Buren Papers. For Fairfield's party affiliation, see Sobel and Raimo, Governors of the United States, 2: 602.

[34]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1839 (Milledgeville: P. L. Robinson, State Printer, 1840), 22.

[35]Ibid., 311.

[36]Ibid; [Athens] Southern Banner, 19, 26 October 1839. The Georgia House of Representatives had a Democratic majority during this session. The [Athens] Southern Banner notes the party affiliation of all but two representatives, identifying 112 Democrats and 93 Whigs.

[37]A list of representatives and their respective counties appears in House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1839, 3-6.

[38]Senate, Georgia General Assembly, Journal of the Senate of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1839 (Milledgeville: William S. Rogers, State Printer, 1840), 52. The Georgia Senate requested a transcript of Georgia's correspondence with Maine from newly-elected Democratic Governor Charles J. McDonald. In Georgia, new governors took office after the incumbent delivered the annual message. For further information on McDonald's election and his party affiliation, see Sobel and Raimo, Governors of the United States, 2: 292.

[39]Macon Georgia Messenger, 24 October 1839 lists county and party affiliation of many senators, including Lawson.

[40]Senate, Georgia General Assembly, Journal of the Senate, 1839, 226.

[41]Ibid., 291.

[42]Senate, Georgia General Assembly, Journal of the Senate, 1839, 361-362. For Miller's county and party affiliation, see [Athens] Southern Banner, 19, 26 October 1839. In 1839, the Georgia Senate had a Democratic majority. The [Athens] Southern Banner identifies fifty-two Democratic senators and thirty-seven Whig senators.

[43]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1839, 351.

[44]Ibid., 439-440.

[45]Ibid., 441.

[46]Columbus [Georgia] Enquirer, 6 May 1840.

[47]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1839, 445; [Athens] Southern Banner, 19, 26 October 1839.

[48]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1839, 444.

[49]Ibid., 445.

[50]Senate, Georgia General Assembly, Journal of the Senate, 1839, 361. The Journal of the Senate does not identify individual votes on these resolutions.

[51]Carey, Antebellum Georgia, 47.

[52]F. N. Boney, "The Politics of Expansion and Secession, 1820-1861," in A History of Georgia, ed. Kenneth Coleman (Athens: University of Georgia Press, 1977), 134.

[53]McDonald forwarded copies of the 1839 resolutions to all of Georgia's congressional members on 8 January 1840. He asked that the representatives and senators request Congress to adopt the amendments specified in the resolutions. Cooper wrote back to McDonald on 20 January 1840. The letter appears in Columbus [Georgia] Enquirer, 8 April 1840; [Athens] Southern Banner, 17 April 1840.

[54]Black responded to McDonald on 17 February 1840. The "force bill" he referred to was the measure Congress passed during the Nullification Crisis of the 1830s, which permitted President Andrew Jackson to use military force in the event that South Carolina attempted secession. Black's letter appears in Columbus [Georgia] Enquirer, 8 April 1840.

[55]Carey, Antebellum Georgia, 43.

[56]Ibid., 49.

[57]Lacy K. Ford, Jr., Origins of Southern Radicalism: The South Carolina Upcountry, 1800-1860 (New York: Oxford University Press, 1988), 159. John C. Calhoun united with the national Democratic Party in 1837 on the issue of the subtreasury.

[58]Carey, Antebellum Georgia, 49; Schott, Alexander H. Stephens, 42; Columbus [Georgia] Enquirer, 8 April 1840. In his letter to McDonald, Cooper stated that if Maine violated its constitutional pledges, Georgia would be released from the obligations of the federal compact and would be free to protect its interests "in her own way."

[59]Party affiliation for these congressional representatives appears in Congress, Senate, Joint Committee on Printing, Biographical Directory of the American Congress, 1774-1971 (Washington, D. C.: United States Government Printing Office, 1971).

[60]Columbus [Georgia] Enquirer, 1 April 1840; [Athens] Southern Banner, 24 April 1840. Although the papers reprinted the entire letter and the names of the six representatives who signed it, the exact date of the communication does not appear.

[61]Ibid. For the Eighth Section, First Article of The Constitution of the United States, which enumerates the powers of Congress, see Melvin I. Urofsky, ed., Documents of American Constitutional and Legal History, 2 vols. (New York: Alfred A. Knopf, 1989), 1: 100-101.

[62]Columbus [Georgia] Enquirer, 1 April 1840; [Athens] Southern Banner, 24 April 1840.

[63]Ibid.

[64][Athens] Southern Banner, 27 March 1840.

[65]Finkelman, "States' Rights North and South," 140.

[66][Athens] Southern Banner, 27 March 1840. Lumpkin presented the resolutions for federal intervention in the United States Senate on 11 March 1840. The [Athens] Southern Banner reprinted his speech. See also Blair and Rives, eds., The Congressional Globe, Containing Sketches of the Debates and Proceedings of the Twenty-Sixth Congress, First Session, 38 vols. (Washington, D. C.: Globe Office, 1840), 8: 257-259.

[67][Athens] Southern Banner, 17 April 1840. McDonald expressed these arguments to Mark A. Cooper in a letter dated 25 March 1840, which the paper reprinted.

[68]Ibid., 24 April 1840. The paper reprinted a letter from McDonald to Georgia's congressional representatives dated 31 March 1840.

[69]Columbus [Georgia] Enquirer, 6 May 1840. The statements which Jenkins took offense to appear in Black's letter to Governor McDonald of 17 February 1840.

[70][Athens] Southern Banner, 21 December 1839. On 13 March 1840, the [Athens] Southern Banner published an early draft of resolutions on the New York controversy which the Virginia House of Delegates discussed. These statements maintained that if Virginia did not obtain satisfaction on the New York matter, the Old Dominion could conceivably leave the Union. Virginia ultimately approved a set of resolutions that made no overt reference to secession in March 1840, but the [Athens] Southern Banner did not mention this. For the final form of the Virginia resolutions, see House of Delegates, Virginia Legislature, Preamble and Resolutions Relative to the Demand by the Executive of Virginia Upon the Executive of the State of New York, for the Surrender of Three Fugitives from Justice, 1839-1840 sess. Acts of Virginia, 17 March 1840 (Richmond: Samuel Shepherd, Printer to the Commonwealth), 156.

[71]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1840 (Milledgeville: P. L. Robinson, State Printer, 1841), 18.

[72]House of Delegates, Virginia Legislature, Preamble and Resolutions Relative to the Demand by the Executive of Virginia Upon the Executive of the State of New York, 155-170.

[73]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 39-40.

[74]Ibid., 242-245. In November 1840, Governor Gilmer of Virginia sent letters to all the slave states, requesting support in the New York dispute. Specifically, the Virginia governor asked the southern states to "cooperate in any necessary and proper measures of redress." For a complete copy of one of these letters, see Thomas Walker Gilmer to James K. Polk, 12 November 1840, James K. Polk Papers, Tennessee State Library and Archives, Nashville, Tennessee. At this time, South Carolina was taking an interest in the extradition issue as well. In late 1839, the Palmetto State passed a set of resolutions promising to "make common cause with any state of this confederacy" facing the situation of Georgia in the Maine dispute. For a complete draft of these resolutions, see Senate and House of Representatives, South Carolina General Assembly, Journal of the Proceedings of the Senate and House of Representatives of the General Assembly of South Carolina, at its Regular Session of 1839 (Columbia: A. H. Pemberton, State Printer, 1839), 165. Governor McDonald of Georgia said virtually nothing about the South Carolina resolutions, but referred them to both the Georgia House and Georgia Senate on 3 November 1840. This appears in House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 18. Georgia's General Assembly did not discuss the South Carolina resolutions. It was impossible for Georgia to ask another state for cooperation in the Maine controversy when Georgians had not yet decided on a course to pursue.

[75]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 35, 384. County and party affiliation for the 1840 session of the Georgia General Assembly appear in [Athens] Southern Banner, 30 October 1840.

[76]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 385-387.

[77]Ibid.

[78]Schott, Alexander H. Stephens, 41-46. The Georgia Whigs did not unite in supporting Henry Clay's economic programs until 1843.

[79]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 387.

[80]Ibid., 406.

[81]Party and county affiliation appear in [Athens] Southern Banner, 30 October 1840.

[82]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 437. Journal of the House of Representatives does not list members

of the committee. In 1840, the Georgia House of Representatives contained 118 Whigs, 86 Democrats, and 2 legislators who were not identified by party. See [Athens] Southern Banner, 30 October 1840 for party affiliation.

[83]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 437-439; [Athens] Southern Banner, 30 October 1840.

[84]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 439-440; [Athens] Southern Banner, 30 October 1840.

[85]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1840, 441-442; [Athens] Southern Banner, 30 October 1840.

[86]Senate, Georgia General Assembly, Journal of the Senate of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1840 (Milledgeville: William S. Rogers, State Printer, 1841), 382.

[87]Ibid.; [Athens] Southern Banner, 30 October 1840. In 1840, the Georgia Senate contained forty-eight Whigs, forty-four Democrats, and one senator whose party affiliation is not known.

[88]Senate, Georgia General Assembly, Journal of the Senate, 1840, 383.

[89]Ibid., 389; [Athens] Southern Banner, 30 October 1840. See [Athens] Southern Banner, 1 January 1841 for a copy of the proposed act.

[90]Senate, Georgia General Assembly, Journal of the Senate, 1840, 383.

[91]Ibid., 275-277. Six Whigs, six Democrats, and one senator whose party affiliation is unknown made up the Senate Committee on the State of the Republic. Whig James S. Calhoun of Muskogee County presented the majority report and Democrat William W. Gordon of Chatham County presented the minority report. The committee members' names appear on page forty of the Journal of the Senate, and party affiliation appears in [Athens] Southern Banner, 30 October 1840.

[92]Senate, Georgia General Assembly, Journal of the Senate, 1840, 390-391; [Athens] Southern Banner, 30 October 1840. The Journal of the Senate does not note how the senators voted on the majority report.

[93]Senate, Georgia General Assembly, Journal of the Senate, 1840, 391. See [Athens] Southern Banner, 30 October 1840 for Reid's county and party affiliation. The Journal

of the House of Representatives does not mention the Senate majority report, but Governor McDonald stated that the Georgia House refused to consider the Senate report in a letter to Virginia Governor Thomas Walker Gilmer. See Charles J. McDonald to Gilmer, 27 January 1841, Journal of the House of Delegates of Virginia, 1840-1841 Session (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 128, Document no. 43.

[94]Columbus [Georgia] Enquirer, 6 January 1841.

[95][Athens] Southern Banner, 1 January 1841.

[96]John McCardell, The Idea of a Southern Nation: Southern Nationalists and Southern Nationalism, 1830-1860 (New York: W. W. Norton and Company, 1979), 7. This author contrasts southern sectionalism with southern nationalism. Sectionalism was a perceived sentiment of shared interest in a given region and a united effort to promote those interests within the Union. Southern nationalism was the belief that the southern states should exist outside the Union, and that they should form a new nation.

[97][Athens] Southern Banner, 12 November 1841.

[98]McDonald to Gilmer, 27 January 1841, Journal of the House of Delegates of Virginia, 128.

[99]Ibid.

[100]House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of Any Crime, 1840-1841 sess., Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia, 13 March 1841, (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 79-82.

[101]Columbus [Georgia] Enquirer, 31 March 1841.

[102]Ibid., 7 April 1841.

[103][Athens] Southern Banner, 2 April 1841.

[104]Paul Finkelman, "The Protection of Black Rights in Seward's New York," Civil War History 34 (September 1988): 228.

[105]McDonald to William Henry Seward, 29 April 1841, 28 June 1841, 3 September 1841, 8 October 1841, William Henry Seward Papers, University of Rochester, Rochester, New York.

[106]Seward to McDonald, 15 June, 14 July, 12 October, 26 October, 27 December 1841, The Works of William Henry

Seward, ed. George E. Baker, 5 vols. (Boston: Houghton, Mifflin, and Company, 1888), 2: 519-547. For a discussion of the way in which Seward used the concept of states' rights to argue his position in the extradition controversies, see Finkelman, "States' Rights North and South," 134.

[107]Assembly, New York Legislature, An Act to Extend the Right of Trial by Jury, Act of 6 May 1840, Laws of New York, 1840 (Albany: Thurlow Weed, Printer to the State, 1840), 174.

[108]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1841 (Milledgeville: P. L. Robinson, State Printer, 1842), 22-24.

[109]Senate, Georgia General Assembly, Journal of the Senate of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1841 (Milledgeville: Grieve and Orme, State Printers, 1842), 5, 137. Party affiliation for the 1841 Georgia legislators appears in [Athens] Southern Banner, 22 October 1841.

[110]Senate, Georgia General Assembly, Journal of the Senate, 1841, 158.

[111]Ibid., 4, 189. The Journal of the Senate does not identify how the individual senators voted on the bill. In 1841, the Georgia Senate contained fifty-five Democrats, thirty-three Whigs, and five senators who were not identified by party. For party affiliations, see [Athens] Southern Banner, 22 October 1841.

[112]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1841, 22.

[113]Seward to McDonald, 27 December 1841, Works of William Henry Seward, 2: 546-547.

[114]House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1841, 265; Senate, Georgia General Assembly, Journal of the Senate, 1841, 240.

[115]House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of Their Slaves, 1841 sess., Georgia Laws, 1841 (Milledgeville: State Printer, 1841), 125-128. The Georgia House of Representatives approved the act on 8 December 1841. Note of this appears

in House of Representatives, Georgia General Assembly, Journal of the House of Representatives 1841, 411. The Journal of the House of Representatives does not identify individual votes on the act. In 1841, the Georgia House of Representatives contained 116 Democrats, 87 Whigs, and 4 representatives not identified by party. Party affiliation of the legislators appears in [Athens] Southern Banner, 22 October 1841. The law required ships leaving Georgia for any out-of-state destination to give bond that they would remove no slaves. Each ship had to insure and indemnify Georgia citizens against any removal of slave property it might be party to. The act required trading ships from Georgia to post bond annually, and exempted steamboats and small craft from neighboring slave states.

[116]Virginia's Inspection Law and South Carolina's Inspection Law both went into effect on 1 May 1842. Each of these acts required New York ships to undergo inspection for stowed slaves before leaving either a Virginia or South Carolina port. Both acts applied only to New York. The Georgia law went into effect on 1 January 1842. For a copy of the South Carolina act, see Charleston [South Carolina] Courier, 13 January 1842. The South Carolina act's official title was An Act to Prevent the Citizens of New York from Carrying Slaves out of this State, and to Prevent the Escape of Persons Charged with the Commission of any Crime.

[117]In June 1841, Seward specified that he was not going to return the sailors to Virginia, despite the passage of Virginia's Inspection Law. The New York governor argued that the law was unconstitutional and articulated this position to Governor John Rutherfoord of Virginia. See Seward to John Rutherfoord, 8 June 1841, Works of William H. Seward, 2: 504. On 10 February 1842, the New York governor repeated these views in a letter to South Carolina Governor John P. Richardson. See Charleston [South Carolina] Courier, 19 February 1842.

[118]Gilmer to Polk, 12 November 1840, Polk Papers. Georgia's law differed from the acts of Virginia and South Carolina. While the laws of the Old Dominion and the Palmetto State affected only New York's shipping, Georgia's act applied to all northern states. Instead of simply pressuring Seward to renounce his position, Georgia sought to prevent any more northern sailors from absconding with slaves by passing legislation. Georgia's law did not facilitate cooperation among the slave states because it functioned differently than the acts of Virginia and South Carolina. See House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of Their Slaves, 125-128; House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, 79-82; Charleston [South Carolina] Courier,

13 January 1842.

[119]Finkelman, "Seward's New York," 234.

[120]Senate, Georgia General Assembly, Journal of the Senate of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1842 (Milledgeville: William S. Rogers, State Printer, 1843), 3-6 notes the members of the Senate, but omits Chatham County, and so Arnold's first name remains unknown. [Athens] Southern Bannner, 4 November 1842 lists party and county affiliation for the Georgia Senate, but only cites the senators' last names.

[121]Senate, Georgia General Assembly, Journal of the Senate, 1842, 207.

[122]Ibid., 282; House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1842 (Milledgeville: P. L. Robinson, State Printer, 1843), 473. Neither the Journal of the Senate nor the Journal of the House of Representatives notes how the individual legislators voted on this amendment. In 1842, the Georgia Senate had fifty-four Democrats, thirty-eight Whigs, and one senator whose party affiliation is unknown. The House of Representatives contained 114 Democrats, 90 Whigs, and 2 representatives not listed by party. See [Athens] Southern Banner, 4 November 1842 for legislators' party affiliations. Also, see Finkelman, "Seward's New York," 234.

[123]Gilmer to Polk, 12 November 1840, Polk Papers. Gilmer asked the southern state governors to present the New York matter to their states' legislatures.

[124]Senate, Georgia General Assembly, Journal of the Senate, 1840, 390-391; McDonald to Gilmer, 27 January 1841, Journal of the House of Delegates of Virginia, 1840-1841, 128. Much Democratic opposition to cooperation with Virginia existed in the Georgia General Assembly.

[125]House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of Their Slaves, 125-128.

[126]Finkelman, "State's Rights North and South," 145.

[127]Ibid., 134; Boney, "Politics of Expansion and Secession," 136; Paul C. Nagel, John Quincy Adams: A Public Life, A Private Life (Alfred A. Knopf: New York, 1998), 355-356. In the early 1840s, Massachusetts congressional

representative John Quincy Adams frequently denounced southern political influence on the national government. He typically did this when criticizing the "Gag Rule" on abolitionist petitions in the United States House of Representatives. Efforts to increase federal authority to protect southern interests would have made Adams appear much more credible to his constituents and colleagues.

[128]McCardell, Southern Nationalists and Southern Nationalism, 7. For a discussion of the southern concept of states' rights, see Paul Finkelman, "States' Rights, Federalism, and Criminal Extradition in Antebellum America: The New York-Virginia Controversy, 1839-1846," in German and American Constitutional Thought: Contexts, Interaction, and Historical Realities, ed. Hermann Wellenreuther, Claudia Schnurmann, and Thomas Krueger (New York: St. Martin's Press, 1990), 314.

[129]Larry Gara, "The Fugitive Slave Law: A Double Paradox," Civil War History 10 (September 1964): 235 for northern resistance to the Fugitive Slave Law of 1850. Debate over slavery in the Mexican Cession and Kansas was another example of sectional competition for federal power.

[130]Michael F. Holt, The Political Crisis of the 1850s (New York: John Wiley and Sons, 1978) discusses the impact voter realignment had on sectional tensions in the years leading up to the Civil War.

[131]Carey, Antebellum Georgia, 54.

CHAPTER III

VIRGINIA:

ATTEMPTING COERCION IN THE EXTRADITION CONTROVERSIES

Virginia's leaders agreed that they needed to refute Governor Seward's position in the extradition controversies. Rather than concerning themselves with preventing the physical loss of slaves, Virginia's politicians concentrated on disproving Seward's argument that absconding with a slave was not a crime in the North. This contention threatened slavery because it assumed that the United States did not recognize slaves as property subject to theft. Such an argument had dire implications for the peculiar institution because it defined slaves' property status as legal only in the South. If slaves occupied a human status in the North, they would be more likely to flee their bondage. Moreover, if precedent established that slaves' property status was conditional, the legality of owning slaves could come into question. Seward's stand also alarmed Virginians because it assumed that northerners had no obligation to respect southern states' slave laws. Virginia's legislators ignored the extradition dispute between Maine and Georgia as they focused on their state's controversy with New York. Throughout the extradition controversies, Virginia's

legislators concentrated on forcing the New York governor to retract his arguments.

Three separate strategies emerged as Virginia's legislators debated possible means for compelling Seward to renounce his position. The first of these focused on constitutional theory. Virginians contended that the Constitution of the United States defined individuals who absconded with slaves as fugitives from justice, and that the Constitution's Fugitives from Justice Clause provided for the return of such individuals. Maintaining that each state in the Union accepted a set of reciprocal rights and responsibilities when it joined the federal compact, some Virginia politicians threatened secession if Seward maintained his position and declined to fulfill his perceived obligations as a state governor. Most of Virginia's politicians supported a punitive state law against New York's shipping.[1] An act of this nature allowed Virginia to apply legal, economic, and political pressure against Seward. A law requiring that all New York ships undergo inspection before leaving Virginia placed New York citizens within the jurisdiction of Virginia's authorities. Because shipping restrictions affected commerce between New York and Virginia, a state law permitted the Old Dominion to dictate the terms of its trade with the Empire State, and use economic power in coercing Seward. Virginians who advocated a state law believed that New York shippers and merchants, desiring a repeal of these sanctions, would pressure Seward to concede Virginia's argument. A faction of Virginia politicians

advocated congressional intervention in the New York dispute, believing that federal authority was the most efficient method of enforcing northern acceptance of slavery's legality.

By arguing that it was not a crime to remove a slave, Seward fostered Virginians' desire to coerce northern acceptance of southern principles. Virginia sought to exert power against Seward, and urged other slave states to do the same by requesting their cooperation in the New York dispute. While a commitment to states' rights caused a majority of Virginia's legislators to approve a state law aimed at New York's shipping,[2] the large minority who favored federal intervention were as determined to enforce a pro-slavery construction of the United States Constitution's Fugitives from Justice Clause. In order to achieve this end, these politicians sought to appropriate the authority of the federal government. Desire for an expanded national government grew in Virginia as a result of the extradition controversies, and the efforts of some Virginia legislators to appeal to Congress heralded future southern support for the Fugitive Slave Law of 1850.[3] Although supporters of a state law and advocates of congressional intervention disagreed on how to proceed during the extradition disputes, Virginia's leaders concurred in that they believed the Old Dominion had to force Seward to change his position. The New York governor caused Virginians to attempt enforcing northern compliance with southern demands.

The controversy, which began in July 1839, raised the

concerns of Virginia's leaders as soon as it started. In Norfolk, Virginia, Peter Johnson, Edward Smith, and Isaac Gansey permitted an escaped slave named Isaac to stow away on the schooner Robert Center. When the vessel docked in New York City, a sheriff arrested Isaac, as well as the three sailors, under a Virginia warrant. James Caphart, whom Virginia's Lieutenant Governor Henry L. Hopkins had appointed to bring the four men back to Virginia, presented Seward with a request for the extradition of Johnson, Smith, and Gansey.[4] The New York governor gave Caphart an indefinite response, saying he would "pass upon the subject in a few days."[5] Caphart returned to Virginia with Isaac, but Johnson, Smith, and Gansey gained their release by obtaining a writ of habeas corpus in New York.[6] Three individuals accused of absconding with a slave appeared to have escaped prosecution, a development which indicated northern reluctance to respect southern slave laws. At a time when political antislavery was growing in the North, this precedent appeared dangerous because it was another indication of opposition to the peculiar institution.[7]

Hopkins began a written correspondence concerning the return of the three men. In a formal request for extradition, Virginia's lieutenant governor maintained that the men's actions constituted a felony "peculiarly and deeply affecting the general interest of the good people" of Virginia.[8] Seward denied the request. He asserted that only acts defined as crimes in the state where capture took place warranted extradition.[9] Hopkins attempted to show

that Seward's position was unconstitutional. The Virginian quoted the United States Constitution's Fourth Article, which says that state executives must return all fugitives accused of "treason, felony, or other crime." Many nations defined theft of property as a crime and Virginia slaves occupied a legal status of property. To bolster his argument, Hopkins also noted that Vattel's Law of Nations advocated extradition as one means of dealing with fugitives.[10] Seward remained unmoved. The New York governor claimed that even if one accepted the argument that removing a slave from Virginia constituted a crime, it was not an offense serious enough to warrant extradition.[11]

Virginia's Democratic Governor David Campbell, who had been away from Richmond on unrelated business when the controversy began,[12] emphasized the dispute's potential for increasing sectional tensions. In his 1839 message to the Virginia legislature, Campbell maintained that Seward's stand rested on a faulty construction of the Constitution. The Fugitives from Justice Clause and the clause requiring the return of runaway slaves both appeared in the Fourth Article, Second Section. When taken in conjunction, these two provisions required extradition of anyone who helped a slave escape along with the slave. Seward's actions were capable of disturbing "the harmony and amicable relations heretofore so happily existing" in the Union by establishing a precedent for other northern states to follow. Until Seward renounced his position, New York was a potential haven for "incendiary abolitionists" bent on encouraging slave revolts. Campbell

hoped Virginia's legislature could find a constitutional means of obtaining the sailors' return, but added ominously

> if there be no such means compatible with their obligations to the Union, it may ultimately become our imperative and solemn duty to appeal from the cancelled obligations of the compact to original rights and self-preservation.[13]

Campbell expressed a tendency toward southern nationalism. The belief that the slave states should exist outside the Union first appeared in South Carolina during the Nullification Crisis, and gradually gained credibility throughout the South in the years before the Civil War.[14] Twenty years before southern nationalism triumphed, Campbell maintained that if the Union became a handicap to Virginia's interests, that state should survive on its own outside the federal compact. Campbell intended this statement to proclaim the severity of the situation. A failure to return the three sailors was, in his view, a refusal to carry out constitutional provisions, and thus could be grounds for a dissolution of the federal compact.[15]

In Seward's annual message to the New York legislature in 1840, the New York governor expressed surprise at Campbell's statements. Seward repeated his position, saying that it seemed reasonable for a state executive to grant extradition only for acts that all civilized societies defined as crimes. He expressed a

> sincere regret that a construction of the Constitution, manifestly necessary to maintain the sovereignty of this state, and the personal rights of her citizens, should be regarded by the executive of Virginia as justifying in any contingency a menace of secession from the Union.[16]

In Virginia, many Whigs and Democrats put aside their political differences to support Governor Campbell's stand. Proclaiming that the Virginia executive demonstrated the "absurdity" of Seward's argument, the Lynchburg Virginian, a Whig newspaper, urged the Old Dominion to unite. The paper maintained that the matter was too important to be "mingled with ordinary party controversies,"[17] and repeated Campbell's suggestion for possibly appealing "from the cancelled obligations of the national compact to original rights, and the law of self-preservation."[18] Thomas Ritchie's staunchly Democratic Richmond Enquirer claimed to "cordially concur" with the governor's constitutional interpretation.[19] This paper published an essay urging states' rights Whig members of Virginia's House of Delegates not to forsake Campbell's position.[20]

The Richmond Enquirer considered both state laws and an appeal to the federal government as possible responses to the dispute. The paper recommended non-intercourse laws to boycott trade with states that imitated New York,[21] and also published an editorial on the affair by venerated jurist and Richmond resident Conway Robinson. Robinson sought to have the federal judiciary uphold Virginia's interests in the controversy. Claiming that the Constitution's Fugitive Slave Clause recognized slaves as property anywhere in the Union, he urged Seward to have Johnson, Smith, and Gansey arrested. They would then obtain a writ of habeas corpus and a federal judge would rule on the matter. Acknowledging the United States Constitution as the "supreme law," Robinson maintained

that "the judicial power of the United States extends to all cases under the Constitution."[22]

The Virginia House of Delegates took up the matter of the three alleged criminals in February 1840. An ad hoc committee containing three Democrats, six mainstream Whigs, and four "Impracticable Whigs" who refused to support William C. Rives in Virginia politics, had begun deliberations on the New York dispute the previous December.[23] Committee member Thomas H. Bayly, an Impracticable States' Rights Whig from Accomack County, recommended five resolutions to the full House. The first of these concluded that Seward's actions displayed a "dangerous" disregard for the Constitution of the United States. The second stated that Virginia conceivably could secede from the Union if New York persisted in its present course. Paraphrasing Governor Campbell and maintaining that New York violated the terms of the federal compact, this resolution said that Virginia might "appeal from the cancelled obligation of the constitutional compact, to her reserved rights." The third requested the governor of Virginia to renew correspondence with Seward and urged the Virginia legislature to discuss the matter. The fourth resolution provided for the executive of the Old Dominion to request support from other slave states on any legislative action Virginia might take. The final resolution directed the Virginia governor to send copies of the resolutions to the governors of both free and slave states, asking the governors to place the resolutions before their states' legislatures.[24]

Some members of the House of Delegates maintained that assuming a belligerent posture toward New York would do nothing to resolve the controversy. Although denouncing Seward's position, Whig Robert E. Scott, a delegate from Fauquier County in the Old Dominion's northern Piedmont Region, argued that bellicose language only embarrassed the South. Scott specifically opposed the wording of the first resolution, which described Seward's position as "dangerous," and the second resolution, which threatened secession. The Fauquier Whig believed that such phrasing was, in effect, a doctrine of nullification. Scott also perceived that asking for the cooperation of the other slave states gave the impresssion that Virginia did not trust New York. Charles P. Dorman, a Whig delegate from Rockbridge County in Virginia's central Valley Region, noted that at least six legislators objected to the resolutions. He proposed recommitment of the matter.[25]

The House amended the first resolution immediately. While Bayly was willing to alter his resolutions, he opposed recommitment for fear of appearing indecisive. At the urging of Whig Wyndham Robertson, a representative from the city of Richmond, Dorman withdrew his suggestion for recommitment. Whig John F. May of Petersburg proposed rewording the first resolution. Instead of saying that Seward's stand was a "palpable and dangerous disregard, on the part of the governor of New York, of his duties under the Constitution of the United States," May proposed stating that Seward's position was "wholly unsatisfactory." After approving this

amendment, the House adopted the resolution unanimously.[26]

Whigs from the eastern half of Virginia suggested alternatives to the more antagonistic language in the second resolution. Robertson opposed the phrase "appeal from the cancelled obligations of the constitutional compact, to her reserved rights" because of its openly hostile nature. Valentine W. Southall, a Whig from Albemarle County in the central Piedmont Region, suggested that Virginia "adopt, for the protection of her property and rights, such measures as the occasion shall authorize." This proposal met swift rejection because it was not stern enough to express the legislators' concern. May's suggestion that Virginia pledge to "adopt the most decisive and efficient measures for the protection of her citizens, and the maintenance of rights which she cannot and will not, under any circumstances, surrender or abandon" won support from a majority in the House.[27]

While more Whigs favored May's amendment than Democrats, the delegates unanimously believed that Virginia would have to act if Seward did not renounce his position. Seventy-nine delegates voted for the proposed changes in the second resolution, while thirty-eight dissented. Of those voting in the affirmative, fifty were Whigs and twenty-nine were Democrats. Twenty-nine Democrats and nine Whigs opposed the suggestion.[28] An overwhelming majority of fifty-six Whigs and fifty-two Democrats passed the second resolution as amended, while one Whig and one Democrat opposed.[29]

These tendencies reflected the platforms of Virginia's

Whig and Democratic parties. At this time, the House had a Whig majority of seventy-two to sixty-one, and, while some Whigs in Virginia's Tidewater Region maintained a strong commitment to states' rights, most Whigs viewed matters in a national context. For this reason, they avoided belligerent threats of secession which treated the New York matter as a controversy between two separate states. The Democrats, Virginia's party of state's rights, were more likely to view the dispute as an interstate conflict than a national problem, and were more amenable to using states' rights rhetoric in the controversy.[30] Whigs and Democrats debated strategies for obtaining the extradition of Johnson, Smith, and Gansey, and refuting Seward's constitutional argument.

The House approved the remaining resolutions with little disagreement. Ninety-six delegates favored renewing correspondence with Seward, while only ten opposed. Of those who supported this measure, fifty were Democrats and forty-six were Whigs. Five Whigs and five Democrats protested.[31] The fourth resolution, which advocated requesting support from the other slave states, passed with a vote of fifty-nine to fifty. Thirty-eight Democrats and twenty-one Whigs approved this resolution, while thirty-three Whigs and seventeen Democrats opposed.[32] The fifth resolution passed easily as well.[33]

The House then drafted a preamble for the resolutions that analyzed the New York dispute from a constitutional perspective. This preamble insisted that demanding extradition of the three sailors was fully in accord with a

strict construction of the Constitution.[34] No southern state would have joined the federal compact without a guarantee of being able to own slaves, and slaves therefore occupied a legal status of property, which could be subject to theft.[35] The Constitution's Privileges and Immunities Clause, in conjunction with the document's provision for returning fugitives from justice, made privileges and obligations of citizens reciprocal. A visitor in a given state had a responsibility to follow that state's laws, including Virginia's codes concerning removal of slaves, which had not changed after the 1780s.[36] Despite this theorizing, Virginia's statement concluded that even if the exact wording of the Constitution permitted Seward's actions, the New York governor still violated its spirit.[37] A desire for entrusting the national government with additional powers to enforce the Constitution's intended provisions followed logically from this premise.

The preamble noted several proposals Virginia could pursue if Seward refused to return the sailors. These included requiring inspection of all trading vessels heading "North" for fugitive slaves, requiring a pledge of "good behavior" from New York citizens coming to Virginia, and a direct appeal to the state of New York. Delegates also had considered appealing to the United States Supreme Court, or to Congress. Congressional intervention meant requesting the transfer of responsibility for extradition from state executives to federal judges.[38]

The preamble admitted that several proposed strategies

would subordinate the state to the national government. A majority of the delegates believed that the Supreme Court had no jurisdiction in the matter because it was not a "case in law and equity," as the United States Constitution specified. A state executive was in a better position to grant extradition than the federal judiciary. Moreover, the preamble maintained that "the change proposed would add another to the list of cases, already too long, in which the state and federal authorities may come into collision." According to the preamble, many legislators feared that introducing the subject of slavery into Congress would give abolitionists an opportunity to attack the peculiar institution. The preamble stated that, if the state of New York did not return the sailors, searching ships was the safest course to follow. Still, some of Virginia's leaders considered turning to the federal government.[39] With the assent of the Virginia Senate, the Old Dominion formally adopted the preamble and resolutions in mid-March 1840.[40]

In its preamble and resolutions on the New York controversy, Virginia promised to support Georgia in the Maine dispute. The Virginia preamble specifically referred to the Maine affair, saying that "Virginia is prepared to make common cause with Georgia, or any other slave-holding state, in a similar controversy." This effort to make Virginia's request for cooperation among southern states reciprocal included an element of sectionalism. The report stated that "the patience of the South has already been too severely taxed" by northern attempts to "avoid discharge of

their constitutional duties."[41]

This pledge of cooperation was nominal because Virginia noted an important difference between the two controversies. While both Virginia and Georgia sought to obtain the extradition of individuals accused of removing slaves, Maine's governors offered a different argument than Seward. Governor Robert P. Dunlap, and his successors Edward Kent and John Fairfield, refused Georgia's request on the ground that the accused individuals left Georgia without undue haste, and, therefore, did not constitute fugitives from justice. Maine's legislature confirmed that the governor had full authority over requests for extradition, but never expounded Seward's contention that removing a slave was not a crime in the North.[42] The Virginia preamble acknowledged this, saying "it is true that the grounds taken by the governor of Maine are much less exceptionable than those assumed by the governor of New York."[43] While the Virginia preamble regretted Georgia's recent request for federal intervention in the Maine affair, the Old Dominion's legislature took little time discussing the controversy between Maine and Georgia.[44] Internal division prevented Georgia from taking any action on the Maine dispute, and Virginia concentrated on forcing Seward to retract his position.

While the Virginia legislature debated it resolutions, Seward discussed the extradition matter privately with Thomas W. White, editor of the Southern Literary Messenger. White, a Virginian, sent the New York governor a copy of Conway Robinson's statement on the dispute. Saying that the

Southern Literary Messenger was going to publish Robinson's views shortly, White urged Seward to return the sailors. White cited the 1835 case of Jack v. Martin, in which the New York Supreme Court confirmed that the Fugitive Slave Law of 1793 was fully constitutional, and claimed New York Supreme Court Justice Joseph Story had ruled that fugitives had to be returned to states where alleged offenses took place. Hoping for a "harmonious settlement of the controversy," White stated that executive action on the part of state governors had to conform to judicial exposition.[45] In response, Seward contended that he could not alter his position because a majority of New York's citizens agreed with him.[46]

Virginia's newly-inaugurated governor, Whig Thomas Walker Gilmer, pressured Seward to return the sailors with constitutional arguments. Gilmer began an official correspondence with Seward in April 1840. Reiterating Virginia's position that the New York governor was failing to carry out constitutional responsibilities, Gilmer insisted that the United States Constitution was the supreme law of the land.[47] The Virginia governor stressed that Seward was acting with disregard for the federal compact, and asked if the New York governor's actions did not "virtually withdraw the State of New York from the obligations of the Union." Although Gilmer included an implied threat by saying that "the issue is not what Virginia may be driven to do," his argument spoke of New York, rather than Virginia, existing outside the Union.[48]

While Gilmer carried on his official correspondence, Virginian Colonel C. S. Morgan privately expressed concern to Seward about mounting sectional tensions. Morgan, a Richmond resident and friend of Governor Gilmer, claimed that the controversy was of great importance to the Union because Virginia and New York both occupied positions of leadership in their regions of the country. Morgan argued that the North was going to follow any precedent which the Empire State set, and that the southern states were all going to take measures in support of the Old Dominion. The Virginian admitted that he was writing secretly, and hoped that the two states could avoid the "vortex" of sectional animosity which the controversy was pulling the nation toward. Morgan concluded that extraditing the sailors was the best means of achieving this goal,[49] but Seward remained unmoved.

Seward waited until mid-November 1840 to answer Governor Gilmer's communications. No one in New York challenged Seward's decision because the New York state legislature determined extradition to be an executive responsibility. Having established that he was not going to return the three men, Seward offered further constitutional theories to explain his position. Gilmer's claim that the Constitution recognized property in slaves was suspect. When the framers drafted the document, Seward argued, American common law was the equivalent of British common law, which did not guarantee that a person could hold property in slaves. Extraditing Johnson, Smith, and Gansey would establish a dangerous precedent. It would confirm that any state could request

return of a fugitive for any offense it arbitrarily dubbed a crime. Frivolous cases would "defeat the principal object of the Constitution, a more perfect Union."[50]

Gilmer then requested the other slave states to unite on the matter. The Virginia governor quoted the Privileges and Immunities Clause, the Fugitives from Justice Clause, and the clause for returning escaped slaves from the Constitution. These provisions defined slaves as property and provided for the extradition of those accused of stealing property. In Gilmer's opinion, the New York governor's position was "so gross and dangerous a perversion of the federal Constitution" that if it became precedent, there would be no means of capturing fugitive slaves. While saying that he did not want to involve other states in the dispute without their consent, Gilmer declared that "Virginia does not regard this question as her own." The governor urged the other slave states to "cooperate in any necessary and proper measure of redress." Although he did not specify what measures Virginia was going to take, Gilmer knew that his state was going to act in the New York dispute.[51]

In his November 1840 message to the Virginia legislature, Gilmer described Seward's position as an affront to all the slave states and discussed southern cooperation on the matter. The Virginia governor claimed that the

> governor of New York has taken great pains to shew [sic] that there is an irreconcilable repugnance between the condition of laws of the states holding slaves and the states holding none. This is true, if his views are correct, or if the Constitution to which we appeal shall no longer furnish the measure of our respective rights and obligations in regard

> to questions where collisions may arise. If the security of our domestic rights does really depend on the legislation of New York, or on the caprice of its governor, the delusion of our compact has been complete on our part.[52]

Recommending that Virginia appoint several commissioners to bring the controversy directly before the New York legislature, Gilmer concluded that he had "no doubt of the cordial concurrence of the slaveholding states in the views which Virginia has taken of her rights, and of their readiness to cooperate with us in maintaining them."[53]

Rather than denounce New York's recent Trial-by-Jury Law, which guaranteed a jury trial to anyone accused of being an escaped slave in New York,[54] Gilmer concentrated on disproving Seward's argument that removing a slave was not a crime. The Empire State had passed the Trial-by-Jury Law in spring 1840, and, in his November 1840 message to the Virginia legislature, Gilmer claimed that the law recognized slaves as property. The New York law called for the return of anyone found to be a slave, which indicated that a slave did not cease to be property upon entering a free state. Because slaves legally constituted property anywhere in the Union, removing a slave was an act of theft warranting extradition under the Constitution of the United States.[55]

After deliberations, a newly-formed House of Delegates select committee issued a report which emphasized the danger Seward's stand presented to Virginia's economy. The committee, which consisted of eleven Whigs and two Democrats,[56] claimed that Seward's position placed Virginia's slave property in "the most perilous condition."[57] A

precedent that slaves did not constitute property would be catastrophic because

> the slave property of Virginia, at a moderate calculation, is worth one hundred and thirty-four millions of dollars, which is two thirds of the value of the entire real estate of the Commonwealth, and without which, that estate would be comparatively valueless.

New York's prominence in the Union made its position appear especially threatening. The committee members stated

> New York is the largest, the wealthiest, the most powerful, and the most commercial state in the Union. Her trade and commerce have ramified and extended themselves into every part of the southern states. There is no recess so secluded into which it has not penetrated. Her vessels are met with in every bay and river of the slave holding states. The position which she has taken, therefore, standing alone, places the property (to take no higher ground) of our people in the most imminent peril.

If Seward did not alter his stance, Virginia's waterways would become filled with vessels capable of removing slaves and New York would become a haven for "slave-stealers." The Trial-by-Jury Law, which Seward had assented to, further suggested that the New York governor did not respect slaves' property status.[58]

Sectional loyalties transcended national party affiliation as the Whig-dominated committee assailed the New York legislature, which had a Whig majority.[59] The New York legislature's decision that extradition was an executive matter suggested to Virginians that a majority in New York's state government condoned Seward's actions.[60] Decrying this "present fanatical spirit," the committee maintained

> we must expect that the example of New York will be followed, if not now properly met by Virginia.

> Aggressions never recede. To submit to one is to invite another. They can only be driven back by prompt and vigorous resistance.[61]

A majority of the committee favored requiring inspection of all New York vessels departing from Virginia. Such a measure was fully appropriate because the Constitution reserved the powers of protecting internal peace and property of citizens for the states. Congress and the states jointly shared powers delegated to the general government and not prohibited to the states. State laws associated with these powers only came into question when they violated congressional laws, and, at the time, congressional laws concerned with regulating interstate trade and navigation only applied to tonnage and duties on imports.[62]

The committee proposed a Bill to Prevent Citizens of New York from Carrying Slaves out of this Commonwealth and to Prevent the Escape of Persons Charged with the Commission of any Crime on 15 February 1841. This proposed giving Virginia the power to inspect all vessels from New York for slaves or individuals accused of crimes, including removal of slaves. Captains and owners of such craft would be subjected to fines if they departed from Virginia without a certificate of inspection. In addition to preventing the removal of slaves from Virginia via ship, the bill suggested a way for Virginia to exert legal and economic power over citizens from New York.[63] The proposed law was an effort to influence Seward's constituents because it affected the commercial interests which New York Whigs tended to represent in state politics.[64]

The Whigs on the committee deviated from typical Whig policies both in Virginia and throughout the United States. By the 1840s, most of the Old Dominion's Whigs had adopted views on national issues that resembled those of Whigs across the upper South. While defending slavery was an important issue to these politicians, they typically concurred with the national Whig party on commercial matters and also in a willingness to concede further powers to Congress. Still, a block of Virginia Whigs retained an intense commitment to decentralized government and states' rights.[65] Because an ideological conservatism, which revered political and social stability, existed in Virginia, some Whigs opposed any changes in the federal government.[66] Frequently disagreeing with their constituents, these Virginia legislators were ideologically compatible with the Virginia Democrats.[67] A majority of the committee did not want the federal government to intervene in the New York dispute, but believed Virginia had to coerce Seward into returning the sailors. Accordingly, these delegates proposed a state law.

Expressing a viewpoint more typical of the Whigs, two committee members claimed that the proposed law would be an encroachment onto federal authority by the state of Virginia. Isaac A. Coles, a Whig from the Piedmont county of Albemarle, claimed that because the Constitution divided sovereignty between the states and the general government; the states retained only those powers not granted to the general government. Virginia had no constitutional sanction to regulate interstate trade.[68] Whig Robert E. Scott, who

had opposed threatening language in the original draft of the March 1840 resolutions, claimed that Congress retained absolute control over interstate shipping. The bill for inspection violated the Constitution's Privileges and Immunities Clause by placing New York in a situation unlike that of any other state. Scott referred to the bill's stipulation that Virginia cease requiring inspections when New York returned Johnson, Smith, and Gansey, and repealed its Trial by Jury Law. This suggested a precedent of one state abolishing its laws at the request of another and had the potential of endangering Virginia's own laws.[69] These delegates did not oppose states' rights, but believed that, to a certain degree, an active national government could benefit the entire nation.[70]

Viewing the New York controversy as a national issue rather than a state dispute, Coles advocated an expansion of federal power to protect slave interests. He advised an appeal to Congress for transferring the power of extradition to the federal court. Such a measure would bring about laws requiring the federal judiciary to extradite criminals. The national government could impeach a federal judge who refused to turn over fugitives, something that the legislature of Virginia could never do to the governor of another state. Coles also claimed that this strategy spared Virginia the burden of enforcing the cumbersome inspection bill.[71]

Coles believed that federal authority was the most reliable means of forcing northerners to accept southern principles. The Albemarle delegate wanted to strip powers

away from state executives and give them to the national government. The method he suggested for doing this, having Congress take authority over extradition away from the state governors and bestow that responsibility on the federal judiciary, implied that the federal government was capable of dictating the scope of states' sovereignty. Not content merely to have an enlarged federal judiciary act as an arbiter for bickering states, Coles wanted to ensure the removal of judges who were unsympathetic to southern concerns.[72]

Thomas T. Cropper, a states' rights Whig from the Tidewater county of Accomack, argued that Coles's proposal was dangerous. In a general House debate, Cropper claimed that federal intervention in the controversy was unconstitutional. Because the states possessed all powers that the Constitution did not bar from them, the federal government could do nothing but exercise those powers which the Constitution expressly gave it. The federal government was not a specific entity that was party to the national compact, but, rather, it was "the mere creature of the states." Involving Congress in the matter was a step toward making that body judge of its own powers. If this happened, the states would have to acquiesce to whatever the national government did. The end result would be the creation of a consolidated government.[73]

As was true for Coles, Cropper's constitutional beliefs influenced the method he proposed for pressuring Seward. Cropper maintained that the Inspection Bill was a safe

measure for Virginia to enact because it did not interfere with the admitted power of Congress to regulate interstate commerce. Quarantine restrictions which New York placed on ships arriving from areas containing disease were more costly than the nominal fee Virginia would charge for inspection. South Carolina's Negro Seamen's Law required the incarceration of all blacks on ships while their vessels were in any of that state's ports. The proposed law for inspection fell into this category of shipping regulations. The Constitution only barred state powers when they were "repugnant" to identical powers granted to the general government. The law the Inspection Bill proposed was less costly and easier to enforce than other shipping laws deemed not repugnant to regulation of commerce.[74]

Other delegates offered a variety of opinions on how Virginia should proceed. States' rights Whig John Munford Gregory, who represented the Tidewater counties of James City and York, as well as the city of Williamsburg, wanted to deny citizens of New York the right to recover debts through the Virginia courts. Knowing that this idea had little support, Gregory accepted the Inspection Bill as an acceptable alternative.[75] Whig John F. May of Petersburg wanted to make the Inspection Bill even more damaging to New York citizens. He urged the state of Virginia to pay refunds to retailers who did not sell goods from the Empire State. Cooperative Virginia merchants would also be exempt from one year's militia duty. May maintained that the best way to affect Seward was to change public opinion in New York, and

the Petersburg delegate claimed that commercial restrictions would achieve this goal. Despite May's enthusiasm, even most of the states' rightists in the Virginia House opposed this vindictive proposal.[76]

Whig Henry P. Irving from the Piedmont county of Cumberland advocated federal intervention in the extradition matter. Irving proposed a set of resolutions as a replacement for the Inspection Bill. These resolutions claimed that Seward's refusal to extradite Johnson, Smith, and Gansey was unconstitutional, but that Virginia could not force the New York governor to return the sailors. To remedy that situation, the resolutions called for amendment of the Fugitive Slave Law of 1793. In addition to requiring the return of fugitive slaves, this federal law provided for the extradition of fugitives from justice. Its flaw was that it provided no means for enforcing this obligation. While keeping extradition a duty of the state governors, the resolutions proposed that when cases involving interstate rendition arose, a federal judge would issue a warrant with a United States marshal for return of the fugitive. This would give the federal judiciary the authority to grant extradition in the event that a state governor proved uncooperative. The resolutions also sought to expand the power of the national government by requiring harsher penalties for obstructing the return of escaped slaves. The House was to send copies of the resolutions to all the state governors in the Union, and also to Virginia's congressional members, who were to introduce the changes in Congress.[77]

A block of Whigs supported Irving's call for congressional intervention. On 11 March 1841, the Virginia House rejected Irving's resolutions with a vote of eighty-one to thirty-four. Of those who voted against the measures, fifty were Democrats and thirty-one were Whigs. Thirty-three of the delegates who supported the call for congressional intervention were Whigs.[78] These delegates believed that expanding the federal government's jurisdiction was the most effective way to protect southern interests.

Support for the Irving resolutions came from Virginia's Whig strongholds. Of the thirty-four representatives who favored an appeal to Congress, seven were from the Tidewater Region, fourteen were from the Piedmont, ten were from the Valley, and three were from the Trans-Allegheny. Of those who opposed Irving's resolutions, twenty-four were from the Tidewater, twenty-three were from the Piedmont, fourteen were from the Valley, and twenty were from the Trans-Allegheny.[79] Virginia's Whigs consistently fared better in the state's towns and urban counties, while the Virginia Democrats tended to win in agricultural areas of the state. Democrats prevailed in tobacco-producing areas and counties which plantation owners controlled.[80] The Piedmont Region had a large slave population, and also contained most of Virginia's cities.[81] This area had reason to oppose Seward's stand, and, in accord with the ideology of Virginia's mainstream Whigs,[82] many Whig delegates from the Piedmont sought to oppose the New York governor's stand through federal action. Many Whigs from the Valley Region, where plantation

agriculture was not prevalent, concurred.[83] While tremendous diversity existed within Virginia's Whig Party, and although opposition to Irving's resolutions existed in Virginia's middle regions, the foundation of Virginia Whiggery desired federal intervention in the extradition controversies.

The Irving resolutions called for a consolidation of power at the national level. In 1787, the Constitution made different provisions for returning fugitives from justice and fugitives from labor. While state governors were to extradite accused criminals, no specific instructions existed for the rendition of escaped slaves. The Fugitive Slave Law of 1793 reaffirmed this distinction and, after that law went into effect, political and legal establishments increasingly treated matters involving fugitives from justice and fugitive slaves separately.[84] The House delegates favoring Irving's resolutions tried to pull these two issues together. They sought to transfer the state power for extraditing alleged criminals to the judicial branch of the federal government and simultaneously bolster the federal law calling for return of runaway slaves. If this measure had passed, it likely would have increased northern concerns about southern political influence on the federal government.

A large majority of Democrats supported the Inspection Bill while a division existed among the Whigs. George T. Yerby, a Whig delegate from the Tidewater county of Northampton, made the bill acceptable to a majority of House members by suggesting that the law not take effect until

1 May 1842.[85] The House then passed the amended bill by a vote of eighty-two to thirty-two. Of the delegates who approved the act, forty-six were Whigs and thirty-six were Democrats. Twenty-nine Whigs and three Democrats opposed.[86] Debate in the Virginia House had been largely among the different factions of the Whig Party, with its widely-varying ideologies. The Democrats, although a minority in the House,[87] were much more unified. These legislators accepted the state law complacently because an emphasis on state government was in accord with the principles of Virginia's Democratic Party.[88]

A clear division among the parties over the Inspection Law existed in the Virginia Senate. The Old Dominion's upper house approved the bill with a vote of eighteen to ten. Of those favoring the bill, fifteen were Democrats, two were Whigs, and one was not identified by party. Eight Whigs, one Democrat, and one senator who was not identified by party dissented.[89]

Ideology was more important than geography in influencing Virginia's legislators to support the Inspection Law. In the House, support for the bill came from all areas of the state. Thirty-one delegates from the Tidewater Region voted. Twenty-eight of them supported the proposed law and only three opposed. Of the thirty-seven Piedmont delegates, twenty-four voted for the bill and thirteen voted against. Thirteen House members from the Valley assented to the proposed act while ten members from this region dissented. Of twenty-three delegates from the Trans-Allegheny Region,

seventeen cast votes for the bill, while six opposed.[90] In the Senate, most support for the bill came from Virginia's eastern half, but the Trans-Allegheny Region offered the highest percentage of approval. Seven senators from the Tidewater Region and five from senatorial districts including both Tidewater and Piedmont counties voted on the act. Of the seven from the Tidewater, four voted in the affirmative and three opposed. Three of the five senators from districts overlapping the Piedmont voted for the bill, while two dissented. Of seven Piedmont senators, four supported the bill and three opposed. Four Valley senators cast votes on the measure, with two voting each way. All five senators from the Trans-Allegheny Region approved the bill.[91] While most support for federal intervention in the New York dispute came from Virginia's middle regions, many legislators from across the state favored the Inspection Law. The Democrats and the states' rights Whigs united to block the will of Virginia's Whig Party.

Desire for federal intervention continued in Virginia even after the General Assembly passed the Inspection Law. In March 1841, Whig Wyndham Robertson of Richmond City presented a petition to the House protesting the act. In addition to claiming that inspection would produce ill will among states, punish New Yorkers friendly to Virginia, and hamper commerce between the two states, his protest maintained that a state law was not the correct way to address the dispute. Because the Constitution expressly provided for the return of escaped criminals and slaves,

responsibility for extradition rested with the federal government. An individual state was wrong to usurp powers belonging to the national government unless it had first failed to enforce those guarantees specified in the Constitution. In an effort win support for congressional intervention, Robertson's statement claimed that the Inspection Law only protected the slave property of planters in the Tidewater Region.[92]

The delegates who signed Robertson's petition were Whigs from Virginia's middle regions. Twenty-four House members concurred with the protest, and only one, James Cather of Frederick County in the Valley, was a Democrat.[93] Among the protestors, there were two from the Tidewater, twelve from the Piedmont, eight from the Valley, and two from the Trans-Allegheny.[94] Twenty-one of these legislators had voted for Irving's resolutions, and twenty-one of them had also opposed the Inspection Law.[95] These Whigs consistently believed that expanding the federal government's power was the proper method for obtaining satisfaction in the extradition controversy. An ideological predisposition caused them to view the interstate dispute as a national issue, rather than as a controversy between two states.

Whig support for an appeal to Congress existed in the Virginia Senate as well. Later in March, a group of senators who had voted against the Inspection Law delivered a formal protest against the act to Virginia's upper house.[96] This report maintained that, while Seward's position was unconstitutional, the law for inspection was no less so. It

violated the Constitution's Privileges and Immunities Clause by imposing burdens on New York citizens, and intruded upon Congress's power to regulate interstate commerce. The law was a non-intercourse act, and, therefore, constituted a war measure. The protestors advocated appointing a commissioner to place the Old Dominion's request for extradition before the New York legislature. An alternative acceptable to these senators was

> a resolution or law which should make it the duty of the proper officer or organ to apply to Congress to pass the necessary law to secure the apprehension and surrender in another state of all fugitives from justice in this state.[97]

Of the eight senators who signed this statement, seven were Whigs, and one was unidentified by party.[98]

Despite the protest of many Whigs, Virginia used the new law in an effort to pressure Seward into returning Johnson, Smith, and Gansey. The Virginia legislature voted to send copies of the act to all states in the Union, noting that, unless the New York governor conceded Virginia's position, the Inspection Law would take effect the next year. Virginia also sent transcripts of its correspondence with New York to the rest of the states in an attempt to win support in the South and stress the gravity of the situation to the North. In accord with Governor Gilmer's request for cooperation, the slave states discussed whether to act in the the extradition matter while Virginia brandished its new law as a weapon against New York.[99]

Shortly after the approval of the Inspection Law, Governor Gilmer, a Whig, tried to resolve the New York

dispute pragmatically. John D. Dix, an agent of Seward's, presented the Virginia governor a grand jury indictment from New York requesting the return of an accused forger, Robert F. Curry. Upon receiving the request, Gilmer dispatched terms for a bargain. He would exchange Curry for Johnson, Smith, and Gansey. The Virginia governor promised to hold Curry for six months.[100]

The Virginia legislature repudiated Gilmer's offer to Seward with a bi-partisan mandate. In the House of Delegates, John F. May, a Whig from Petersburg, claimed that Virginia had to honor its constitutional obligation to grant extradition. While not questioning Gilmer's motivation, May proposed a resolution recommending Curry's return. The House adopted the resolution in March 1841.[101] This statement claimed that New York had complied fully with the Constitution when making the request and called for Curry's return, "notwithstanding the refusal of the Governor of New York so to act in a similar case."[102] The House of Delegates approved the resolution by a vote of ninety-one to seven,[103] while the Senate supported the measure unanimously.[104] Gilmer resigned upon learning of the resolution's passage.[105]

While Gilmer left office, he claimed that separation of powers justified his plan to exchange fugitives. The law of 1793 expressly stated that governors handled matters of extradition. Moreover, Virginia's own constitution gave the executive control of interstate relations. Gilmer's plan to exchange Curry for Johnson, Smith, and Gansey contradicted

neither of these provisions. It placed all responsibility on Seward and anticipated pressure from the New York legislature for Seward to change his mind. The Virginia governor based his practical actions on a belief that state executives should have full autonomy within the sphere which the United States Constitution and their own state constitutions allotted to them. Gilmer, who had requested cooperation from the other slave states and assented to the Inspection Law, had devised a strategy for coercing Seward which avoided both a state law and federal intervention.[106]

Former Governor David Campbell lamented Virginia's disagreement on responding to the New York dispute. Although criticizing both supporters of the Inspection Law and advocates of an appeal to Congress, he reserved special chastisement for Gilmer. In a private letter to his nephew, Campbell maintained

> You see the situation into which our legislature and governor got before the legislature adjourned. I have no doubt the whole affair will be laughed at most heartily in New York. I am sorry for Gilmer but he acted very foolishly and has no doubt done himself much injury in public opinion. Our leading politicians in the Virginia legislature and indeed out of it are a poor set. And the state must be fast sinking in the eyes of the other states. I am ashamed to see how they go on. But as I can't help it, I must submit like a philosopher.[107]

John Mercer Patton, Gilmer's temporary replacement as governor, wrote to Seward in an attempt to obtain the extradition of Johnson, Smith, and Gansey. Patton agreed to return Curry, and claimed that denying extradition was unconstitutional in principle. Claiming that Virginia

respected the Constitution of the United States, Patton insisted that Seward's stand violated that document's provisions for fugitives from justice and fugitive slaves. Moreover, the New York governor's position, in conjunction with New York's Trial-by-Jury Law, made it "next to impossible" to recover escaped slaves. Offering the return of Curry as a pledge of good faith to New York, Virginia's acting governor expressed an "anxious and respectful appeal" for the return of the sailors. If Seward did not do this, it would "impair the value and stability of the Union" because Virginia would "not submit to those aggressions of New York."[108]

In response, Seward defended his position with an antislavery statement. He informed Patton that, because New York's state constitution did not recognize slavery, it would be a violation of that document to extradite Johnson, Smith, and Gansey. Seward went on to condemn the institution of slavery in principle. He stated that "all men, of whatever race or condition, are even and of right ought to be free men." This statement confirmed that the New York governor did, at least in theory, oppose the peculiar institution. Virginia's concerns about an antislavery precedent arising from the controversy seemed fully justified because the New York governor spoke out against slavery in the South.[109]

John Rutherfoord, who became Acting Governor of Virginia in spring 1841, doubted that the Inspection Law was going to end the controversy. Believing that no other options for

state laws existed, the acting governor admitted that much support for an appeal to Congress still existed in Virginia. Rutherfoord was a Democrat, but considered federal intervention because he thought it could prevent sectional conflict. The acting governor confided to his son

> I think we may consider the subject so far as Governor Seward is concerned, at a rest. He will do nothing to prevent the collision which must inevitably ensue between Virginia and New York, unless the people of the latter state will do us justice, or Congress shall do something to restore harmony.[110]

Legal theorist Judge Henry St. George Tucker, who advised Rutherfoord on communicating with Seward, sought to avoid transferring the power of extradition to the federal government. Wishing to make Virginia appear moderate, Tucker urged Rutherfoord to maintain that Virginia never questioned the established process for the extradition of fugitives, and believed that this responsibility belonged to the state governors. Tucker told Rutherfoord to express only regret that the governor of New York was adhering to a construction of the Constitution dangerous to the South.[111]

Rutherfoord corresponded with Seward and emphasized that the New York governor's position had serious implications for the entire South. Virginia's acting governor told Seward

> the refusal of the authorities of New York to comply with the requisition of Virginia, and the act passed by the legislature of New York imposing insuperable obstacles to the recovery of fugitive slaves, are palpable infractions of the federal Constitution, and alarming aggressions on the rights of this state and the whole South.

Virginia had been correct to request cooperation only from slave states because of "the fact that their interests and

her own upon this subject were identical, and accordingly that any violation of her rights would be an equal infraction of theirs." Rutherfoord stated that Virginia might well be satisfied without the return of the sailors if Seward disavowed a constitutional interpretation injurious to southern property interests. While privately not opposed to congressional intervention and telling Seward that the Virginia legislature would permit the Inspection Law to go into effect "reluctantly as a mere measure of protection," Rutherfoord's letter hinted at southern nationalism. He wrote

> It rests with New York to determine whether the friendly relations between the two states shall be interrupted, and whether the compact which binds together in peace and harmony the confederated states of our glorious and happy Union, shall remain inviolate.[112]

Seward relied on legal detail to defend his position against Rutherfoord's accusations. The New York governor maintained that Virginia had always proceeded as though Johnson, Smith, and Gansey were legal citizens of New York, although it never presented any evidence of this. Moreover, no one had ever alleged that the three sailors knew Isaac was a slave. One of them told Isaac that he "was foolish to remain in Virginia, as he could get good wages up North." This reference to free labor suggested that they did not know of Isaac's status. If Johnson, Smith, and Gansey did not know that Virginia law defined Isaac as property, they had not conspired to commit theft.[113]

Seward also contended that Virginia's Inspection Law was

unconstitutional and that it overstepped the appropriate boundaries of state power. The act contained a "provision of virtual repeal" that was to take effect as soon as New York returned the three sailors and repealed the Trial-by-Jury Law. That was coercion. Nowhere did the United States Constitution, the object of which was to "form a more perfect Union," give the Virginia legislature authority to coerce the government of another state.[114]

The controversy continued unabated, despite continued correspondence between Rutherfoord and Seward. The Virginia governor claimed that he possessed "no vindictive spirit" against the sailors and that his only concern was that a precedent harmful to the South could become established.[115] The Inspection Law was not hostile to New York because Virginia had delayed the measure's activation.[116] In his reply, Seward reiterated his perception of the Inspection Law as being unconstitutional. It intruded upon the congressional power to regulate interstate trade and denied "immunities and privileges conferred upon citizens of Virginia" to citizens of other states.[117] The New York governor issued a threat, saying "whenever a foreign state has unlawfully claimed the right to search American vessels, New York has been at least as firm as her sister states in resisting so odious an assumption."[118] Rutherfoord maintained that responsibility for repairing relations between the two states lay with New York,[119] and, in his last official letter to Virginia on the matter, Seward insisted that discussion of extradition could not take place

as long as the Old Dominion maintained "an aggressive posture."[120]

In accord with Governor Rutherfoord's wishes, the 1841-1842 session of the Virginia legislature discussed altering the provisions of the Inspection Law before it took affect in May 1842. In his 1841 annual message to the legislature, Rutherfoord claimed it was with "a devoted loyalty to the Union" that the Old Dominion tried to avoid taking a belligerent position. He encouraged the legislature to examine and revise the Inspection Law to "remove as far as practicable, all causes of irritation."[121] The House of Delegates considered Rutherfoord's suggestion in February 1842. Richard H. Toler, a Whig delegate from the Piedmont county of Campbell and publisher of the Whig Lynchburg Virginian, proposed a resolution to determine whether the law for inspection needed revision.[122] Toler noted that the Democratic Party had recently won a majority in the New York legislature and claimed that if northern Democrats were "the natural allies of the South," they could facilitate a peaceful end to the dispute.[123]

After discussion, a majority of the Virginia delegates voted to retain the law and let the coercive restrictions take affect in May. States' rights Whig Thomas H. Bayly of Accomack County opposed Toler's proposal. Democratic gains in the New York legislature meant nothing because Seward could veto any attempt to return Johnson, Smith, and Gansey. Instead, Bayly advocated having individual slave states unite to use state legislation against Seward. The Accomack

delegate noted that South Carolina had recently passed its own law to require inspection of New York ships and argued that it was unfair for Virginia to change its course when the Palmetto State's legislature was not in session.[124] The House believed that the existing Inspection Law would be most effective in compelling Seward to relinquish his stand, and rejected Toler's proposal by a vote of thirty-six to seventy-five.[125] The act went into effect on 1 May 1842, and, although amended slightly in 1843,[126] stayed in place until 1846.[127]

Some supporters of the Inspection Law expounded the rhetoric of southern nationalism. In his annual message of November 1842, Acting Governor of Virginia John Munford Gregory praised the act. Gregory, who had assumed the duties as the governor of Virginia after Rutherfoord's year-long term expired, claimed the law was "the only peaceable means of protecting our property against the foolish and mad abolitionists." Virginia's acting governor went on to say that unless the North did something to curb abolitionist activity, "it will become a question for the whole South to consider, whether they will longer continue in a union with a people who are resorting to every art and device they can to rob them of their property."[128] Like Gregory, many of the Inspection Law's supporters viewed the act as a preferable alternative to expanding the federal government's powers.[129] These politicians agreed with Thomas T. Cropper's assessment that the national government was not a specific entity in itself, and that it could not wield power over the states.

It followed logically that the southern states could decide to exist outside the Union. This position contradicted that of many Virginia legislators who sought to have Congress give authority over extradition to the federal judiciary.

Throughout the extradition controversies, the Whig Lynchburg Virginian claimed that Seward violated the United States Constitution and the federal compact. Claiming that New York accepted the concept of property in slaves when it ratified the Constitution, this paper stated that "negro stealers are fugitives from justice."[130] The Lynchburg Virginian praised Governor Gilmer's letter to Seward of 6 April 1840, and said of the Virginia governor,

> he plants himself upon the national compact--the Constitution of the United States--and shows that it does distinctly and in so many words require the surrender of the parties charged and demanded, as are the three men in question.[131]

Noting the New York governor's annual message of 1842, which questioned the constitutionality of Virginia's Inspection Law, the Lynchburg Virginian maintained that New York should honor its own constitutional obligations by extraditing Johnson, Smith, and Gansey.[132] The Virginia paper reported that the New York legislature considered testing the Inspection Law's constitutionality in the United States Supreme Court, but asserted that the Empire State violated the Constitution in two ways. In addition to denying extradition, New York retained its Trial-by-Jury Law after the Prigg v. Pennsylvania decision ruled against state laws interfering with slavery.[133] The Lynchburg Virginian maintained that the actions of New York in the Virginia and

Georgia controversies, as well as Maine's position in its dispute with Georgia, constituted a "repeated virtual nullification" of constitutional provisions.[134] The paper claimed that the Virginia Inspection Law had to take affect because New York refused to comply with the Old Dominion's demands,[135] but typically relied on constitutional theorizing to defend the southern position in the extradition controversies.

The Lynchburg Virginian viewed the extradition matter as a sectional issue. In 1842, the paper expressed skepticism that the Democratic majority in the New York legislature would concede Virginia's position. Agreeing with statements which states' rights Whig Thomas H. Bayly made in the Virginia House of Delegates, the Lynchburg Virginian stated that the Old Dominion could not trust the New York legislators.[136] The paper commended the Democratic Richmond Enquirer for "censuring the unwarrantable and insolent course of Governor Seward, whom we utterly loathe and abhor," but criticized the Richmond Enquirer for praising New York's Democrats. The Lynchburg Virginian maintained that the Old Dominion could expect nothing from northern Whigs or northern Democrats. The paper concluded "the South has no natural allies, north of the Potomac, on the slavery question--a truth which she cannot too soon be made sensible of."[137]

During the extradition controversies, the Lynchburg Virginian tried to pressure Maine and New York by saying that the disputes could lead to sectional conflict. Although

criticizing a proposal in the Georgia General Assembly for banning citizens of Maine, the Lynchburg Virginian claimed that it would support whatever measures were necessary to protect southern rights if northern public opinion approved the actions of Maine and New York in the controversies.[138] Virginia could never accept Seward's position, and if the New York governor persisted in his course, the South would "appeal from the cancelled obligations of the national compact to original rights, and the law of self-preservation."[139] The Lynchburg Virginian noted the controversy between New York and Georgia, and maintained that, for the present, the southern states should consider only constitutional measures in response to the extradition disputes. "Extra-constitutional remedies" would become necessary "when we must of necessity appeal from the obligations of a 'violated compact' to those rights which belong to us as sovereign states, and which are essential to our self-preservation."[140]

The Democratic Richmond Enquirer advocated state action in the New York dispute. The paper approved of Virginia's resolutions of March 1840, which instructed Virginia's governor to continue correspondence with Seward, and also suggested cooperation with the other slave states.[141] After the Inspection Law's passage, the Richmond Enquirer described the act as a moderate measure. The paper claimed that inspection was "protection, not retaliation," and added that, if Seward did not comply with Virginia's demands, the Old Dominion would pursue other strategies. Although not

specifying the nature of these measures, the Richmond Enquirer alluded to passing punitive state laws against New York in accord with the rest of the slave states.[142] The Richmond Enquirer berated its rival, the Richmond Whig, for questioning the Inspection Law's constitutionality.[143] When Richard H. Toler's proposal for revising the act came up in the Virginia House of Delegates, the Richmond Enquirer rejoiced that the legislature decided to retain the law without amendment.[144]

The Richmond Enquirer maintained that congressional intervention was an inefficient method of forcing Seward to accept Virginia's position. The paper criticized the legislators who protested the Inspection Law, saying that they advocated appealing to New York "without doing anything ourselves, or redeeming one pledge which the legislature of 1839-1840 solemnly gave in the name of the state." Requesting federal intervention would create much debate, but would accomplish nothing. The Richmond Enquirer claimed that New York already violated federal law because Seward's position was inconsistent with the Fugitive Slave Law of 1793. There was little point in enacting additional federal legislation when the cause of the controversy was New York's refusal to abide by national laws and the terms of the United States Constitution.[145] Wyndham Robertson, author of the protest against the Inspection Law in the Virginia House of Delegates, wrote to the Richmond Enquirer and argued for federal intervention. The paper repeated its statement that congressional involvement would prevent Virginia from

acting on its own in the matter. Appealing to public opinion, the Richmond Enquirer asked if federal intervention would be "doing nothing at this time for ourselves, or worse than nothing".[146]

In the extradition controversies, the Richmond Enquirer maintained an ideological commitment to states' rights and decentralized government. Virginia's Democratic Party represented these views in the early 1840s,[147] and the Richmond Enquirer expressed these sentiments by favoring a state law as a means of coercion against New York. Position mattered more than party membership to the paper, and it frequently praised the proposals for state action which states' rights Whig legislator Thomas H. Bayly put forth in the House of Delegates.[148] Acting in unison with other states was in accord with the southern concept of states' rights,[149] and the Richmond Enquirer preferred this strategy to congressional intervention if the Inspection Law failed to obtain concession of Virginia's demands.[150]

Virginians' concerns about an antislavery precedent dissipated as New York renounced Seward's position that removing a slave did not count as a crime in the North. In April 1842, before the Inspection Law went into effect, New York's Democratic legislature passed several resolutions on the extradition matter. The first of these requested the return of Johnson, Smith, and Gansey, declaring that "stealing a slave within the jurisdiction and against the laws of Virginia, is a crime within the meaning of the Second Section of the Fourth Article of the Constitution of the

United States." The second asked Seward to send the first resolution to the governor of Virginia.[151] Although Seward declined to comply with either resolution,[152] his successor accepted the argument that removing a slave was a crime. Democrat William C. Bouck, who assumed the New York governorship in January 1843, stated in his annual message that he agreed with the legislature's resolutions.[153] While making no move to return the sailors,[154] Bouck referred to the recent Prigg v. Pennsylvania decision and asserted that interfering with the return of escaped slaves was unconstitutional.[155] The New York legislature's deliberation on the Trial-by-Jury Law further reassured Virginia that New York was not hostile to slavery. In spring 1843, the New York Assembly approved a bill to repeal the act. The legislature adjourned before the Senate voted on the bill,[156] but these developments did much to alleviate the Old Dominion's apprehensions.

After Bouck conceded Virginia's argument that slaves were subject to theft, and, therefore, that they constituted property anywhere in the Union, the Old Dominion took little action on the extradition matter. Shortly after issuing his message of January 1843, Bouck received word that his position had alleviated Virginia's concerns. M. M. Noah, a resident of New York visiting Virginia, informed Bouck that Virginia's Whig governor, James McDowell, claimed "all Virginia was delighted." Noah told Bouck that fugitives from justice were no longer going to be an issue because Seward's stand had not become precedent.[157] This proved

true because Virginia never requested the return of Johnson, Smith, or Gansey after Seward left office.[158]

During the extradition controversies, Virginia's politicians agreed that they had to force New York to comply with the Old Dominion's demands. Seward's argument that removing a slave did not constitute a crime in the North alarmed Virginians because it questioned slaves' legal definition as property. Virginia's legislators unanimously believed it imperative to prevent this position from setting precedent. When requests for extradition failed to bring about a change in Seward's stand, Virginia's politicians tried to coerce the New York governor into extraditing Johnson, Smith, and Gansey. While the actual return of the three sailors mattered little, Virginia's politicians believed they had to disprove Seward's arguments. The Virginia legislators sought to achieve this goal through coercion.

Ideological differences caused Virginia's leaders to disagree over strategy in forcing New York's compliance with the Old Dominion's demands. Although a large majority of Virginia's Democrats favored the Inspection Law, the Old Dominion's Whigs were too diverse to unite on the issue. Virtually all legislators who favored an appeal to Congress were Whigs, and yet many Whigs sided with the Democrats in supporting the law for inspection. The Whigs advocating an appeal to Congress were more in accord with the national Whig Party, and tended to view issues and events as being national in scope.[159] They believed that the surest means

of forcing the North to accept slaves' legal status as property rested with the authority of the federal government. This position met vigorous resistance from states' rights Whigs, who sought to avoid broadening the federal government's powers. Seeking to apply legal, economic, and political pressure against Seward with a state law, these states' rights Whigs united with the Democrats to form a majority. This coalition of Democrats and states' rights Whigs prevented an appeal for congressional intervention and enacted the Inspection Law.

By arguing that removing a slave did not constitute a crime in the North, Seward fostered development of sectional tensions in Virginia in three ways. The constitutional arguments Virginians expressed in the dispute demonized Seward and contended that the governor's actions violated the federal compact. By condemning an antislavery construction of the United States Constitution as unacceptable, Virginians suggested that the Union depended on tolerance of slavery. Also, the Old Dominion's legislators debated two opposing ways of exerting power over New York, and, implicitly, the North. Both supporters of a state law and advocates of federal intervention tried to win support for their respective strategies. While Virginia's mainstream Whigs sought to expand the authority of the federal government to serve southern interests, a majority of the Old Dominion's leaders acted independently against New York. Moreover, many supporters of the Inspection Law urged the other slave states to take similar measures. If a slave state had compelled

Congress to transfer the power of extradition from the state governors to the federal judiciary, it would have likely increased northern concerns about southern political influence on the national government. Simultaneously, the Inspection Law was a punitive act on the part of a slave state against a northern state. If the rest of the southern states had enacted similar laws as a united block, it would have crippled interstate relations. Both a tendency toward appropriating federal power on behalf of the South and a willingness to act in unison with other slave states against the North existed in Virginia during the extradition controversies. Virginia legislators seriously considered both of these impulses as a result of the extradition issue.

ENDNOTES

[1]Paul Finkelman, "States' Rights North and South in Antebellum America," in An Uncertain Tradition: Constitutionalism and the History of the South, ed. Kermit L. Hall and James W. Ely, Jr. (Athens: University of Georgia Press, 1989), 134, 142.

[2]Ibid. Finkelman claims that acting in conjunction with other states was in accord with the southern concept of states' rights.

[3]Larry Gara, "The Fugitive Slave Law: A Double Paradox," Civil War History 10 (September 1964): 229-240 discusses southern debate over the Fugitive Slave Law of 1850.

[4]Henry L. Hopkins to William Henry Seward, 30 August 1839, Document Accompanying the Governor's Message, Correspondence Between the Governor of New York and the Lieutenant-Governor of Virginia (Albany: New York State Senate, 1841), 43.

[5]Ibid.

[6]Paul Finkelman, "The Protection of Black Rights in Seward's New York," Civil War History 34 (September 1988): 215.

[7]Glyndon G. Van Deusen, William Henry Seward (New York: Oxford University Press, 1967), 65.

[8]Hopkins to Seward, 30 August 1839, Correspondence Between the Governor of New York and the Lieutenant-Governor of Virginia, 43.

[9]Seward to Hopkins, 16 September 1839, The Works of William Henry Seward, ed. George E. Baker, 5 vols. (Boston: Houghton, Mifflin, and Company, 1888), 2: 449.

[10]Hopkins to Seward, 4 October 1839, Correspondence Between the Governor of New York and the Lieutenant-Governor of Virginia, 54.

[11]Seward to Hopkins, 24 October 1839, Works of William H. Seward, 2: 457.

[12]At the time the New York dispute started, Governor

David Campbell was visiting relatives at his home in Montcalm, Virginia. See David Campbell to William Bowen Campbell, 15 August 1839, Campbell Family Papers, Duke University, Durham, North Carolina.

[13]Richmond Enquirer, 3 December 1839.

[14]John McCardell, The Idea of a Southern Nation: Southern Nationalists and Southern Nationalism, 1830-1860 (New York: W. W. Norton and Company, 1979), 7.

[15]Paul Finkelman, "States' Rights, Federalism, and Criminal Extradition in Antebellum America: The New York-Virginia Controversy, 1839-1846," in German and American Constitutional Thought: Contexts, Interaction, and Historical Realities, ed. Hermann Wellenreuther, Claudia Schnurmann, and Thomas Krueger (New York: St. Martin's Press, 1990), 301.

[16]William Henry Seward, Annual Message to the Legislature, 7 January 1840, Messages from the Governors of the State of New York, ed. Charles Z. Lincoln, 3 vols. (Albany: J. B. Lyon, 1909), 3: 778.

[17]Lynchburg Virginian, 9 December 1839.

[18]Ibid., 30 January 1840.

[19]Richmond Enquirer, 3 December 1839.

[20]Ibid., 24 December 1839.

[21]Lynchburg Virginian, 27 January 1840.

[22]Richmond Enquirer, 30 January, 4 February 1840.

[23]The names of the committee members appear in Richmond Enquirer, 12 December 1839. The Enquirer identifies the members of Virginia's House of Delegates by party and geographic district for the 1839-1840 session in its 22 November 1839 issue. Apparently the reason there were so many Whigs on the committee is because of the diversity within Virginia's Whig party. The Enquirer identifies eleven Whigs in the House as "Impracticable Whigs," and four of these individuals were on the committee. Richmond Enquirer, 4 June 1839 notes that "Impracticable Whigs" were ones who did not support Virginia Whig politician William C. Rives. Three of the Whigs whom the Enquirer labelled as "impracticable," Thomas H. Bayly, Thomas T. Cropper, and John Munford Gregory, were leading states' rights Whigs. Future Governor Thomas Walker Gilmer was an anti-Rives Whig as well, and an account of a fistfight between Rives and Gilmer appears in Kenneth S. Greenburg, Honor and Slavery (Princeton: Princeton University Press, 1996). At this time, Virginia used a county-based method of apportionment to select members

of the House of Delegates. This plan gave the twenty-six counties west of the Alleghenies thirty-one representatives, the fourteen Valley counties twenty-five, the Piedmont Region's twenty-nine counties forty-two, and the Tidewater Region's thirty-six counties thirty-six. Most counties had either one or two delegates, with the larger cities having their own representatives. Some delegates represented several counties. A complete description of this apportionment method appears in Dickson D. Bruce, The Rhetoric of Conservatism: The Virginia Convention of 1829-1830 and the Conservative Tradition in the South (San Marino, CA: The Huntington Library, 1982), 63.

[24]Richmond Enquirer, 11 February 1840.

[25]Ibid., 22 February 1840. For the locations of the Virginia counties see Alison Goodyear Freehling, Drift Toward Dissolution: The Virginia Slavery Debate of 1831-1832 (Baton Rouge: Louisiana State University Press, 1982), 1; William G. Shade, Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861 (Charlottesville: University of Virginia Press, 1996), 23.

[26]Richmond Enquirer, 11 February 1840.

[27]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1839-1840 Session (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1840), 174; Richmond Enquirer, 29 February 1840. See Richmond Enquirer, 22 November 1839 for party affiliation.

[28]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1839-1840 Session, 174.

[29]Ibid.

[30]Shade, Democratizing the Old Dominion, 9-15, 169. Shade discusses the platforms of Virginia's parties at the state level.

[31]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1839-1840 Session, 174.

[32]Ibid., 175.

[33]Ibid. The Journal does not note how the legislators voted on the fifth resolution.

[34]House of Delegates, Virginia Legislature, Preamble and Resolutions Relative to the Demand by the Executive of Virginia Upon the Executive of the State of New York, for the Surrender of Three Fugitives From Justice, 1839-1840 sess. Acts of Virginia, 17 March 1840 (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1840), 156.

[35]Ibid., 163.

[36]Ibid., 159.

[37]Ibid., 163.

[38]Ibid., 165.

[39]Ibid., 166.

[40]Ibid., 169.

[41]Ibid., 168.

[42]South Carolina passed a set of resolutions on the Maine/Georgia controversy in December 1839. For a copy of these resolutions, see Patrick Noble to Martin Van Buren, 25 January 1840, Martin Van Buren Papers, Library of Congress, Washington, D. C.; House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1838 (Milledgeville: P. L. Robinson, State Printer, 1839), 20.

[43]House of Delegates, Virginia Legislature, Preamble and Resolution, 17 March 1840, 168.

[44]Ibid., 165. When Virginia Governor Thomas Walker Gilmer requested the cooperation of the other slave states in the New York controversy on 12 November 1840, Governor Charles J. McDonald of Georgia responded that an appeal to the federal government was the best means of dealing with the dispute. On the issue of extradition, the Georgia governor stated "Congress should be required to execute this provision of the Constitution by its own officers." Virginia's Governor Gilmer transmitted McDonald's letter to the Virginia legislature, and the House referred the document to the select committee on the New York/Virginia controversy. See House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 128, Document no. 43.

[45]Thomas W. White to Seward, 22 January 1840, William Henry Seward Papers, University of Rochester, Rochester, New York. The article, reprinted in Richmond Enquirer, 30 January 1840, contained legal theorist Conway Robinson's exposition on the controversy. Robinson discussed the 1835 case of Jack vs. Martin, in which the New York Supreme Court ruled that the 1793 Fugitive Slave Law was fully constitutional. The Southern Literary Messenger argued that this proved the legality of owning slaves, and, therefore, that removing a slave constituted theft of property.

[46]Seward to White, 19 February 1840, Seward Papers. Seward asked White to keep this correspondence confidential.

[47]Thomas Walker Gilmer to Seward, 6 April 1840, Message of the Governor of Virginia, A Correspondence Between the Governors of Virginia and New York, in Relation to Certain Fugitives from Justice (Richmond: John Warrock, Printer to the Senate, 1841), 25.

[48]Gilmer to Seward, 5 November 1840, ibid., 33.

[49]C. S. Morgan to Seward, 15 July 1840, Seward Papers.

[50]Seward to Gilmer, 9 November 1840, Message of the Governor of Virginia, A Correspondence Between the Governors of Virginia and New York, in Relation to Certain Fugitives From Justice, 42.

[51]Gilmer to the Governors of the Slaveholding States, 12 November 1840, ibid., 52-55; Gilmer to James K. Polk, 12 November 1840, James K. Polk Papers, Tennessee State Library and Archives, Nashville, Tennessee.

[52]Gilmer to Virginia Senate and House of Delegates, 2 December 1840, Message of the Governor of Virginia, A Correspondence Between the Governors of Virginia and New York, in Relation to Certain Fugitives from Justice, 11.

[53]Ibid., 16-17.

[54]Assembly, New York Legislature, An Act to Extend the Right of Trial by Jury, Act of 6 May 1840, Laws of New York, 1840 (Albany: Thurlow Weed, Printer to the State), 174.

[55]Gilmer to Virginia Senate and House of Delegates, 2 December 1840, Message of the Governor of Virginia, A Correspondence Between the Governors of Virginia and New York, in Relation to Certain Fugitives from Justice, 7.

[56]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 28. See Baltimore Sun, 25, 26, 27, 28, 29, 30 April, 1, 2, 3, 4 May 1840 for party affiliation by county/city of the 1840-1841 session of the Virginia House of Delegates. A complete list of the delegates and the counties and cities they represented appears in House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 238-239. A complete list of the Virginia legislators and their party affiliations also appears in Richmond Enquirer, 8 May 1840. Apparently, the Whigs had a large majority on the committee to represent the diverse factions within Virginia's Whig Party. Two legislators which the Richmond Enquirer identified as "Impracticable

Whigs," Thomas H. Bayly and John Munford Gregory, were on the committee. Bayly was a leading states' rights Whig.

[57]Richmond Enquirer, 16 February 1840. The committee issued its report on 10 February 1840.

[58]Ibid.

[59]Albany [New York] Argus, 14 April 1842.

[60]In 1841, Seward requested the New York legislature to offer an opinion on the extradition controversy. New York's lower house, the Assembly, postponed discussion of the matter by a vote of fifty to thirty-nine. The New York legislators divided along party lines, with forty-nine Whigs supporting postponement and thirty-seven Democrats opposing it. At this time, the New York Assembly contained sixty-six Whigs and sixty-two Democrats. Because the legislature expressed no opposition to his stand, Seward proceeded as though the legislators concurred with him. See Assembly, New York Legislature, Journal of the Assembly of the State of New York, at their Sixty-Fourth Session, Begun and Held at the Capital, in the City of Albany, on the Fifth Day of January, 1841 (Albany: Thurlow Weed, Printer to the State, 1841), 336; Albany [New York] Evening Journal, 5 January 1841.

[61]Richmond Enquirer, 16 February 1841.

[62]Ibid. The committee report made no reference to the Maine/Georgia controversy.

[63]House of Delegates, Virginia Legislature, A Bill to Prevent Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, 15 February 1841, 1840-1841 sess., Journal of the House of Delegates of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), Bill no. 183.

[64]Shade, Democratizing the Old Dominion, 9-15.

[65]Ibid.

[66]Bruce, Rhetoric of Conservatism, xv.

[67]Shade, Democratizing the Old Dominion, 9-15.

[68]Richmond Enquirer, 25 February 1841.

[69]Ibid., 27 February 1841.

[70]For more discussion of national Whig views, see J. Mills Thornton III, Politics and Power in a Slave Society: Alabama, 1800-1860 (Baton Rouge: Louisiana State University

Press, 1978), 57.

[71]Richmond Enquirer, 25 February 1841.

[72]Ibid.

[73]Speech of Mr. Cropper of Accomack, on the Bill to Prevent Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, delivered in the House of Delegates of Virginia, 26 February 1841, Special Collections, Duke University, Durham, North Carolina.

[74]Ibid.

[75]Richmond Enquirer, 25 February 1841.

[76]Ibid., 11 March 1841.

[77]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 184.

[78]Ibid., 184, 238-239; Baltimore Sun, 25, 26, 27, 28, 29, 30 April, 1, 2, 3, 4 May 1840; Richmond Enquirer 8 May 1840.

[79]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 184, 238-239; Baltimore Sun, 25, 26, 27, 28, 29, 30 April, 1, 2, 3, 4 May 1840; Freehling, Drift Toward Dissolution, 271-275.

[80]Shade, Democratizing the Old Dominion, 10-11.

[81]Ibid., 19, 22. In 1840, the Piedmont had the largest black population of any region in Virginia. At this time, the Tidewater contained 168,000 whites and 191,000 blacks, the Piedmont contained 207,000 whites and 238,000 blacks, the Valley contained 133,000 whites and 37,000 blacks, and the Trans-Alleghaney contained 223,000 whites and 20,000 blacks. While Shade's statistics do not note the number of free blacks in each region, there were only about 50,000 free blacks in the state.

[82]Ibid., 14. Whigs tended to dominate in more urban areas of Virginia, and thus they did well in the Piedmont region, which contained many cities.

[83]Ibid., 19, 22.

[84]William R. Leslie, "A Study in the Origins of Interstate Rendition: The Big Beaver Creek Murders," American Historical Review 57 (October 1951): 75.

[85]Richmond Enquirer, 13 March 1841.

[86]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 184, 238-239; Baltimore Sun, 25, 26, 27, 28, 29, 30 April, 1, 2, 3, 4 May 1840. In its 1840-1841 session, the House of Delegates had a Whig majority of seventy-two to sixty-two. See Shade, Democratizing the Old Dominion, 169.

[87]Shade, Democratizing the Old Dominion, 169.

[88]The Journal of the House of Delegates of Virginia says little about Democrats involving themselves in discussion of the Inspection Bill. Only three references to Democrats taking part in the debate appear. On 6 March 1841, Augustus A. Chapman of the Trans-Allegheny county of Monroe proposed voting on whether to recommit the bill. The House rejected recommitment with a vote of forty to seventy-three. Edward J. Armstrong, from the Trans-Allegheny county of Harrison, moved for the House to take an official vote on the Irving resolutions, which the delegates did on 11 March 1841. On 15 March 1841 John Z. Holladay of Louisa County in the Piedmont drafted a resolution requesting the Virginia Senate's concurrence in sending copies of the Inspection Law to every state in the Union. See House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 177, 183, 202.

[89]Senate, Virginia Legislature, Journal of the Senate of the Commonwealth of Virginia, 1840-1841 Session (Richmond: John Warrock, Printer to the Senate, 1841), 156. The Baltimore Sun names several newly-elected members to the Virginia Senate for the 1840-1841 session between 25 April 1840 and 4 May 1840. Other Senators' names and party affiliations appear in Richmond Enquirer, 22 November 1839. The two senators whose party affiliations remain unidentified were James H. Piper, who voted for the Inspection Bill, and James McIlhaney, who opposed. Neither the Sun nor the Richmond Enquirer provides a comprehensive list of party affiliations for the 1840-1841 session of the Senate. A list of who the senators were and what counties they represented appeared as an appendix in the 1840-1841 session volume of the Journal of the Senate of the Commonwealth of Virginia. Virginia determined apportionment to the Senate by districts comprised of several counties. A full description of this apportionment method appears in Bruce, Rhetoric of Conservatism, 62.

[90]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 184, 238-239; Freehling, Drift Toward Dissolution, 271-275.

[91]Senate, Virginia Legislature, Journal of the Senate of the Commonwealth of Virginia, 1840-1841 Session, 156; Freehling, Drift Toward Dissolution, 271-275.

[92]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 213.

[93]Ibid., 213, 238-239; Baltimore Sun, 25, 26, 27, 28, 29, 30 April, 1, 2, 3, 4 May 1840.

[94]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 213, 238-239; Freehling, Drift Toward Dissolution, 271-275.

[95]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 184, 213.

[96]Richmond Enquirer, 6 April 1841. Party affiliation of most Virginia senators during the 1840-1841 session appears between 25 April 1840 and 4 May 1840 in the Baltimore Sun. See also Richmond Enquirer, 22 November 1839.

[97]Richmond Enquirer, 6 April 1841.

[98]Ibid., 22 November 1839, 6 April 1841; Baltimore Sun, 25, 26, 27, 28, 29, 30 April, 1, 2, 3, 4 May 1840.

[99]House of Delegates, Virginia Legislature, Resolution for Transmitting to the Governors of the Several States of the Union Certain Correspondence, Reports, and Act of the Assembly Relative to the Controversy Between this State and the State of New York, 16 March 1841, 1840-1841 sess. Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 157; House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, 13 March 1841, 1840-1841 sess., Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 79-82.

[100]Seward to Gilmer, 25 March 1841, Works of William H. Seward, 2: 492; House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 220-221.

[101]Ibid., 223-224.

[102]House of Delegates, Virginia Legislature, Preamble and Resolution Relative to the Surrender of a Fugitive from Justice, 20 March 1841, 1840-1841 sess. Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 157-158.

[103]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1840-1841 Session, 224. Five Whigs and two Democrats voted against the resolutions.

[104]Senate, Virginia Legislature, Journal of the Senate of the Commonwealth of Virginia, 1840-1841 Session, 196.

[105]Ibid., 201-205.

[106]Ibid.

[107]David Campbell to William Bowen Campbell, 1 April 1841, Campbell Family Papers.

[108]John Mercer Patton to Seward, 22 March 1841, Annual Message of the Governor of the Commonwealth, and Accompanying Documents, Correspondence Between the Executives of New York and Virginia, Respecting Certain Fugitives from Justice, Journal of the House of Delegates of Virginia, 1841-1842 Session (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1842), 72-73.

[109]Seward to Patton, 6 April 1842, ibid., 74.

[110]John Rutherfoord to John Coles Rutherfoord, 20 April 1841, John Rutherfoord Papers, Duke University, Durham, North Carolina.

[111]Henry S. George Tucker to John Rutherfoord, 23 April 1841, ibid.

[112]John Rutherfoord to Seward, 3 May 1841, ibid.

[113]Seward to John Rutherfoord, 8 June 1841, Works of William H. Seward, 2: 504.

[114]Ibid.

[115]John Rutherfoord to Seward, 24 July 1841, Annual Message of the Governor of the Commonwealth, and Accompanying Documents, Correspondence Between the Executives of New York and Virginia, Respecting Certain Fugitives from Justice, 89.

[116]Ibid., 85.

[117]Seward to John Rutherfoord, 8 October 1841, Works of William H. Seward, 2: 512.

[118]Ibid.

[119]John Rutherfoord to Seward, 28 October 1841, Annual Message of the Governor of the Commonwealth, and Accompanying Documents, Correspondence Between the Executives

of New York and Virginia, Respecting Certain Fugitives from Justice, 94.

[120]Seward to John Rutherfoord, 8 November 1841, Works of William H. Seward, 2: 518.

[121]Lynchburg Virginian, 9 December 1841.

[122]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1841-1842 Session, (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1842), 121.

[123]Lynchburg Virginian, 17 February 1842.

[124]Ibid., 10 February 1842.

[125]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1841-1842 Session, 121. The Baltimore Sun lists only scattered and incomplete returns for the April 1841 elections in Virginia. Richmond Enquirer, 27 April 1841 provides a partial listing of the election results. In the 1841-1842 session of the Virginia legislature, the House of Delegates had a Whig majority of sixty-eight to sixty-six. See Shade, Democratizing the Old Dominion, 169.

[126]House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1842-1843 Session, (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1843), 264.

[127]Finkelman, "Seward's New York," 234.

[128]Lynchburg Virginian, 8 December 1842.

[129]Finkelman, "States' Rights North and South," 134. Finkelman contends that "southerners rarely turned to the national government to solve interstate disputes" because "to have done so would have meant acknowledging the supremacy of the national government--something that ran counter to southern states' rights theory." This author also describes Virginia's Inspection Law as "extraordinary" because it infringed upon New York's rights as a state by placing restrictions on New Yorkers, questioning Seward's right to exercise discretion in a matter of extradition, and attempting to punish the three sailors according to Virginia law.

[130]Lynchburg Virginian, 30 January 1840.

[131]Ibid., 30 April 1840.

[132]Ibid., 13 January 1842.

[133]Ibid., 14 April 1842.

[134]Ibid., 12 December 1842.

[135]Ibid., 21 April 1842.

[136]Ibid., 24 February, 10 March 1842.

[137]Ibid., 25 April 1842.

[138]Ibid., 2 January 1840.

[139]Ibid., 30 January 1840.

[140]Ibid., 18 November 1841.

[141]Richmond Enquirer, 5 March 1840. This was the draft of the March 1840 resolutions which the Virginia legislature approved.

[142]Ibid., 16 March 1841.

[143]Ibid., 30 March 1841.

[144]Ibid., 5 February 1842.

[145]Ibid., 26 March 1841.

[146]Ibid., 2 April 1841.

[147]Shade, Democratizing the Old Dominion, 9-15.

[148]Richmond Enquirer, 5, 21 March 1840, 5 February 1842.

[149]Finkelman, "States' Rights North and South," 134.

[150]Richmond Enquirer, 16 March 1841.

[151]Albany [New York] Argus, 14 April 1842.

[152]Seward to New York Legislature, 12 April 1842, Messages of the Governors of the State of New York, 3: 1031.

[153]Albany [New York] Argus, 4 January 1843.

[154]Finkelman, "Seward's New York," 227.

[155]Albany [New York] Argus, 4 January 1843.

[156]Finkelman, "Seward's New York," 234.

[157]M. M. Noah to William C. Bouck, 18 January 1843, William C. Bouck Papers, Cornell University, Ithaca, New York. The date written on this letter is incorrect, as its

author dated it 18 January 1842. Noah addressed Bouck as the governor of New York, a position he did not assume until January 1843. The events discussed in the letter took place after Bouck ascended to the governorship. For McDowell's party affiliation, see Robert Sobel and John Raimo, eds., Biographical Directories of the Governors of the United States, 1798-1978, 4 vols. (Westport, CT: Meckler Books, 1978), 4: 1641.

[158]Assembly, New York Legislature, Journal of the Assembly of the State of New York, at their Sixty-Sixth Session, Begun and Held at the Capital, in the City of Albany, on the Third Day of January, 1843 (Albany: Carroll and Cook, Printers to the Assembly, 1843), 517-518, 580.

[159]Shade, Democratizing the Old Dominion, 15.

CHAPTER IV

MISSISSIPPI AND ALABAMA:

INDEPENDENCE IN THE EXTRADITION CONTROVERSIES

During the extradition controversies, Mississippi and Alabama sought to protect their interests by establishing that the United States Constitution recognized slaves as property. As developing states in which slavery formed the central social and economic pillar, ensuring the security of slave property was of vital importance to Mississippi and Alabama.[1] The two states pursued this objective in the extradition disputes by condemning the positions of Maine and New York as unconstitutional, and, by doing so, reaffirming slaves' legal status of chattel. Mississippi and Alabama approved resolutions on both the controversy between Maine and Georgia and the dispute between New York and Virginia after the Old Dominion requested the cooperation of the other slave states. These statements, issued in late 1840 and spring 1841, were formal rebuttals of the concept that removing a slave did not constitute a crime in the North.[2]

The positions which Mississippi and Alabama assumed were purely theoretical. While resolutions from both states pledged support to Georgia and Virginia, the statements offered only nominal, moral corroboration. Neither

Mississippi nor Alabama considered enacting laws or restrictions against the North, and neither state expressed a desire for federal intervention in the matter. Both Mississippi and Alabama resisted efforts to act in conjunction with the other slave states during the extradition controversies.

Mississippi and Alabama lacked the perception of southern solidarity necessary for active involvement in the extradition disputes. The priority of each of these states in the early 1840s was pursuing its own interests within the Union.[3] As relative newcomers to the federal compact, Mississippi and Alabama accepted membership in the Union,[4] and both looked to the United States Constitution when defending slavery. Simultaneously, a spirit of independence born of Jacksonian ideals pervaded these states, and they maintained an aloofness from their neighbors.[5] After proclaiming the legality of slavery, Mississippi and Alabama declined to take any action in the extradition matter. These two southern states retained their autonomy within the Union throughout the extradition controversies.

Mississippians maintained the position of objective observers when following the controversies in 1839 and 1840. The Democratic Vicksburg Sentinel reported both the Georgia and Virginia affairs, but declined to advocate any action in either case. The paper published a statement from South Carolina's Charleston Mercury, which recommended that the entire South enact a non-intercourse policy against "all slave-stealing states,"[6] but also printed an article from

the Whig New Orleans Bee criticizing Georgia's proposal for quarantine restrictions against Maine.[7] The Vicksburg Sentinel printed an early form of Virginia's March 1840 resolutions, but failed to note that the final draft of these statements omitted the southern nationalist rhetoric of the earlier copy.[8]

In 1840, party loyalty mattered more to the Vicksburg Sentinel than the extradition disputes. While supporting Martin Van Buren's campaign for the presidency, the paper described northern Whigs as abolitionists. Democratic politicians typically spoke out against antislavery sentiment, but northern Whigs either condoned abolitionists or remained indifferent to them. New York abolition societies supported Seward for governor in 1838 on the ground that he was "friendly to the abolishment of all distinction as far as regards color." Even though the Vicksburg Sentinel criticized Seward, it praised John Fairfield, the Democratic Maine governor who refused Georgia's request in 1839.[9] The Mississippi paper noted New York's Trial-by-Jury Law of 1840, and claimed that this act nullified the Fugitive Slave Law of 1793. Continuing its political rhetoric, the Vicksburg Sentinel observed that many Democrats opposed the law in the New York legislature, while no New York Whigs voted against the measure.[10]

The Vicksburg Sentinel's handling of the extradition controversies in 1840 was typical of antebellum Mississippi politics. A two-party system formed in this state during the mid-1830s as Mississippians divided on the issues

of the national bank[11] and repudiation of state debts.[12] Until sectional issues became paramount in the late 1840s, Mississippi's political parties competed to show themselves as the true advocates of a good republic.[13] The Democratic press practiced a "politics of slavery" in 1840,[14] and the Vicksburg Sentinel attempted to discredit opponents by showing them to be sympathetic toward abolition. Although the newspaper castigated Seward, it did not include Georgia's controversy with Maine in this strategy.

The staunchly Democratic Jackson Mississippian paid more attention to the extradition disputes than the Vicksburg Sentinel, and raised the issue of cooperation with other states in the matter. Reciting the facts of the dispute between New York and Virginia, the Jackson Mississippian maintained that abolitionists comprised the northern Whig Party. This situation bode ill for the entire South. The newspaper insisted that the United States Constitution secured the right of states to own slaves, but if the federal compact was unable to protect this right, southerners were obligated to "resort to such means as a free people may use to obtain redress when aggrieved."[15] Noting discussion of the extradition matter in Georgia, and an Alabama proposal for a southern convention, the paper maintained that "the period has arrived for the people of the South to act."[16]

The sentiment the Jackson Mississippian expressed was merely the sectional rhetoric of the time. In the early 1840s, a few Mississippi politicians, such as Albert Gallatin Brown, stressed contradictions between northern and southern

economic interests. Brown knew that abolitionism was an emotionally-charged issue and used it to gain support in the early days of his political career, which coincided with the extradition controversies. By professing the values of the state's small slaveholders and yeomen farmers, and, at the same time, identifying his constituency with the entire South, Brown argued that the entire region possessed identical interests within the Union.[17] The Jackson Mississippian's view of the extradition affairs tied into this way of thinking. The paper contended that all southerners' interests rested on the economic base of slavery by maintaining that any threat to property in slaves had dire implications for the region. These southern sectionalists were too few in number to exert much influence on Mississippi's state government. Although emphasizing sectional differences to a greater degree than the Vicksburg Sentinel, the Jackson Mississippian was not ready to act in the Maine and New York disputes. The paper cautioned that indifference in the extradition matter could cause great harm to the South, but did not "pretend to suggest what should be the action of the slave-holding states, in order to secure the land from the unhallowed machinations of the abolitionists."[18]

Governor Alexander McNutt tapped into the same sectional rhetoric as the Jackson Mississippian in his January 1841 message to the Mississippi legislature. McNutt, a Democrat, presented communications from other states on the extradition matter to Mississippi's Senate and House of Representatives. These were Virginia's resolutions of March 1840, the request

of Virginia's Governor Gilmer for cooperation, and an 1839 set of resolutions from South Carolina promising support to Georgia in the Maine dispute.[19] The governor decried "stealing slaves" within the context of the tariff issue, saying that northerners were using diverse methods "to make all the cotton-growing states tributary to the manufacturing and grain-growing interests." The refusal of Maine and New York to return the individuals in question was a violation of the national compact. If other northern states followed the precedent of Maine and New York, it would lead to a dissolution of the Union.[20]

McNutt failed to offer a specific strategy for his state to follow in the extradition disputes. The governor promised that Mississippi was going to defend southern interests in the controversies, and maintained that the state would "stand by Georgia and Virginia in this exciting controversy." The matter warranted "calm consideration and decisive action" from Mississippi's legislature. While the governor claimed to expect the "united action" of all Mississippians on both the extradition and tariff issues, he made no mention of how the state was to support Georgia or Virginia. Moreover, he provided no advice on what measures the legislature should take.[21]

The Vicksburg Sentinel responded to Virginia's request for cooperation and South Carolina's statement of southern unity by urging Georgia and Virginia to act independently against Maine and New York. Noting the recent bill in Georgia's legislature for quarantine restrictions on vessels

from Maine, the Mississippi newspaper claimed that this was the "true plan to bring the abolitionists of Maine to their senses." By imprisoning Maine residents who violated this act, Georgians could "make slaves of as many white Yankees as they will lose negroes by the abolition thieves." The Vicksburg Sentinel expressed hope that Virginia would pass a similar law. Even though the paper spoke of Maine and New York violating "our laws," and insisted that other states would "protect" Georgia and Virginia in "their constitutional right of property for the benefit of trade," the Vicksburg Sentinel did not suggest that Mississippi take any action on the matter.[22]

Gustavus H. Wilcox initiated discussion of the extradition controversies in the Mississippi House of Representatives. Wilcox, a Whig representative from Jefferson County,[23] presented a report concerning the matter in January 1841. The report acknowledged Virginia's request for cooperation, as well as South Carolina's willingness to support Georgia in the Maine dispute. Claiming that he did not want states that opposed slavery to infringe upon the "common and peculiar interests" of the South, Wilcox proposed a set of four resolutions.[24]

The resolutions proclaimed Mississippi's loyalty to slavery in a general sense. The first rested on the belief that slaves constituted property which thieves could steal. This resolution maintained that each state had a constitutional right to request the return of fugitives from justice, and that each state had a reciprocal responsibility

to honor such pleas. The second was a pro-slavery construction of the United States Constitution, which reflected the prevailing belief that Seward was an antislavery politician.[25] This resolution declared that Maine and New York violated the Constitution by not extraditing individuals accused of transporting slaves illegally out of the South. Although stating that both the executive and legislature were guilty of this affront in Maine, the resolution identified Seward as the sole violator in New York. Maintaining that the actions of Maine and New York were "a precedent full of danger to all the slave-holding states," the last two resolutions promised to "make common cause" with any state facing the situation of Georgia and Virginia, and instructed Mississippi's governor to forward the statements to all the state governors in the Union, and also to Mississippi's congressional members.[26]

Mississippi's legislature approved the abstract resolutions with little difficulty. On 1 February 1841, Wilcox moved that the House obviate the rule requiring members to read bills on three separate days. The House accepted this suggestion and approved the proposals accordingly.[27] The Senate concurred, passing the resolutions in a similar fashion three days later.[28] Proposals for coercive or punitive measures occurred in neither the House nor the Senate.

Mississippi attempted to protect its own economic system during the extradition controversies. While another state's loss of one or two slaves had little practical impact on

Mississippi, the disputes had the potential for establishing a precedent dangerous to slavery. If removing a slave was not subject to prosecution, the concept of slaves as property could come into question. Hoping to avoid any threat to its prospering system of plantation agriculture,[29] Mississippi tried to establish that the United States Constitution guaranteed legal ownership of slaves. Mississippi's promise of support to Georgia and Virginia confirmed the constitutionality of those states' positions, and thereby maintained the legality of slave property.

After formally articulating this argument, Mississippi declined to take any further action on the extradition matter. The state adopted its position before Georgia or Virginia decided on a strategy in the disputes, and the passage of Virginia's Inspection Law in March 1841 had no impact on Mississippi. The state did not consider any possible options for state laws against Maine or New York, although these could have been an effective means of pressuring the northern states to concede the southern states' position. Moreover, Mississippi never debated an appeal to Congress in the matter.[30] Mississippians perceived no other role for themselves in the controversies than to proclaim that the Constitution of the United States recognized property in slaves.

The Mississippi resolutions were in accord with the principles of both the state's political parties. The House Committee on Communications from Other States, which drafted the resolutions Wilcox presented, contained three Whigs and

two Democrats.[31] With a Whig majority of forty-six to forty-five in the House of Representatives, the Mississippi legislature approved the resolutions during a rare session in which the Whigs dominated,[32] but the Democrats offered virtually no opposition. In antebellum Mississippi, partisan debate usually centered on whether issues were constitutional,[33] and neither party doubted that the Constitution protected property in slaves. Both Whigs and Democrats accepted plantation agriculture as Mississippi's economic focal point, and the state's white society was fluid enough to curb class conflict and prevent political opposition to the slave owners.[34]

After Mississippi's legislature approved the Wilcox resolutions, the Vicksburg Sentinel incorporated the extradition controversies into national partisan politics. The paper denounced the effort of Virginia's Whig Governor Gilmer to deny New York's request for extradition in the Curry case, saying that the Old Dominion's legislature was right "to sanction a wrong in order to retaliate for the wrongs done by New York."[35] Deriding all northern Whigs as abolitionists to discredit Henry Clay, the Vicksburg Sentinel claimed that, "through Mr. Clay's influence," even Kentucky's Whigs were merging with antislavery forces.[36] The paper stated that Virginia's Inspection Law was going to "arrest the infamous march of New York abolition Whiggery,"[37] and went on to say that the northern Whig governors were "uniformly leagued with the abolitionists."[38]

By exploiting abolitionism and the extradition matter as

rhetorical tools, Mississippians reaffirmed their loyalty to the national parties and to the Union. Maintenance of the peculiar institution was an important issue in all areas of the South, and, in slave states, both parties typically competed to show their ideas as being in the best interest of slavery.[39] Accordingly, the Vicksburg Sentinel accepted Mississippi's resolutions as an adequate response to the disputes,[40] but welcomed an opportunity to associate Whigs with abolitionism, a cause all white Mississippians condemned. Instead of advocating a specific strategy for Mississippi to follow in the extradition controversies, the Vicksburg Sentinel concentrated on embarrassing the national Whig Party, so that Democrats, whose policies included many issues unrelated to slavery,[41] could win office at local, state, and national levels. National politics were of far greater consequence to the Vicksburg Sentinel than whether accused individuals stood trial for removing slaves from other states. In the early 1840s, Mississippians wanted to pursue their own goals within the federal compact,[42] and this tendency blocked southern cohesion on the extradition controversies.

The year after Mississippi approved its resolutions on the extradition matter, the state's legislature declined to act in a similar dispute with North Carolina. In this case, Governor McNutt requested the return of Edward Saunders, an individual accused of removing a slave from Holmes County, Mississippi. The North Carolina court released Saunders, and North Carolina's Whig governor, John Morehead, refused

to extradite the Mississippian. McNutt sent Morehead a bill of indictment against Saunders in December 1841, but the North Carolina governor still denied the request. When Mississippi's new governor, Democrat Tilgham Mayfield Tucker, placed the issue before the Mississippi legislature, the Senate Committee on Federal and State Relations proposed a preamble and resolutions on the matter. These statements merely claimed that Morehead "has failed to perform an official duty and that this legislature doth hereby reprobate his said act of refusal." Perceiving no need for even these inert resolutions, the Senate voted to lay them on the table and decided not to print copies of them.[43] Mississippi's sole concern during the extradition controversies was that northerners were going to question slaves' legal status as property. The state alleviated this anxiety by citing a pro-slavery construction of the United States Constitution, and then lost interest in the entire matter.

While Mississippi showed little concern for the interests of the other slave states during the extradition controversies, its 1841 resolutions had a potential for increasing sectionalism. The statements expressed an interpretation of the United States Constitution overtly favoring institutions unique to southern states, and disregarding the rights of northern states and citizens.[44] Moreover, the Mississippi resolutions addressed the Georgia and Virginia controversies in unison, and, by doing so, defined the disputes as manifestations of the same phenomenon. This furthered the perception that the

extradition matter was regional in scope, rather than being merely a series of unrelated cases.

Emerging emphasis on national issues blunted any increased sectionalism which may have arisen in Mississippi as a result of the extradition controversies. By 1843, many Mississippi Whigs paid increasing attention to the stability of the nation. This was due to both Henry Clay's national policies and the Texas issue.[45] While many Whigs favored the eventual annexation of Texas, they wanted to accomplish this without war or sectional unrest.[46] Arguments for this position insisted that the Constitution and the Union provided the best protection for slavery. While the Democrats advocated immediate annexation,[47] they also voiced their loyalty to the Constitution by trying to make Texas party to the federal compact and subject to the Constitution's provisions. Support for the Union itself did not become a party issue in Mississippi until 1850,[48] but in the years immediately after the extradition disputes, both of the state's parties concentrated on national issues. Mississippi's leaders used constitutional arguments when debating these matters,[49] and thereby reiterated Mississippi's loyalty to the federal compact.

Although more disagreement over the extradition controversies existed in Alabama than in Mississippi, Alabama also assumed an entirely theoretical position on the matter. This state shared similar economic and social interests with Mississippi, but paid more attention to the extradition disputes. While southern rights had not been a major issue

in Alabama during the late 1830s,[50] some of the state's leaders began advocating a more sectional outlook because of the extradition issue. A majority of Alabama's leaders renounced this budding emphasis on southern solidarity and assumed mere denunciations of Maine and New York as an appropriate course in the matter. As was the case with the Mississippi resolutions, Alabama's position was to declare that the United States Constitution recognized property in slaves. This statement was a declaration of Alabamans' perceived right to own slaves, and, after formally proclaiming this argument, the state saw no need for active involvement in the disputes. During the extradition controversies, Alabama declined to work in conjunction with the other slave states, discarded concerns about southern rights, and reaffirmed its desire to follow its own interests within the Union.

Governor Arthur Pendleton Bagby defined Georgia's dispute with Maine as a states' rights issue in his annual message of 3 December 1838. Bagby, a Democrat, presented Georgia's 1837 resolutions to both houses of the Alabama General Assembly in a series of resolutions from other states. Although the Georgia resolutions insisted that Georgia was going to become free of the federal compact if Maine's actions compromised Georgia's interests, Governor Bagby discussed the statements in the context of other states' concerns, instead of treating Georgia's stand as a matter unique to the South. The Alabama executive stated that all communications received from other states were

"intimately connected with the rights of the individual states."[51]

Alabama's states' rightists had little association with southern sectionalism at this time. During the antebellum era, the value white Alabamans cherished most was personal freedom. Both Whigs and Democrats tapped into this idea, and each party claimed to oppose institutions that could menace liberty. While Whigs believed that governmental power could produce benefits when used to a limited degree, opposition to an expanding national government was a typical Democratic cause.[52] Southern rights were not a large part of Alabama's political discourse until after 1848.[53] Governor Bagby acted in typical fashion for the time by viewing the extradition question as a mere matter of states' rights.

During 1839, many Alabamans were ambivalent in their views concerning an appropriate response to the extradition controversies. The Democratic Mobile Daily Commercial Register and Patriot expressed concern over both the Georgia and Virginia affairs, quoting an inflammatory article from the Charleston Courier. The South Carolina paper maintained that "if northern people cannot live among us without stealing our property, it is time that the door of southern hospitality were closed." Unlike Mississippi's Vicksburg Sentinel, which reprinted articles from other states but took no stand of its own, the Mobile Daily Commercial Register and Patriot concurred. It claimed that if the southern people "submitted" to Seward's position, it shortly would be time

for southerners to "defend our rights, and resist fanatical usurpations with arms in our hands."[54] Despite this fiery bit of rhetoric, the paper described a proposal in the Georgia General Assembly, which called for making all Maine citizens in Georgia liable for seizure, "apparently harsh."[55] Even though the Mobile Daily Commercial Register and Patriot raised the issue, the Alabama legislature did not discuss the Georgia and Virginia controversies in its 1839 session.[56]

The Mobile Daily Commercial Register and Patriot played partisan politics with the extradition issue. Demonizing political elements which it opposed, the paper claimed that the southern disagreements with Maine and New York resulted from the Federalist ideals inherent in Whiggery. This rhetoric was little more than campaigning. The Mobile Daily Commercial Register and Patriot maintained that it did not fear the actions of individual abolitionists. Rather, the paper's concern was the "triumph of federal principles." It would be a defeat for the South if this ideology, to which the Mobile Daily Commercial Register and Patriot also attributed the Alien and Sedition Acts of 1798 and the National Bank, gained ascendancy.[57]

Congressman David Hubbard suggested that Alabama act in the Virginia matter. Hubbard, a States' Rights Democrat who represented the northwestern corner of Alabama in the United States House of Representatives,[58] insisted that the slave states were responsible for seeking redress in the situation. In a communication to the state legislators from his district, Hubbard stated that the Old Dominion was likely to pass

shipping restrictions against all states who refused to extradite persons accused of removing slaves. Any such law would require inspection of vessels from the states in question before they left Virginia. The congressional representative recommended that Alabama pass a similar act. An inspection law, he believed, would initiate a reaction from northern merchants and prevent future cases of slave abduction.[59]

Although making this proposal, Hubbard believed that any action on the extradition matter had to come from Alabama's General Assembly. While he personally advocated a law for shipping regulations, the congressman claimed to have little doubt the state legislators could determine a "proper course" for Alabama to follow. Hubbard deferred to the state politicians and stated that he hoped his proposal would not violate the "privileges and prerogatives" of the General Assembly.[60]

Even after the Virginia dispute began, Alabamans remained unsure of how to proceed in the extradition controversies. Hubbard began considering the state's options for acting in the matter, but throughout 1839 and 1840, Alabama did nothing except report the actions of other states. Alabama perceived a common bond with the rest of the South, but held itself aloof from Georgia and Virginia. Like their neighbors in Mississippi, Alabamans were still too preoccupied with their own livelihoods to involve themselves in a dispute between several other states.[61]

The Mobile Daily Commercial Register and Patriot

viewed the Georgia and Virginia cases as separate affairs. The paper analyzed a recent message from Maine's Democratic Governor John Fairfield to the Maine legislature. Even though the Mobile Daily Commercial Register and Patriot spoke of the extradition controversies' bearing on the South,[62] the newspaper claimed that the governor of Maine was being "conciliatory." Fairfield's statement focused on constitutionality. He insisted that it was a violation of the United States Constitution for Georgia to pass trade restrictions upon Maine. The crux of the controversy was whether the sailors were truly fugitives from justice, and Maine was only appealing to the concept of states' rights by debating whether it had to grant all requests for extradition. While disclaiming any intention of interfering with slavery in the South, Fairfield made no move to return the accused individuals.[63] Still, the Mobile Daily Commercial Register and Patriot applauded the message. The paper doubted that a need for action on the Georgia controversy existed.

The Mobile Daily Commercial Register and Patriot condemned Seward for both his position on the Virginia controversy and his other perceived antislavery activities. Reprinting a message from Seward to New York's legislature, the paper contrasted the reasons the governors of Maine and New York offered for denying extradition.[64] The Mobile Daily Commercial Register and Patriot claimed that Seward sought support from abolitionist "fanatics,"[65] and favored admission of abolitionist petitions to Congress.[66] Moreover,

the paper held Seward accountable for New York's Trial-by-Jury Law.[67] Unlike Fairfield, who upheld "the rights of the South and the Constitution,"[68] the New York governor advocated many detrimental causes, including antislavery and a national bank.[69]

While political objectives undoubtedly influenced the Mobile Daily Commercial Register and Patriot, the paper's account of the disputes reflected the attitude Alabama eventually adopted in the matter. The loss of a single slave was of little importance because it was not enough to affect the state's economic interests. A constitutional intepretation which did not concede slaves' status as property was far more serious because of the precedent it could establish. In a time when abolitionism and antislavery activity were increasing, the argument that removing a slave did not constitute a crime had potentially dangerous implications for slavery, and, therefore, for Alabama's economic livelihood. Even if the Mobile Daily Commercial Register and Patriot acted for purely partisan reasons when discussing the extradition controversies, the paper would not have elaborated on Fairfield's constitutional theorizing unless those ideas appealed to Alabamans. Rebutting a constitutional construction capable of endangering Alabama's interests became the state's objective in the extradition controversies.

In his annual message to the legislature of 2 November 1840, Governor Bagby described the extradition matter as one way in which northerners tried to undermine slavery. Efforts

to tamper with the peculiar institution varied widely. They included abolitionist petitions to Congress, calls to abolish slavery in Washington, D. C., attempts to suppress the interstate slave trade, Americans attending British antislavery conventions, New York's Trial-by-Jury Law and "the governor of another state refusing to surrender persons charged with stealing slaves when demanded by the proper authority." Maintaining that interference with the peculiar institution would increase hardships for both blacks and whites, Bagby claimed that the South was in danger.[70]

The Alabama governor called for a southern convention to plan a defense of slavery. Bagby recommended that the legislature organize such a conference, saying that states which shared the same interests should engage in "full consultation" with each other. The proposed meeting was to do more than express ideas. Bagby advocated the passage of "the most effectual measures for our mutual happiness and safety."[71]

The governor forced the issue of sectionalism. He urged the southern states to unite in blocking any action on the part of the abolitionists. If the South did not act quickly, it was going to lapse into a state of subservience to the North. In addition to this increase of sectional tension, Bagby claimed that efforts to infringe upon slavery could dissolve the Union. While claiming a devotion to the federal compact, the southern states could not tolerate desecration of their rights. If the Constitution failed to protect southern institutions, the slaves states possessed an

obligation to seek new safeguards for their security.[72]

Debate in the Alabama General Assembly focused on whether the extradition controversies, in conjunction with other slavery-related grievances, were just causes to call a southern convention. While the convention itself would not have dissolved the Union, such a meeting could have done a great deal to bring about southern unity. This cohesion could have set in place institutions and channels of communication capable of facilitating secession or other instances of sectional animosity, while a monolithic South would likely have increased northern mistrust of the slave states. Alabama's political culture created the potential for such a convention. The state's politicians typically campaigned by opposing threats to liberty,[73] and Alabama's leaders had to decide whether they were willing to pick up the southern rights issue in response to the extradition controversies.

Alabama's General Assembly treated the extradition controversies as separate cases rather than as a spreading tendency. Ironically, Governor Bagby, who advocated a united southern response to all antislavery activity, established this precedent. He presented South Carolina's 1839 resolutions on the Georgia matter and Virginia's 1840 resolutions on the New York dispute to both houses of the Assembly on separate days.[74] By acting on the Georgia and Virginia affairs separately, Alabama undermined the concept of southern unity. When the state viewed southern complaints as separate issues, the matters seemed more distantly related

and less deserving of united action. If the extradition matters were controversies between individual states, rather than an orchestrated northern affront to the entire South, there was little need for Alabama to act on them.

The Senate discussed the Virginia controversy in the context of New York's Trial-by-Jury Law. Nathaniel Terry, a Democratic senator from Limestone County, introduced a preamble and resolutions on the matter. According to these statements, the Trial-by-Jury Law violated the Fugitive Slave Law of 1793. If New York refused to return escaped slaves upon claim of the owners, it acted with disregard for the Constitution's Fugitive Slave Clause. When viewed in conjunction with Seward's stand on the Virginia controversy, the Trial-by-Jury Law represented a complete concession to abolitionism. Moreover, the law was a precursor to the New York governor's constitutional argument on the extradition matter, because allowing accused fugitive slaves a jury trial conceded more legal rights to blacks than to white apprentices. This implied skepticism of slaves' status as property and could have led to the argument that removing a slave did not constitute theft. Terry's resolutions maintained that New York's Trial-by-Jury Law should be null and void.[75] The Alabama Senate approved the statements unanimously.[76]

The Senate concurred with the Mobile Daily Commercial Register and Patriot in that legal precedent mattered more than actual loss of a slave. Regarding Virginia's dispute with New York as a side issue, the Senate first discussed an

act capable of devaluing Alabama's own slave property. While it was possible to remove slaves by ship from the port of Mobile, Alabama had not faced a situation comparable to the Georgia and Virginia affairs, and an extradition dispute appeared more distant to Alabamans than attempts to escape on the part of slaves. If slaves could count on a jury trial in New York, it seemed more plausible that they would try to escape. Moreover, Alabamans perceived the Trial-by-Jury Law as heralding a renunciation of slave property. The jury law appeared more imminently threatening to the concept of slave ownership than the Georgia and Virginia cases, and the Alabama Senate prioritized this matter accordingly.

Alabama limited its involvement in the Georgia controversy to approving South Carolina's resolutions. The Senate Committee on Federal Relations delivered its opinion on the dispute, saying that Georgia's request was in proper order and that each state possessed a constitutional obligation to honor demands for extradition.[77] The committee suggested that Alabama adopt South Carolina's resolutions on the Georgia dispute, as they expressed Alabama's constitutional interpretations regarding slave-related matters. The Senate unanimously concurred in the committee's proposal,[78] and the House of Representatives adopted the South Carolina resolutions as well.[79]

The Georgia affair concerned Alabamans less than the dispute between New York and Virginia. Both houses of the General Assembly passed South Carolina's resolutions easily. Although the Georgia dispute came up in later discussion of

the extradition issue, Alabama took no further action on this matter than to affirm a theoretical statement. The New York affair appeared in the General Assembly before the South Carolina resolutions gained acceptance, but the House did not discuss New York until after it expressed its views on the Maine issue.[80] The Empire State's recent trend toward black rights and antislavery legislation suggested an ideological opposition to the peculiar institution,[81] and a proclamation that removing a slave did not constitute a crime from that state appeared to question a pro-slavery construction of the United States Constitution. Because this possibility concerned Alabama's legislators, they engaged in a protracted debate over responding to Seward's position.

The House Committee on the Judiciary issued its majority report on the extradition controversies in December 1840. James E. Saunders, a Democratic representative from Lawrence County, presented the report. Because Alabama had already acted on the Georgia matter, there was little for the committee to do on this subject but recount the facts of the controversy and again denounce Maine's actions as unconstitutional.[82]

The report went on to discuss the New York dispute in conjunction with the Trial-by-Jury Law. Citing the Constitution's Fugitives from Justice Clause, the message claimed that Seward offered no reason for his contention that only acts which constituted crimes in fugitives' current domiciles warranted extradition. Particularly alarming was the New York governor's statement that

> no law of New York at this time, no statute admitted, that one man could be the property of another man, and that consequently the laws of Virginia, making the stealing of a slave felony, did not constitute a crime within the meaning of the Constitution.[83]

The law providing jury trials for alleged escaped slaves was a "concession to the spirit of abolitionism." Such an act could result in the prosecution of a slave owner trying to recover escaped chattel. Moreover, New York's Supreme Court had previously ruled that granting a jury trial in such cases was not in accord with the Constitution. Impeding the recovery of fugitive slaves and questioning whether a state law could assure property in slaves appeared to be a two-pronged assault on Alabama's livelihood. Alabama would not permit another state to become a "city of refuge for felons and fugitive slaves."[84]

The majority report raised the issue of sectionalism. While pledging loyalty to the Union, these committee members maintained that a point existed "beyond which forbearance ceases to be a virtue." Unless New York altered its stance, the southern states, especially those with major ports, would have to adopt defensive measures. The states would have to take responsibility for safeguarding property in slaves if the Constitution proved unable to do so.[85] Concurring with Governor Bagby's call for a southern convention, the committee's majority recommended a meeting of delegates from the southern states to consider possibilities for protecting slavery. The request for a convention stressed the uniqueness of southern interests.[86]

The committee's majority formally presented these views

in a series of resolutions. These statements maintained that each state possessed the right to define crimes within its borders; that each state had a right to request extradition and had an obligation to grant it; that Maine had "impaired, if not denied" this right, while it had been "denied by the executive of New York expressly;" that the Trial by Jury Law was unconstitutional; and that Alabama would "cordially unite" with any other southern state in "any constitutional" effort to counteract these grievances. The resolutions dressed the call for a southern convention in the rhetoric of sectional self-defense, saying that this was an appropriate response to increasing northern inclinations to interfere with slavery.[87]

The committee's Whig minority used constitutional theorizing to block the southern convention.[88] While agreeing that Maine and New York were behaving in an unconstitutional manner, the minority believed that organizing a body of representatives from the slave states was not in the best interest of the South. The minority report discussed the limitations of state powers that the Constitution enumerates in Section 10, Article 1, saying that no state could "enter into any agreement or compact with another state." The only instance in which the Constitution granted states the power to assemble in convention was to amend the federal document itself. This was not the object of the proposed conference. The convention's goal was "the adoption of the most effectual measures for our mutual safety and happiness," even though the states had surrendered

responsibility for mutual security to Congress. The only way in which a southern conference would not violate the Constitution would be if no alliance among the slave states formed as a result. For this to be the case, the southern states would have to refrain from making any plans to act in concert. Such a convention would be totally inert and incapable of fulfilling its purpose.[89]

In this situation, a strict construction of the Constitution served the Whiggish principles of Union and an empowered Congress. Although the minority recognized the general government's supremacy in upholding the laws of the Union, the report adhered to the letter of the federal document. The minority conceded to the national government those powers which the federal compact specifically named, but in no way sought to expand those powers. Opposing a southern convention was consistent with a traditional states' rights creed because interests and situations could vary from state to state. A united policy on the part of several states could become detrimental to one or some of those states, in which case the compromised states arguably had a right to adapt to their individual situations. A main goal of states' rights theory was to prevent individual states from becoming embroiled in binding and compromising alliances, and the House minority took this ideology into consideration when contemplating a southern convention.

The minority believed that a united stand by the slave states was inappropriate. These committee members referred to South Carolina's resolutions on the Georgia dispute and

also to the set of resolutions Virginia passed in regard to the New York matter. Neither the Palmetto State nor the Old Dominion made any reference to a southern conference. While the Virginia resolutions did request the other slave states to cooperate in measures which the Old Dominion adopted, Virginia did not insist that all the southern states take identical action. Rather, Virginia merely desired support in whatever policy it alone chose to pursue. It was wrong to commit all the slave states to a course which some, including the "aggrieved" state of Virginia, might find detrimental. The minority pledged loyalty to the institution of slavery and to the other southern states, but retained a commitment to state autonomy.[90]

The minority advocated a purely abstract position in place of the majority's promise to "cooperate" with the other southern states. The minority expressed "indignation and regret" over abolitionists' "interference" with southern property. Although a southern convention was unconstitutional, Alabama perceived a "common bond of union" with the other slave states and would "resist every attempt at interference" from the non-slave states. Because the Constitution condoned the peculiar institution, this stand was a defense of the federal document.[91] The minority perceived that any direct involvement on Alabama's part would do more harm than good.

In the Senate, Nathaniel Terry proposed a purely moral commitment to Virginia.[92] Both houses of the Alabama General Assembly adjourned after the House tabled the

majority and minority reports,[93] and the legislators resumed discussion of the matter during a spring 1841 legislative session. Terry proposed a set of resolutions which addressed only the dispute between New York and Virginia. These statements declared that Virginia's request for return of the fugitives was in proper form and that the New York executive violated the Constitution by denying extradition. Seward's position was both "an insult to the state of Virginia" and a "dangerous and alarming attack upon southern rights." The resolutions specified that Alabama's interests were "identical" to the Old Dominion's, and that Alabama should "make common cause with her, and defend and support her in the stand she has taken." Although the resolutions vehemently denounced Seward's reasons for denying extradition and proposed a constitutional argument in favor of slave property, they made no proposal for Alabama to act in the matter. The Senate approved this theoretical corroboration of Virginia unanimously and with little debate.[94] The House ratified these resolutions the same day.[95]

Like Mississippi, Alabama refused to do more than lend moral support to Georgia and Virginia in the extradition controversies. Alabama's economy depended on slavery, and the state reaffirmed constitutional recognition of the peculiar institution. The 1841 resolutions achieved this goal, and Alabama perceived no need to act further. Alabama's legislature began discussion of the extradition issue sooner than Mississippi's, but dissent prevented the former state

from acting as quickly. Some political elements in Alabama perceived the actions of Maine and New York as warranting a united response from all of the slave states, but Alabama's concept of state autonomy within the Union prevailed. Trying to avoid interstate alliances, Alabama rejected any attempt to act in accord with the other slave states, and also declined to involve itself actively in any of the extradition disputes.

Alabamans cared more about protecting their own slave property than they did about a sense of southern unity. In the extradition controversies, Alabama tried to block any antislavery tendencies capable of threatening the state's livelihood. There was little to do in the dispute between Georgia and Maine, because the reasons for which Governor Fairfield refused extradition in no way questioned the legitimacy of slavery. Alabama tried to keep Seward's antislavery constitutional construction from setting a precedent by establishing the constitutionality of slave property. Having presumably achieved this objective, Alabama declined to take any further action.

Alabama possessed a stronger sense of state autonomy than Mississippi. The former state passed separate resolutions on the Georgia and Virginia affairs, while the latter state passed one set of resolutions applying to both Maine and New York.[96] Failing to treat the Georgia and Virginia affairs as manifestations of the same issue, Alabama passed its statements at different times. Before it approved its position on the Virginia matter, Alabama notified

Mississippi that it had adopted South Carolina's resolutions concerning Maine and Georgia.[97] Mississippi, which was then debating the issue, declined to follow its neighbor's example. Mississippi drafted its own resolutions which encompassed both controversies. Although Mississippi took no other action than to denounce the stands of the northern states, criticizing New York in conjunction with Maine was a step toward viewing the northern states as a unit with interests contrary to the South's. This was, in effect, a tendency toward sectionalism and polarizing the regions of the country against each other. Even more independent than its neighbor, Alabama conducted its interstate relations as though each state comprised a distinct entity.

After passing its resolutions on the Virginia situation, Alabama became an observer of the extradition controversies. Throughout 1841, after Virginia approved shipping restrictions against New York in mid-March, Alabamans noted the progress of the dispute but urged no further action. While the Mobile Daily Commercial Register and Patriot provided coverage,[98] its chief function was political campaigning rather than advocating any additional action on Alabama's part. The Mobile Daily Commercial Register and Patriot insisted that the Whig members of the New York legislature "unequivocally" approved of Seward's position.[99] Citing northern Democratic support for Virginia, the newspaper declared that the best guarantee of southern rights lay with "the ascendancy of the Democratic party."[100] The Mobile Register and Journal praised South Carolina for its

support of Virginia throughout the controversy, noting that the Palmetto State imposed its own law against New York ships late in 1841. Although South Carolina's legislature maintained that New York's stance should be "repudiated and discounted by every state in the Union," the Mobile Register and Journal made no suggestion of Alabama passing similar laws.[101]

The Mobile Register and Journal ignored the unresolved controversy between Maine and Georgia while it played partisan politics with the New York issue. New York's legislature passed resolutions supporting Virginia's position on the extradition controversy in April 1842, and the Alabama newspaper noted that every Whig in the New York Senate opposed these sentiments. Citing Seward's affiliation with the Whig Party, the Mobile Register and Journal detailed the New York governor's refusal to send the resolutions to Virginia.[102] The paper concluded that southern Whigs had more in common with the northern Democrats than the northern wing of their own party.[103] The Mobile Register and Journal went on to discuss efforts in New York to repeal the Trial-by-Jury Law. While this attempt failed to pass New York's lower house, the paper claimed that Democratic support carried the motion in the Senate.[104] The paper continued its tirade against Governor Seward's party, decrying the "noxious influences of northern Whiggery against the South."[105]

Alabama reaffirmed its detached stance in the Virginia affair despite South Carolina's example.[106] After

approving its Inspection Law in December 1841, the Palmetto State sent resolutions on the New York affair to all the other states. South Carolina denounced Seward's position and pledged full cooperation in protecting Virginia's slave property.[107] Democratic Governor Benjamin Fitzpatrick of Alabama, who succeeded Governor Bagby,[108] laid the South Carolina resolutions before Alabama's General Assembly in December 1842.[109] David Hubbard, now a Democratic representative from Lawrence County,[110] introduced a new set of resolutions, which the House passed unanimously.[111] The Senate also approved the resolutions without opposition.[112]

This set of resolutions was a simple restatement of the position Alabama took in 1841. The earlier resolutions promised to "make common cause" with Virginia and "defend and support" the Old Dominion in its position.[113] In 1843, Alabama maintained that it would "sustain the state of Virginia in all needful and proper measures to redress the wrongs complained of, and to prevent their recurrence." The statements said nothing more.[114] Alabama's role throughout the extradition controversies was to merely reiterate the concept of slaves as property. The state remained aloof from its neighbors and did not hamper its shipping or legal system by passing acts against either Maine or New York.

Alabama's concern over the extradition matter faded while the New York controversy functioned as political propaganda. After William C. Bouck assumed the governorship of New York and renounced Seward's position on the extradition matter, the Mobile Register and Journal

maintained that Bouck proved "the steadfastness of the northern Democracy in their adherence to the principles and stipulations of the federal compact."[115] Noting that Seward received a statement of gratitude from New York's free blacks, and reiterating the party affiliation of both Bouck and Seward, the Mobile Register and Journal claimed that a complete contrast existed between the two New Yorkers on the issue of slavery.[116] The newspaper discussed the efforts of New York's Democrats to repeal the Trial-by-Jury Law,[117] and associated the Van Buren wing of the Democratic Party with Bouck's stand in the extradition controversy. The Mobile Register and Journal talked at length about the "friendship" between the governor and the ex-president.[118]

Alabamans' perceptions of liberty and personal freedom influenced their actions on the extradition matter. A fear of losing freedom emerged from the American Revolution and became incorporated into America's Second Party System.[119] Both Whigs and Democrats picked up the cause of personal liberty, with the Democrats trying to decrease individuals' economic dependence on others and the Whigs advocating the extension of affluence.[120] Opposing threats to freedom was the mainstay of politicians in Alabama.[121] This dedication to individual liberty was so strong that the state paid little attention to southern rights until 1848.[122] Although a northern state's perceived tampering with slavery represented subservience and a loss of freedom to Alabamans, an agreement with other slave states which bound Alabama's interstate relations also symbolized dependence. Having to

act in concert with the other states had the potential to infringe upon Alabama's autonomy. Moreover, the southern convention Governor Bagby advocated would have been a concession to a broad construction of the Constitution. Alabamans treasured a strict construction of this document as a bulwark against encroachments on liberty. Alabama strongly denounced the positions of Maine and New York on the extradition matter, but the southern state's concern with individual autonomy prevented it from working in accord with other slave states on the extradition controversies.

Throughout the controversy, Alabama functioned as an integral part of the national Second Party System. Like most southern states, Alabama shared concerns over many political, economic, and social issues with the North.[123] Even though Alabama articulated a strong defense of slavery on the extradition question, it did not lose sight of its participation in the United States political structure. The Mobile Register and Journal involved itself in national party politics by labeling abolitionism as a threat to freedom and associating this antislavery sentiment with the Whig Party.[124] In private discussion among themselves, Alabama's politicians admitted that the abolitionists comprised but one distinct faction in the northern Whig organization.[125] Still, the state's Democratic press did its best to equate antislavery sentiment with Whiggery. The extradition controversies became subordinate to partisan politics.

Mississippi and Alabama retained their autonomy within

the Union during the extradition controversies. While both states were intent upon preserving the institution of slavery, neither was willing to assist other slave states in protecting their slave property. Unlike Georgia, Virginia, and South Carolina, Mississippi and Alabama declined to pass encumbering shipping restrictions against Maine or New York. More division existed in Alabama, but after vigorous debate, this state followed the same course as its neighbor. The states affirmed their dependence on labor intensive agriculture and the institution of slavery, but refused to complicate their economies, interstate relations, and legal systems by joining directly in other states' conflicts. The main goal of both Mississippi and Alabama during the early 1840s was the pursuit of each state's livelihood in the United States.

The potential for southern nationalism was greater in Mississippi than in Alabama. Although Alabama did witness an initial upsurge of sectional animosity in the call for a southern convention, this state's disagreement on how to proceed delayed its reaction to the controversies. This dissent made it more difficult for Alabama to take a united stand. While Mississippians did no more than denounce the positions of Maine and New York, this state was able to act swiftly. Moreover, Mississippi's resolutions classified the Georgia and Virginia affairs as instances of the same problem. Alabama treated them as separate, and, therefore, unrelated cases. Alabamans did not perceive the North as a monolithic block unified against southern interests, and did

not undertake measures that treated northern states as such.

ENDNOTES

[1]Plantation agriculture was the economic underpinning of both Mississippi and Alabama, while slavery was a key component of the states' social structures. In Mississippi, plantation agriculture began to spread across the state from the Natchez district after the Indian removals of the 1830s. The panic of 1837 delayed the expansion of plantation agriculture in Mississippi, but prosperity reappeared by the early 1840s. Many plantation owners in Mississippi had immigrated from the east in the 1830s, and achieved success through their own initiative. The cotton industry depended on the factorage system, in which agents took responsibility for weighing, transporting, storing, and marketing the crop. Although Alabama's lack of latitudinal transportation cut Mobile off from some areas of the South, the city was a major cotton outlet. Plantation agriculture dominated the economies of both Mississippi and Alabama because the yeoman farmers had no access to a market economy and had virtually no purchasing power. Because Jacksonian ideals made the caste systems in Mississippi and Alabama appear mobile, most whites in the states aspired to higher planter status, and did not question the supremacy of plantation agriculture. Mississippians valued economic self-sufficiency within the order of market production, while Alabamans cherished personal liberty. The presence of a laboring class of slaves reassured whites that they could retain a sense of economic freedom and personal liberty, as they were exempt from having to endure slave status. See William L. Barney, The Secessionist Impulse: Alabama and Mississippi in 1860 (Princeton: Princeton University Press, 1974), 32, 43-44; Edwin Arthur Miles, Jacksonian Democracy in Mississippi (Chapel Hill: University of North Carolina Press, 1960), 18, 19, 25, 32, 170; Lillian A. Pereyra, James Lusk Alcorn, Persistent Whig (Baton Rouge: Louisiana State University Press, 1966), 4; John Ray Skates, Mississippi: A Bicentennial History (New York: W. W. Norton and Company, Inc., 1979), 87, 93; Ruth Ketrin Nuermberger, The Clays of Alabama: A Planter-Lawyer-Politician Family (Lexington: University of Kentucky Press, 1958), 16; Bradley G. Bond, Political Culture in the Nineteenth Century South: Mississippi, 1830-1900 (Baton Rouge: Louisiana State University Press, 1995), 8; J. Mills Thornton III, Politics and Power in a Slave Society: Alabama, 1800-1860 (Baton Rouge: Louisiana State University Press, 1978), xviii, 57.

[2]House of Representatives, Mississippi Legislature, Journal of the House of Representatives of the State of Mississippi, at an Adjourned Session Thereof, Held in the

City of Jackson, 1841 (Jackson: C. M. Price, State Printer, 1841), 217; Senate, Mississippi Legislature, Journal of the Senate of the State of Mississippi, at an Adjourned Session Thereof, Held in the City of Jackson, 1841 (Jackson: C. M. Price, State Printer, 1841), 379; Senate, Alabama General Assembly, Journal of the Senate, at the Annual Session of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in November, 1840 (Tuscaloosa: Hale and Phelan, Printers, 1841), 213; House of Representatives, Alabama General Assembly, Journal of the House of Representatives, at the Annual Session of the General Assembly of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in November, 1840 (Tuscaloosa: Hale and Phelan, Printers, 1841), 217; Senate, Alabama General Assembly, Preamble and Joint Resolutions, of the General Assembly of the State of Alabama, Approved 27 April 1841, 1841 sess., Acts Passed at the 1841 Session of the General Assembly of the State of Alabama (Catawba: Allen and Brickell, State Printers, 1841). This work does not specify page numbers.

[3]Barney, The Secessionist Impulse, 43-44; Skates, Mississippi, 93.

[4]Mississippi's original state constitution of 1817 was basically conservative, although it provided for a weak executive and entrusted the legislature with the bulk of authority. The state adopted a new constitution in 1832, which incorporated the democratic political trends of the Jacksonian Era. In Alabama, the General Assembly was the dominant branch of government and elected most public and judicial officials. Still, the General Assembly in most ways was representative of the electorate. See Dale Krane and Stephen D. Shaffer, "The Origins and Evolution of a Traditionalistic Society," in Mississippi Government and Politics: Modernizers vs. Traditionalists, ed. Dale Krane and Stephen D. Shaffer (Lincoln: University of Nebraska Press, 1992), 43; Thornton, Politics and Power in a Slave Society, 59, 116.

[5]Barney, The Secessionist Impulse, 43-44.

[6]Vicksburg [Mississippi] Sentinel, 31 December 1839.

[7]Ibid., 9 January 1840.

[8]Ibid., 5 March 1840. Throughout spring 1841, the paper made no reference to the final form of the Virginia resolutions.

[9]Ibid., 20 April 1840.

[10]Ibid., 28 April 1840. The paper reprinted this article from the Charleston [South Carolina] Mercury.

[11]Miles, Jacksonian Democracy, 86.

[12]Bond, Political Culture, 81.

[13]Ibid.

[14]A detailed discussion of slavery as a political issue of the southern parties appears in William J. Cooper, Jr., The South and the Politics of Slavery, 1828-1856 (Baton Rouge: Louisiana State University Press, 1978), xii. Cooper contends that slavery and its defense were the paramount political issues in the antebellum South.

[15]Jackson Mississippian, 17 December 1840.

[16]Ibid.

[17]James Byrne Ranck, Albert Gallatin Brown: Radical Southern Nationalist (New York: D. Appleton-Century Company, Inc., 1937), 25.

[18]Jackson Mississippian, 17 December 1840.

[19]Senate, Mississippi Legislature, Journal of the Senate, 1841, 12.

[20]Ibid.

[21]Ibid., 13.

[22]Vicksburg [Mississippi] Sentinel, 9 January 1840.

[23]A complete list of House members, the counties they represented, and their party affiliations appears in Jackson Mississippian, 22 January 1841. Whigs are denoted by asterisks, although the paper does not specify this. Comparison of this issue of the Mississippian with Jackson Mississippian, 6, 13, 20 November 1840 and Vicksburg [Mississippi] Daily Whig, 17 November 1840 for newly-elected members of the Mississippi House and Jackson Mississippian, 8, 15, 22 November 1839 for incumbents confirms the party affiliations of these legislators.

[24]House of Representatives, Mississippi Legislature, Journal of the House of Representatives, 1841, 217.

[25]Ibid. Vicksburg [Mississippi] Sentinel, 20 April 1840 denounced Seward as an abolitionist.

[26]House of Representatives, Mississippi Legislature, Journal of the House Representatives, 1841, 217.

[27]Ibid., 434. The journal does not list the names of the legislators who voted on the resolutions or note how many House members voted on the matter.

[28]Senate, Mississippi Legislature, Journal of the Senate, 1841, 379. The journal does not identify how the senators voted on the resolutions. Party affiliation in the Mississippi Senate in 1841 is difficult to determine. Party membership of a few senators appears in Jackson Mississippian, 6, 13, 20 November 1840 and Vicksburg [Mississippi] Daily Whig, 17 November 1840. The names of most senators from the 1839 legislative session appear in Jackson Mississippian, 8, 15, 22 November 1839. For a copy of the resolutions see Jackson Mississippian, 19 February 1841.

[29]Pereyra, James Lusk Alcorn, 4.

[30]Mississippi had little direct commercial trade with the northeast, because virtually all of the state's trade involved cotton. The main market outlets for Mississippi were New Orleans and Mobile. Discussion of this appears in Nuermberger, The Clays of Alabama, 16; Barney, The Secessionist Impulse, 32. Still, restrictions on vessels and citizens from Maine and New York arriving in Mississippi could have had a coercive effect on the northern states. Such acts could have helped slave states on the east coast capture and prosecute individuals who violated laws against absconding with slaves. Most importantly, a Mississippi law placing restrictions on Maine or New York would have demonstrated a willingness to act in accord with other slave states. This arguably could have increased pressure on the northern states to reverse their positions.

[31]Names of the committee members appear in House of Representatives, Mississippi Legislature, Journal of the House of Representatives, 1841, 143. See Jackson Mississippian, 22 January 1841 for party affiliation. Wilcox was a member of the committee.

[32]The Whigs in Mississippi succeeded in the 1835 state elections, but lost the ascendancy in the late 1830s as many states' rights Whigs became Democrats. The Whigs recaptured the legislature in 1840. They achieved a near win in the state elections during 1848 and gained a coalition Unionist win in 1851. The Democrats were the dominant party for the other sessions throughout the second party system. An in-depth analysis of Mississippi's Whig Party appears in David Nathaniel Young, "The Mississippi Whigs, 1834-1860" (Ph.D. diss., University of Alabama, 1968), 156.

[33]Miles, Jacksonian Democracy, 170.

[34]Whigs tended to be more successful in areas of greater affluence, while Democrats tended to be more successful in areas of lesser affluence. This tendency was true regardless of occupation. Little correlation existed between real estate holdings and occupation and party affiliation. See Young, "The Mississippi Whigs," 157-158.

[35]Vicksburg [Mississippi] Sentinel, 6 April 1841. William G. Shade, Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861 (Charlottesville: University of Virginia Press, 1996), 169 shows that Virginia's legislature had a Whig majority at this time, but the strict constitutional construction in regard to the Curry affair was in accord with the ideals of Mississippi's Democrats.

[36]Vicksburg [Mississippi] Sentinel, 6 April 1841. For a copy of the Virginia act, see House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, 1840-1841 sess., Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 79-82. The act was to go into effect on 1 May 1842, which it did.

[37]Vicksburg [Mississippi] Sentinel, 6 April 1841. In Vicksburg [Mississippi] Sentinel, 23 February 1841 the paper praised New Hampshire Democrats for supporting Virginia's position in the controversy.

[38]Ibid., 14 December 1841.

[39]Cooper, Politics of Slavery, xii.

[40]Vicksburg [Mississippi] Sentinel, 19 April 1841. The paper claimed that the extradition matter was important for the entire South, but made no mention of Mississippi taking any further action.

[41]Anthony Gene Carey, Parties, Slavery, and the Union in Antebellum Georgia (Athens: University of Georgia Press, 1997), xv. Carey discusses other national political issues over which Whigs and Democrats competed, including the tariff and the national bank.

[42]Young, "The Mississippi Whigs," 157.

[43]Senate, Mississippi Legislature, Journal of the Senate of the State of Mississippi, at the Regular Biennial Session Thereof, City of Jackson (Jackson: C. M. Price and G. R. Fall, State Printers, 1842), 365, 388-392, 454. For the governors' party affiliations, see Robert Sobel and John Raimo, ed., Biographical Directory of the Governors of the United States, 1789-1978, 4 vols. (Westport, CT: Meckler Books, 1978), 2: 807, 3: 1130. Mississippi elected Tucker as governor in November 1841, and he took office on 10 January 1842.

[44]For a complete discussion of the way in which Maine and New York argued a states' rights viewpoint during the extradition controversies, see Paul Finkelman, "States'

Rights North and South in Antebellum America," in An Uncertain Tradition: Constitutionalism and the History of the South, ed. Kermit L. Hall and James W. Ely, Jr. (Athens: University of Georgia Press, 1989), 125-148.

[45]Young, "The Mississippi Whigs," 142.

[46]Ibid., 139.

[47]Ibid., 142.

[48]Ibid.

[49]Miles, Jacksonian Democracy, 170.

[50]Thornton, Politics and Power in a Slave Society, 348.

[51]Senate, Alabama General Assembly, Journal of the Senate, at a Session of the General Assembly of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in December, 1838 (Tuscaloosa: Hale and Eaton, State Printers, 1839), 7. The resolutions included statements from Ohio and Rhode Island concerning the Texas issue and statements on the currency and general government from Kentucky.

[52]Thornton, Politics and Power in a Slave Society, 57.

[53]Ibid., 348.

[54]Mobile [Alabama] Daily Commercial Register and Patriot, 20 December 1839.

[55]Ibid., 27 December 1839.

[56]Governor Bagby declined to put the extradition matter before the legislature. See Senate, Alabama General Assembly, Journal of the Senate, at a Session of the General Assembly of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in December, 1839 (Tuscaloosa: Hale and Eaton, State Printers, 1840), 16-19.

[57]Mobile [Alabama] Daily Commercial Register and Patriot, 30 December 1839.

[58]Congress, Senate, Joint Committee on Printing, Biographical Directory of the American Congress, 1774-1971 (Washington, D. C.: United States Government Printing Office, 1971), 1152.

[59]Mobile [Alabama] Daily Commercial Register and Patriot, 2 January 1840.

[60]Ibid.

[61]For a discussion of economic conditions in Alabama, see Barney, The Secessionist Impulse, 32, 43-44.

[62]Mobile [Alabama] Daily Commercial Register and Patriot, 20 December 1839. For Fairfield's party affiliation, see Sobel and Raimo, Governors of the United States, 2: 602.

[63]Ibid., 21 January 1840.

[64]Mobile [Alabama] Daily Commercial Register and Patriot, 25 January 1840.

[65]Ibid., 6 March 1840.

[66]Ibid., 24 February 1840.

[67]Ibid., 6 March 1840.

[68]Ibid.

[69]Ibid.

[70]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 18.

[71]Ibid., 20.

[72]Ibid.

[73]Thornton, Politics and Power in a Slave Society, 384.

[74]Governor Bagby presented the resolutions from South Carolina to the Alabama General Assembly on 5 November 1840, and the Virginia resolutions on 10 November 1840. See House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 24, 43.

[75]Senate, Alabama General Assembly, Journal of the Senate, at the Annual Session of the General Assembly of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in November, 1840 (Tuscaloosa: Hale and Phelan, Printers, 1841), 146-149. Names and counties of the senators appear on page three of the journal. Party affiliation by county for the 1840 Alabama legislature appears in Wetumpka [Alabama] Argus, 26 August 1840. In Jonathan Mills Thornton III, "Politics and Power in a Slave Society: Alabama, 1806-1860" (Ph.D. diss., Yale University, 1974), 134, Thornton states that the statistics in the Wetumpka [Alabama] Argus are "apparently erroneous." The Wetumpka [Alabama] Argus apparently cited a larger Democratic margin than is correct, because the Whigs came within a

single seat of capturing the Alabama House. Any error on the part of the Wetumpka [Alabama] Argus would have been for only one or two representatives. Thomas Owen, ed., History of Alabama and Dictionary of Alabama Biography (Chicago: S. J. Clark Publishing Company, 1921) identifies the parties of many of these Alabama legislators, and there are no inconsistencies between the party affiliations which Owen and the Wetumpka [Alabama] Argus cite. Comparison of party affiliations for incumbent senators cited in Wetumpka [Alabama] Argus, 25 August 1841 also shows no discrepancy. The legislative journal is incomplete in that it fails to note three Whig senators and their counties.

[76]Senate, Alabama General Assembly, Journal of the Senate, 1840, 203. Names of the senators appear on page three of the journal. Wetumpka [Alabama] Argus, 26 August 1840 states that of the twenty-seven senators whose names appear in the journal, twenty were Democrats and seven were Whigs. The paper cites the 1840 Alabama Senate as having twenty-one Democrats and twelve Whigs.

[77]Senate, Alabama General Assembly, Journal of the Senate, 1840, 212. The names of Senate committee members appear on page six of the journal. According to Wetumpka [Alabama] Argus, 26 August 1840, the Committee on Federal Relations contained seven Democrats and three Whigs.

[78]Senate, Alabama General Assembly, Journal of the Senate, 1840, 213. Twenty-eight senators voted on these resolutions and approved them unanimously. Wetumpka [Alabama] Argus, 26 August 1840 identifies these senators as eighteen Democrats and ten Whigs.

[79]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 217. The journal does not identify how the individual representatives voted. Wetumpka [Alabama] Argus, 26 August 1840 lists the composition of the 1840 House as being fifty-three Democrats and forty-seven Whigs. Alabama based its apportionment plan to both the House and the Senate on the state's white population. The state reapportioned its legislature every six years between 1827 and 1856. House members represented individual counties, although some counties had more than one representative. Senators represented one, two, or three counties. For a complete discussion of Alabama's apportionment scheme, see Thornton, Politics and Power in a Slave Society, 81.

[80]After receiving the Senate's preamble and resolutions on the New York Trial-by-Jury Law on 19 December 1840, the House referred the preamble and resolutions to the Judiciary Committee. See House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 190.

[81]New York passed several measures to protect the rights of free blacks in 1840. In addition to the Trial-by-Jury Law, the state approved an act which permitted the governor of New York to negotiate the return of free blacks sold as slaves. For a complete discussion of New York's efforts on behalf of its black population, see Paul Finkelman, "The Protection of Black Rights in Seward's New York," Civil War History 34 (September 1988): 212.

[82]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 244.

[83]Ibid., 248.

[84]Ibid., 251.

[85]Ibid., 250.

[86]Ibid., 251.

[87]Ibid., 252.

[88]Ibid., 28 gives a partial list of the members of the Committee on the Judiciary. No full listing of the committee majority exists. On page 256, the journal names the seven members of the committee minority. Six of them were evidently Whigs, and the last one was William M. Murphy of Greene county, whom Wetumpka [Alabama] Argus, 26 August 1840 lists as a Whig, but History of Alabama and Dictionary of Alabama Biography lists as a Democrat. The Argus cites the composition of the House as being fifty-three Democrats and forty-seven Whigs. Comparison to the party affiliations that appear in History of Alabama and Dictionary of Alabama Biography reveals a single discrepancy in Murphy's party affiliation. History of Alabama and Dictionary of Alabama Biography lists many, but not all, of these legislators. Comparing party affiliations Wetumpka [Alabama] Argus, 25 August 1841 lists for incumbent representatives shows no inconsistency with the party affiliation the Wetumpka [Alabama] Argus gave for those representatives in 1840.

[89]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 255.

[90]Ibid., 256.

[91]Ibid., 257.

[92]Senate, Alabama General Assembly, Journal of the Senate, at the Called Session of the General Assembly of the State of Alabama, Begun and Held in the State Capital, at Tuscaloosa, on the Third Monday in April, 1841 (Tuscaloosa: Hale and Phelan, Printers, 1841), 35. Page three of the journal lists the senators and the counties they represented. See Wetumpka [Alabama] Argus, 26 August 1840 and History of

Alabama and Dictionary of Alabama Biography for Terry's party affiliation. Alabama held its state elections annually in August, so the members of the legislature for this session were the same as in the December 1840 session.

[93]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1840, 257.

[94]Senate, Alabama General Assembly, Journal of the Senate, 1841, 35. The Senate passed the resolutions unanimously.

[95]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, at the Called Session of the General Assembly of the State of Alabama, Begun and Held in the State Capital, at Tuscaloosa, on the Third Monday in April, 1841 (Tuscaloosa: Hale and Phelan, Printers, 1841), 49. The House journal does not identify how representatives voted on the resolutions.

[96]Senate, Alabama General Assembly, Joint Resolution of the General Assembly of the State of Alabama, Approved 27 April 1841. See also Jackson Mississippian, 19 February 1841 for the Mississippi resolutions.

[97]House of Representatives, Mississippi Legislature, Journal of the House of Representatives, 1841, 310.

[98]Mobile [Alabama] Daily Commercial Register and Patriot, 18 May 1841.

[99]Ibid., 14 June 1841.

[100]Ibid., 14 July 1841.

[101]Mobile [Alabama] Register and Journal, 24, 28 December 1841. The Mobile [Alabama] Daily Commercial Register and Patriot reorganized into the Mobile [Alabama] Register and Journal on 1 December 1841.

[102]Ibid., 22 April 1842.

[103]Ibid., 26 April 1842.

[104]Ibid., 27 April 1842.

[105]Ibid., 29 April 1842.

[106]Ibid. 10, 16 May 1842 note the operation of both Virginia's and South Carolina's shipping restrictions.

[107]Charleston [South Carolina] Mercury, 18 December 1841.

[108]Sobel and Raimo, Governors of the United States,

3: 12.

[109]House of Representatives, Alabama General Assembly, Journal of the House of Representatives of the General Assembly of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in December, 1842 (Tuscaloosa: Phelan and Harris, Printers, 1843), 102.

[110]Hubbard left Congress in 1841 and took a seat in the Alabama House of Representatives. See Congress, Senate, Joint Committee on Printing, Biographical Directory of the American Congress, 1774-1971, 1152.

[111]House of Representatives, Alabama General Assembly, Journal of the House of Representatives, 1842, 447. The 1842 session of the General Assembly ran over into February 1843. The Committee on Federal Relations drafted the resolutions Hubbard placed before the House. Apparently, the House journal does not list the names of the committee members. The Committee on Federal Relations is not among the committees the journal names on pages thirty-three and thirty-four. The journal also does not identify how individual representatives voted on the resolutions. For party affiliations in Alabama's 1842-1843 General Assembly, see Wetumpka [Alabama] Argus, 31 August 1842. The Argus lists the composition of the House as being sixty-three Democrats and thirty-three Whigs, although in a roster of representatives it identifies sixty-five Democrats and thirty-four Whigs. The roster is complete except for citing the representative from Marion County. The House journal lists one House member for this county on page three.

[112]Senate, Alabama General Assembly, Journal of the Senate of the General Assembly of the State of Alabama, Begun and Held in the City of Tuscaloosa, on the First Monday in December, 1842 (Tuscaloosa: Phelan and Harris, Printers, 1843), 370. The Senate Journal does not note how the senators voted on the resolutions. Party affiliations of the senators for this session appear in Wetumpka [Alabama] Argus, 31 August 1842. The paper says that the composition of the Senate was twenty-one Democrats and twelve Whigs.

[113]Senate, Alabama General Assembly, Joint Resolutions of the General Assembly of the State of Alabama, Approved 27 April 1841.

[114]House of Representatives, Alabama General Assembly, Joint Resolution in Relation to a Controversy Between the States of New York and Virginia, Act of 14 February 1843, 1842-1843 sess., Acts of Alabama, 1843 (Catawba, AL: Allen and Brickell, State Printers, 1843), 225.

[115]Mobile [Alabama] Register and Journal, 17 January 1843.

[116]Ibid., 23, 26 January 1843.

[117]Ibid., 14 February 1843.

[118]Ibid., 22 February 1843.

[119]Thornton, Politics and Power in a Slave Society, xviii.

[120]Ibid., 57.

[121]Ibid., 161.

[122]Ibid., 165, 348.

[123]Barney, The Secessionist Impulse, 20.

[124]For a complete discussion of antebellum political tactics, see Thornton, Politics and Power in a Slave Society, xix; Carey, Antebellum Georgia, xv.

[125]Dixon H. Lewis to Benjamin Fitzpatrick, 19 January 1841, Benjamin Fitzpatrick Papers, University of North Carolina, Chapel Hill, North Carolina. Dixon H. Lewis was a Democratic politician from Alabama who served in Congress from 1829 until 1844. See Congress, Senate, Joint Committee on Printing, Biographical Directory of the American Congress, 1774-1971, 1286 for Lewis' party affiliation and background.

CHAPTER V

SOUTH CAROLINA:

SOUTHERN UNITY IN THE EXTRADITION CONTROVERSIES

South Carolina actively involved itself in the extradition controversies, but deferred to the lead of Georgia and Virginia. The Palmetto State watched Georgia and Virginia to see how they proceeded in dealing with Maine and New York. Although South Carolina's politicians approved resolutions supporting Georgia,[1] they took no action against Maine because Georgia did not do so for many years. When Virginia approved its Inspection Law, South Carolina followed the Old Dominion's example and passed identical restrictions against New York's shipping.[2] South Carolina perceived the actions of Maine and New York as an attack on slavery, and, at both the national and state levels, the Palmetto State's leaders stressed that the slave states should cooperate in defending the peculiar institution. At the same time, South Carolina refused to take any independent initiative in the situation. South Carolina promised to cooperate with Georgia in the event that the state acted against Maine, and imitated Virginia's actions against New York.

A desire for southern unity motivated South Carolina's actions in the extradition matter. Since the Nullification

Crisis in the early 1830s, South Carolina perceived a need for the slave states to unite in defense of common interests. While the Tariff of 1828 had created some economic hardships for the South,[3] the reason that South Carolina expounded the concept of nullification was to ensure a means of protecting slavery from federal legislation.[4] This desire for sectional cohesiveness persisted in South Carolina even though the other slave states rejected nullification.[5] Because the rest of the South had denounced South Carolina as radical in the 1830s,[6] the Palmetto State was reluctant to take the lead in any sectional dispute. When the extradition disputes arose in the late 1830s, South Carolina sought to achieve southern unity by making common cause with Georgia and Virginia. Although opposition to an expanded national government was the prevailing political ideology in South Carolina,[7] it waited until Virginia approved a punitive state law against New York to enact a measure of this sort. In the extradition controversies, South Carolina tried to establish southern unity in defense of sectional interests by acting in accord with Virginia.

In the United States Senate, John C. Calhoun incorporated the controversy between Maine and Georgia into his campaign to protect slavery. The senator introduced a set of six resolutions to block federal intervention with southern institutions late in 1837. In defense of the third one of these, that the national government had a duty to resist efforts on the part of one section of the Union to destroy the institutions of another,[8] Calhoun cited Maine's

refusal to return to Georgia individuals accused of removing slaves from that state.[9]

Although stressing that Maine's actions could have a disastrous effect on interstate relations, Calhoun made no mention of his home state acting in the matter. Noting that Georgia had passed resolutions calling for a state convention if Maine did not capitulate, Calhoun warned that when Georgia acted, it "intends no idle menace." Georgia's outrage was but one example of southern concern on the slavery issue and the Senate needed to dispel such worries by approving the resolutions. Although Calhoun's resolutions implied acceptance of federal intervention in the extradition controversies, the senator maintained that Georgia would lead a sectional response to the dispute.[10]

South Carolina closely monitored the Georgia affair throughout 1838 and 1839. In 1838, the South Carolina General Assembly passed a resolution calling for Governor Patrick Noble to correspond with Georgia's Democratic Governor, George Rockingham Gilmer, about the dispute. Noble carried out this request. He presented the information he received from Gilmer to the South Carolina General Assembly's 1839 session.[11]

The South Carolina House of Representatives approved a set of resolutions promising support to Georgia in the dispute. Mr. Burt, of the House Committee on Federal Relations, presented the resolutions. These specified that each state possessed an obligation to insist upon a "faithful observance" of the Constitution. All states possessed a

right to ask for extradition and a corresponding duty to grant such requests. To impair or deny the right to request extradition was "subversive of the peace and good government of the other states," and Maine had "impaired, if not denied" this right. The resolutions concluded that South Carolina would "never consent that any state shall become an asylum for those who are fugitives from the justice of other states." In an effort to proclaim South Carolina's position on the matter, the House proposed sending the resolutions to Congress and the President of the United States.[12] After adding a resolution that each state had a right to define crimes within its borders, the House passed these statements.[13]

Upon the suggestion of the Senate, both houses of the South Carolina General Assembly passed resolutions favoring involvement in Georgia's dispute with Maine. The Senate Committee on Federal Relations proposed an additional resolution to the ones the House approved. This stated that

> this state will make common cause with any state of this confederacy in maintaining their just rights under the guarantee of the Constitution of the United States; and should the obligations of that instrument be disregarded by those whose duty it may be to enforce them, it will take counsel with its co-states of the Confederacy, having similar interests to protect, and similar injuries to redress, in devising and adopting such measures as will maintain, <u>at any hazard</u>, those rights, and that property, which the obligations of the compact of Union--cancelled as they then will be, as to us--have failed to enforce.

The House agreed to this sectionalist pledge of support to Georgia.[14]

South Carolina took a position of cooperation with the

other slave states.[15] The resolutions rested on the belief that any southern state could experience a controversy similar to the one between Maine and Georgia. If this happened, South Carolina was ready to act in accord with the other slave states, even if such a dispute did not directly affect the Palmetto State's slave property. Although South Carolina suggested that the southern states could exist outside the federal compact, the resolutions were careful to say no more than what Georgia proclaimed in 1837. Georgia claimed that if other states followed Maine's example, "civil unrest" could result,[16] and, two years later, South Carolina pledged loyalty to the other slave states if this occurred.

Noting the dispute between Virginia and New York, the Charleston Mercury urged South Carolina to cooperate with the rest of the South on the extradition matter.[17] The paper reprinted the annual message of Virginia Governor David Campbell, in which he maintained that if Seward did not grant extradition, the Old Dominion could "appeal from the cancelled obligations of the [federal] compact to original rights and self preservation." The Charleston Mercury requested that the South Carolina General Assembly discuss Campbell's statement. Maintaining that slavery created a common interest among all the southern states, the paper concluded that "the sooner we put ourselves in an attitude of self defense, the more certain shall we be to make that defense respectable and effective."[18]

The Charleston Mercury called for South Carolina to

imitate Georgia and Virginia in the extradition matter. Saying that southern complacency encouraged northern abolitionists, the paper stated that "South Carolina ought to be prepared to second vigorously any action of Georgia or Virginia to put an end to these outrages, and enforce a disavowal of the monstrous doctrines by which they are defended."[19] The Charleston Mercury suggested a non-intercourse policy against Maine and New York, something the Georgia legislature began considering in 1837. The paper also advocated another proposal of the Georgia legislature, which called for the southern states to confiscate all property in the South belonging to Maine and New York.[20] The Charleston Mercury noted that the Georgia legislature was currently discussing a bill to require inspections of all Maine vessels departing from Georgia,[21] and maintained that Governor Noble was willing to convene the South Carolina General Assembly to act in the extradition matter.[22]

The Charleston Courier agreed with Georgia's Democratic legislators, who favored congressional intervention.[23] This paper claimed that disputes over extradition could lead to disaster, especially in cases between adjacent states. While "border warfare" was a terrible possibility, even this could not resolve the Maine situation because of the northern state's geographic remoteness. Only Congress could settle the matter in the South's favor. Although admitting that it was not sure what measures the federal government should take, the Charleston Courier believed state action to be inappropriate.[24]

The Charleston Mercury and the Charleston Courier agreed that South Carolina should look to Georgia and Virginia for leadership in the extradition controversies. While advocating differing measures, both papers drew their ideas from the slave states directly involved in the disputes. South Carolinians perceived a great need to protect the peculiar institution, but neither of these papers wanted to act independently of Georgia or Virginia.

The Charleston Mercury advocated southern state laws in the Maine dispute. The paper pledged full cooperation with Georgia, saying that South Carolina's promise to "make common cause" with any southern state represented "the great principle of states' rights." Lamenting that Georgia had tabled its bill for quarantine restrictions against Maine,[25] the Charleston Mercury maintained that if John C. Calhoun were from Georgia, he would favor a state law.[26] An appeal to Congress was a faulty strategy because the federal judiciary had recently ruled against slavery in the Amistad case. The slave states could not depend on federal institutions to protect their interests. Georgia's call for congressional intervention was "a surrender of the rights and an evasion of the only effective remedy in the power of the southern states."[27]

Despite this rhetoric, the Charleston Mercury insisted that Georgia had to take the initiative in the Maine dispute. The paper claimed that while both Calhoun and the South Carolina General Assembly believed Georgia should pass a state law, the dispute had to "be settled by others." If

Georgia did not obtain satisfaction, the fault did not lie with South Carolina. The Palmetto State had already done everything it could do.[28]

The Charleston Mercury perceived the Virginia dispute as more serious than the controversy between Georgia and Maine. While Maine's position threatened to deprive Georgians of their property by questioning whether the accused individuals were fugitives from justice,[29] Seward's position went further. The New York governor based his refusal to grant extradition on the ground that removing a slave did not constitute a crime in New York because the peculiar institution did not exist there. This argument had implications concerning the legality of slavery. The second statement in the South Carolina resolutions of 1839, which maintained that each state had a right to define crimes within its borders, applied to the Virginia case.[30]

The Charleston Mercury waited for Virginia to act in the New York controversy. The paper chronicled debate of the issue in the Old Dominion's House of Delegates.[31] Objecting to the concern of Virginia delegate Robert E. Scott that a proposed set of resolutions tended toward "South Carolina Nullification," the Charleston Mercury denounced such timidity. The paper believed that "on the subject of the right of abolitionists to steal our slaves with impunity, the whole South were nullifiers." The Charleston Mercury added sarcastically that "all South Carolina is so at least."[32] Rejoicing when Virginia approved the final form of its March 1840 resolutions, the paper admitted its impatience with the

Old Dominion. The Palmetto State "looked so long in vain" for a response from Virginia that it wondered if the Old Dominion "dreamed [sic] away the remembrance of state sovereignty." The Charleston Mercury applauded the resolutions and gleefully noted that their final form had not altered the tone "squinting at South Carolina Nullification."[33]

While anticipating action on Virginia's part, the Charleston Mercury charged that Seward was part of a global abolitionist conspiracy. Warning that the South had to resist efforts of foreign nations to interfere with American slavery,[34] the paper claimed that the New York governor derived his position on the extradition matter from the arguments of British abolitionists.[35] The bill currently under debate in the New York legislature for guaranteeing a jury trial to anyone accused of being an escaped slave in New York was an example of northern Whigs' hostility to slavery.[36]

South Carolina refused to act in the extradition matter before Georgia or Virginia decided upon a course of action. In his 1840 annual message to the South Carolina General Assembly, Democratic Governor Barnabas K. Henagan made no mention of either dispute.[37] Although Virginia requested cooperation in November 1840, South Carolina took no action because the Old Dominion had not yet decided upon a specific strategy.[38] When Georgia's Governor, Charles J. McDonald, vetoed a bill for quarantine restrictions against Maine, the Charleston Mercury focused on Virginia.[39] The paper

favored a united southern response to Seward's position, but believed Virginia had to determine the exact nature of what that reaction should be. South Carolina was "perfectly ready to unite with Virginia," and the Palmetto State pledged its support to "any and every southern state in measures necessary to protect their slave property." Anticipating non-intercourse laws, the Charleston Mercury said of New York, "let her vessels be subjected to the same inspection and restrictions in Charleston, Savannah, Mobile, and New Orleans, as in Norfolk." The paper deferred to the Old Dominion's lead and urged "let Virginia define her remedy, and the whole South will cluster around her."[40]

The Charleston Courier expressed similar sentiments as it defended itself against charges of sympathy for Seward. In late 1840 and early 1841, the Charleston Courier became a Whig paper and supported William C. Preston's effort to establish a Whig Party in South Carolina.[41] During these months, the Democratic Charleston Mercury claimed that all Whigs shared the New York governor's views on the extradition issue.[42] Saying that it never failed to denounce an abolitionist from any party, the Charleston Courier claimed to be a champion of southern rights. The paper denounced Seward, and maintained that the South would "act in solid phalanx against her foes." The Charleston Courier criticized the Charleston Mercury for making the extradition issue a partisan matter.[43] Regardless of internal political struggles, many Carolinians advocated southern cooperation against New York.

The Charleston Mercury hailed Virginia's Inspection Law as "the great event of the year" for southerners.[44] Delighted that "Virginia has now taken her ground," the paper acknowledged the Old Dominion as "our natural leader." Now the South could "rally as one man" and every southern state could enact similar legislation.[45] Admitting that a large minority of the Old Dominion's legislators favored an appeal to Congress, the Charleston Mercury stressed that even Virginians who opposed the law spoke "in the very strongest terms of condemnation of the outrage offered to Virginia, and of the necessity of redress."[46] The entire South could now support the approach Virginia presented.

Senator John C. Calhoun believed South Carolina should follow Virginia's lead in the controversy. In 1839, the senator discussed both state laws and federal intervention on behalf of Virginia,[47] but, after the Old Dominion decided on shipping restrictions, Calhoun advised all the slave states to do likewise. Writing to Armistead Burt, a current representative from Abbeville District in the South Carolina House of Representatives, Calhoun claimed that the southern states had to "secure" themselves against the "movements of the abolitionists." Calhoun told Burt that the Palmetto State should pass its own law requiring inspection of New York ships. The senator maintained

> I cannot doubt, but the state will back Virginia, and I would only suggest the propriety of passing an act in exact conformity with hers, authorizing the governor to put it into operation by proclamation, whenever officially notified, that the act of Virginia has gone into operation.

Calhoun stressed that no state should take any action beyond that of Virginia. He believed that rallying behind the Old Dominion was the most effective way to achieve southern solidarity.[48]

South Carolina Governor John P. Richardson urged the Palmetto State to make common cause with Virginia in the extradition controversy. In his annual message to the 1841 session of the General Assembly, Richardson expressed outrage at Seward's position. South Carolina possessed an obligation to "repel so flagrant a disregard of the rights of a sister state." It mattered not that New York directed its actions at Virginia because the principle Seward expressed affected all the slave states. Responsibility for protecting southern interests and institutions fell equally upon every state in the Union. The governor urged the General Assembly to consider an act resembling Virginia's to prevent similar controversies. Like Calhoun, Richardson believed that the slave states had to unite in defense of their interests.[49]

Although Richardson had proclaimed loyalty to the Union during the Nullification Crisis, he now spoke in terms of sectional conflict. The governor compared relations between nations to interstate relations, saying that independent countries did not permit each other to disregard their laws concerning property rights. Such a dispute would cause an even greater alarm if it took place among "states federated under the same laws and Constitution." South Carolina had to treat New York as "a foe to our rights and an enemy to our peace." The Palmetto State could only regard the Empire

State as it would any other belligerent power--"in peace friends, but enemies in war."[50]

Support for an inspection law emerged in the South Carolina House of Representatives. Immediately after receiving Governor Richardson's message, the House Committee on Federal Relations took up deliberations on the Virginia matter, and also on Alabama's 1841 resolutions.[51] Albert Rhett, a representative from St. Luke's Parish, introduced a bill for an inspection law exactly like Virginia's.[52] The House Committee on the Judiciary opened discussion on this proposal.[53]

The Senate Committee on Federal Relations maintained that South Carolina should follow the same course as Virginia. Believing that the General Assembly's upper house should deal with the matter, the Senate committee drafted a report and resolutions during the first week of December 1841.[54] The statement viewed Seward's position in conjunction with New York's Trial-by-Jury Law. In both that affair and the extradition controversy, New York's Whigs "deliberately trampled under foot" their constitutional obligations. Noting Virginia's Inspection Law, the report stated that "the action of this state should be indicated in character by the identity of her interests with those of Virginia." The Senate committee recommended adoption of its own inspection law.[55]

The Senate Committee on Federal Relations stressed a a southern rights interpretation of the United States Constitution. In the resolutions accompanying the report, the committee members maintained that the federal government

could not acquire new powers, but that all states had to uphold provisions the Constitution expressly stated. The Constitution's Fourth Article, Second Section called for the return of escaped slaves and the extradition of fugitives from justice. The South had to dispel New York's "pretension to control" these clauses of the Constitution because it violated the federal compact. Denying a state governor the ability to exercise discretion in extradition matters did not violate the principle of states' rights. Rather, Seward's position infringed upon the rights of the states because it forbade a state to determine crimes within its borders.[56]

Despite its opposition to the New York governor, the committee's resolutions acknowledged Virginia as the southern leader in the extradition controversy. The statements praised the Old Dominion's "moderation and respectful forbearance" in dealing with New York. Instructing the governor of South Carolina to relate these resolutions to Virginia, the committee pledged "the hearty cooperation of South Carolina in all proper measures to vindicate her rights as a state, and to protect the property of her citizens." This statement was a virtual blank check to Virginia on shipping regulations. While the reference to "all proper measures" may have been a denunciation of the notion to appeal to Congress, the Palmetto State made no move to act in the dispute until Virginia formulated a clear policy.[57]

After the South Carolina Senate agreed to the Inspection Bill,[58] dissent arose in the House of Representatives. Representatives Armistead Burt and Albert Rhett argued in

favor of the Senate bill, but Representative A. G. Magrath of Charleston presented a list of objections. He claimed that the bill was unconstitutional because it infringed upon the power of Congress to regulate commerce. A law requiring inspection of all New York vessels departing from South Carolina was more than a mere quarantine or police regulation because it deliberately interfered with the Empire State's trade. The bill proposed violating the Constitution's Privileges and Immunities Clause by denying citizens of New York rights which other states enjoyed. Moreover, the bill inhibited South Carolina's own commercial activity. It was not uncommon for New Yorkers to pilot ships which South Carolinians owned, and these citizens would bear the brunt of the act.[59]

Both houses of the South Carolina General Assembly agreed to offer cooperation to the rest of the South, and act in accord with Virginia in the New York dispute. The House of Representatives added another resolution to the Senate report, which provided for sending copies of the report and resolutions to every state in the Union.[60] After slight revision, the Senate approved the report and resolutions.[61] The House passed the Inspection Bill by a vote of eighty-nine to fifteen.[62] The Senate showed even greater solidarity, approving the bill with a vote of twenty-eight to two.[63] A large majority of South Carolina's political leaders believed their state should act in conjunction with the rest of the South on the extradition matter.

There was little opportunity for South Carolina's

Inspection Law to become a partisan issue because a two-party system did not develop in the Palmetto State during this time. In 1837, John C. Calhoun agreed to support President Martin Van Buren's plan for a subtreasury, and Calhoun's supporters in South Carolina merged with the national Democratic Party.[64] Calhoun's rivals, United States Senator William C. Preston, James L. Petigru, and Waddy Thompson, tried to run a Whig campaign in the Palmetto State during 1840. This attempt proved unsuccessful, and only a tiny handful of Whigs won election to the General Assembly.[65] The Whigs failed to gain support in South Carolina because Calhoun wielded enough political influence to crush any competition, and also because most Carolinians disagreed with the national Whig policy of advocating the positive use of government power to encourage economic development.[66] While Carolinians did not oppose entrepreneurship, the state's political culture denounced any increase in the federal government's powers.[67] Because Calhoun urged cooperation with Virginia, and also because South Carolina's politicians opposed expanding the national government, no support for federal intervention in the extradition controversies emerged in South Carolina.

The fifteen representatives who voted against the Inspection Law had differing reasons for doing so. Eight of them were from Charleston, and opposed shipping restrictions because of their effect on Charleston's commercial interests. All of these representatives were Democrats, and political opposition to Calhoun did not influence them. Three Whigs, two from the Upcountry and one from the northern

Middle Country county of Marlboro, voted against the act in a vain partisan opposition to the Democrats, although three Whigs from the Upcountry supported the law. Three Democrats from the Upcountry and one representative whose geographic and political affiliations are unavailable also voted against the act.[68]

The Charleston Mercury hailed the new Inspection Law as a triumph for the South. Naming the act as one of the 1841 General Assembly's monumental achievements, the paper praised South Carolina for coming to the aid of another state. By passing the law, the Palmetto State affirmed its promise to assist all other southern states in protecting their slave property.[69] The Charleston Mercury also noted that Georgia had passed its own Inspection Law, which applied to all northern states. After years of waiting, South Carolina could finally unite with other slave states in reacting to extradition controversies.[70]

The Charleston Mercury's only regret was that the General Assembly did not approve the Inspection Law unanimously. Noting that most legislators who opposed the act came from Charleston, the paper claimed that these individuals allowed financial interests to interfere with protecting the South.[71] The paper wanted South Carolina, as well as the rest of the South, to unite in a monolithic block.[72]

Calhoun encouraged South Carolina's support of Virginia. In February 1842, he presented his state's report and resolutions to the United States Senate.[73] Calhoun maintained that both New York's Trial-by-Jury Law and

Seward's position on the extradition controversy were examples of abolitionism. If not checked, this incendiary spirit would lead to the dissolution of the Union. The first course of the South in preventing abolition's spread was to "defend herself by all the means placed within her power by the Constitution." Saying that the Old Dominion took appropriate measures, the senator stated "the legislature of Virginia has, with consummate judgment, moderation, and patriotism, made such amendments to her police laws as were rendered necessary, and South Carolina has assumed a position by her side." If other northern states assumed New York's stand on these matters,

> the southern states would move in a body; they would be compelled to move in a body, and pass laws restricting the intercourse with the North, until the communication would be stopped altogether--by mail, as well as commercial, for the same regulations will be applied to stages, steamboats, and railroad cars, as to vessels navigating the ocean.[74]

Calhoun opposed separate state action on sectional issues at this time. The senator proudly described South Carolina as following Virginia in its actions, but made no reference to his own state approving measures more extreme than the Old Dominion's if New York permitted Seward's position to stand. In no way did the South Carolina senator intimate that his state could employ its own ideas in pressuring the Empire State. Although Calhoun did warn of a united southern movement if other states followed New York's course, he stressed that this would be done in unison. Believing that a single state had little chance of halting

antislavery sentiment, the senator continued to advocate southern cooperation on the extradition matter. In order to achieve this, he was careful to emphasize that South Carolina would follow the lead of Virginia, instead of pursuing an independent course against Governor Seward.[75]

South Carolina's course failed to change Seward's position. The New York Governor discussed the Palmetto State's law, which Governor Richardson sent to Seward, in a special message to the New York legislature. Describing the act as "very extraordinary," Seward noted that South Carolina anticipated restoring certain rights and privileges to New York citizens after the Empire State returned the accused sailors to Virginia and repealed the 1840 Trial-by-Jury Law. This raised the issue of the United States Constitution's Privileges and Immunities Clause and was no enticement for the New York governor to change his stand. While his reply to South Carolina was identical to that which he articulated to Virginia, Seward hoped that the New York legislature would give repealing the Trial-by-Jury Law "early and deliberate consideration."[76]

Seward offered further explanation of his position in a letter to Richardson. No law or custom in New York warranted return of the three individuals, and the Constitution did not expressly call for a state executive to grant extradition in such cases. Whether to strike down the Trial-by-Jury Law was a matter for the New York legislature to decide and the state executive had no control on that issue. It was also up to the legislature to determine whether South

Carolina's law required any retaliation on the part of New York. Seward submitted a copy of the act, as well as South Carolina's report and resolutions, to the New York legislature accordingly.[77]

The national press debated the constitutionality of South Carolina's Inspection Law. The Whig [Washington, D. C.] National Intelligencer claimed that the Palmetto State's law violated the United States Constitution. The act, being identical to Virginia's, constituted an alliance between South Carolina and Virginia, which ran counter to the Constitution's prohibition of "one state to enter into any agreement or compact with another state, without the consent of Congress." The Democratic Washington Globe refuted this contention, saying that it was constitutional for one state to enact a law that already served another state well. Moreover, Seward was the one acting with disregard for the Constitution because he refused to honor a request for extradition.[78]

An anonymous author, using the pseudonym "Justice," also condemned the National Intelligencer's position. No compact existed between the Palmetto State and the Old Dominion because each state was free to repeal its law without consent from the other. A state could interfere with congressional power to regulate commerce in cases involving police or quarantine regulations. The acts calling for inspections of New York ships applied only to persons on board those ships, regardless of their states of residence. The laws did not violate the Constitution's Privileges and Immunities Clause

because they did not deny rights to citizens of a specific state.[79]

South Carolina's Inspection Law went into effect at the same time as Virginia's.[80] Although the New York legislature approved resolutions denouncing Seward's position in the Virginia dispute,[81] the Palmetto State continued to cooperate with the Old Dominion. Seward told South Carolina that the act did not compel him to return the fugitives, but the Palmetto State neither declined to enforce its act, which would have benefited Charleston's shipping interests, nor proposed alternate measures which may have had a greater impact on the New York governor. In the early 1840s, South Carolina was not ready to take independent action against a northern state. The Charleston Mercury confirmed that Seward left the governors of both South Carolina and Virginia "no license of discretion" in enforcing the acts.[82]

Governor Richardson recommended that South Carolina continue this course the following year. Claiming that South Carolina formed a "position of alliance" in "defending the institutions of the South," Richardson stated that he had strictly enforced the "wise and necessary Inspection Law instituted by Virginia." The governor assured the General Assembly that the act would eventually compel New York to return the three sailors and repeal the Trial-by-Jury Law, especially after the United States Supreme Court Case of Prigg v. Pennsylvania.[83] All that the General Assembly needed to do was to renew the law, including the provision

which gave the state governor the authority to suspend it once the Empire State complied with the southern requests.[84]

The General Assembly agreed with Richardson. In November 1842, the House Judiciary Committee took up the issue, discussing whether enforcement of the law was necessary in light of the Prigg decision. A House resolution called for deliberation on amending the law to alleviate the restraints it placed on South Carolina's commercial interests.[85] While a petition from merchants in Georgetown created additional pressure to alter the act, the Inspection Law remained in place.[86]

For the next four years South Carolina maintained its subordinate position relative to Virginia, despite objections to retaining the Inspection Law. Although Seward's successor, William C. Bouck, proclaimed that carrying a slave into a free state did constitute a crime,[87] the Old Dominion kept its act in place.[88] The Palmetto State did likewise. In 1843, Ker Boyce of Charleston introduced a resolution in the South Carolina Senate, which called for examination of the state's law. This proposal questioned whether a repeal of the act would be expedient. Also, Boyce proposed consideration of ways to defray expenses resulting from the law.[89] While the Senate adopted Boyce's resolutions for discussion of the act, the General Assembly made no move to repeal the law.[90] In 1845, a petition from a group of Charleston citizens requested that the General Assembly remove the law.[91] In response, the House Committee on Federal Relations drafted a bill merely to "alter and amend"

the act.[92] The Senate Committee on Federal Relations composed a like bill, and voted to postpone discussion of it, effectively quashing any move to modify the act at the current session.[93]

Only after Virginia repealed its Inspection Law did South Carolina act independently of the Old Dominion. Both Virginia and Georgia retracted their shipping restrictions by 1846,[94] but South Carolina kept its act intact. Gradually assuming a position of leadership in southern protest, that state's politicians resisted efforts to follow Virginia and repeal the law in 1847 and 1848. When a petition from the citizens of Charleston, which called for removal of the act, reached the General Assembly in 1847,[95] the House introduced a bill to "amend" the statute.[96] Although the House moved to send this proposal to the Senate by a vote of sixty to fifty-four,[97] the upper house approved a report from the Senate Committee on Federal Relations, which rejected the petition from Charleston[98] and placed the House bill on the table.[99] The House blocked repeal efforts the next year. The lower tier of the General Assembly introduced a bill to amend the act in response to another request for repeal from a group of private citizens.[100] Shortly, the House tabled this proposal.[101]

In 1850, South Carolina Governor Whitemarsh B. Seabrook maintained that the matter of removing slaves was still unsettled. In a fiery message that denounced the admission of California into the Union, as well as alleged northern plots against slavery, the governor maintained that the North

did not respect southern property in slaves. Decrying

> the actual robbery of millions of our slave property by emissaries, not only without an effort by the northern state governments to enforce the provisions of the Constitution concerning fugitives held to labor, but by the authority of law and the force of public opinion encouraging and sustaining these fanatical exhibitions of public sentiment,

Seabrook urged the Palmetto State to "interpose her sovereignty in order to protect her citizens." As Governor Gilmer of Virginia did in 1840, the South Carolina governor called for the slave states to work together. He insisted that "by cooperation with her aggrieved sister states," South Carolina could succeed in "averting the doom which impends over the civil institutions of the South."[102]

A decade after deferring to the lead of Georgia and Virginia in the extradition controversies, South Carolina considered initiating punitive laws against northern states which affronted slavery. In the 1850 session of the South Carolina House of Representatives, an ad hoc committee began deliberations on a bill calling for a non-intercourse policy with

> the citizens of all such states of this confederacy as have passed illegal enactments, and placed other injuries upon our peculiar institution, in open violation and utter disregard of the letter and spirit of our federal Constitution.[103]

Although the House eventually tabled this bill, South Carolina began considering interstate boycotts as a suitable means of dealing with sectional disputes of all kinds. In addition to shipping restrictions, the Palmetto State contemplated commercial sanctions as a response to all actions believed hostile to slavery.[104]

South Carolina was slow to emerge as the leader of southern protest. After failing to receive support from the other slave states during the Nullification Crisis,[105] the Palmetto State lapsed into a period in which it followed the lead of other states in sectional disputes. Desiring southern unity, South Carolina did not want to alienate its neighbors by appearing radical. During the extradition controversies, the state did nothing beyond imitating the actions of Georgia and Virginia. The Palmetto State accepted this position with great zeal, and, unlike most slave states, was an active participant in the extradition disputes. South Carolina passed much time waiting for Georgia and Virginia to act, but was quick to follow suit when the Old Dominion adopted a strategy. The Palmetto State began to deviate from its self-imposed subordinate position by retaining an Inspection Law after Georgia and Virginia repealed theirs. In the fifteen years that followed, a host of sectional grievances eventually inspired South Carolina to shrug off its role of a follower and take the lead in voicing southern concerns.

During the extradition controversies, South Carolina believed that the South needed to enforce northern compliance with southern demands through collective state action. South Carolina had developed a sectionalist outlook by 1840,[106] and, when northern refusals to extradite individuals accused of removing southern slaves seemed to question the legality of slavery, the Palmetto State was ready to act. Because it desired southern unity in the matter, South Carolina promised

to cooperate in measures Georgia and Virginia enacted, and then waited for those states to take the initiative. Although Senator John C. Calhoun sometimes considered the federal government as a means of defending the peculiar institution,[107] most South Carolina politicians opposed any extension of the federal government's authority.[108] Rather, they believed that the slave states could exert power over the North by enacting state laws in accord with one another. When Virginia approved a law directed at New York's shipping, South Carolina eagerly adopted similar measures.

ENDNOTES

[1]For a copy of the resolutions which South Carolina passed on the extradition controversy between Maine and Georgia in 1839, see Patrick Noble to Martin Van Buren, 25 January 1840, Martin Van Buren Papers, Library of Congress, Washington, D. C. Noble was then governor of South Carolina. He sent a copy of the resolutions to President Van Buren.

[2]For a copy of the law which South Carolina passed in response to the dispute between New York and Virginia in 1841, see Charleston Courier, 13 January 1842.

[3]William W. Freehling, Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836 (New York: Harper and Row, Publishers, 1965), 26.

[4]Ibid., 85.

[5]Irving H. Bartlett, John C. Calhoun: A Biography (New York: W. W. Norton and Company, 1993), 195; John Barnwell, Love of Order: South Carolina's First Secession Crisis (Chapel Hill: University of North Carolina Press, 1982), 23; U. B. Phillips, Georgia and States' Rights, 2d ed., (Yellow Springs, OH: Antioch Press, 1968), 131; David Nathaniel Young, "The Mississippi Whigs: 1834-1860" (Ph.D. diss., University of Alabama, 1968), 140. During the Nullification Crisis, South Carolina political leader John C. Calhoun knew that the reactions of the other southern states would determine the effectiveness of nullification. South Carolina hoped that the other slave states would cooperate in opposing the tariff, but this did not happen. Georgia and Mississippi both approved resolutions denouncing nullification. Although Virginia reiterated its resolves of 1798, it did not support nullification at this time.

[6]Barnwell, Love of Order, 49.

[7]Lacy K. Ford, Jr., Origins of Southern Radicalism: The South Carolina Upcountry, 1800-1860 (New York: Oxford University Press, 1988), 173.

[8]Bartlett, John C. Calhoun, 240.

[9]Clyde N. Wilson, ed., The Papers of John C. Calhoun, 24 vols. (Columbia: University of South Carolina Press, 1981), 14: 56-63. On these pages, Wilson provides a third-person account of Calhoun's remarks in the

United States Senate concerning the resolutions. The senator expressed these views in a speech on 5 January 1838. Calhoun drafted these resolutions because he believed Whigs were merging with abolitionists and that Democrats had to oppose antislavery sentiment. The first four of the resolutions, that the sovereign states adopted the Constitution to preserve their own security, that the states retained exclusive rights over their domestic institutions, that the federal government had a duty to resist efforts on any part of the Union to use the national government to destroy the institutions of another state, and that attacks on slavery violated the spirit of the constitutional compact, passed Congress with large majorities. After much debate, Congress amended the fifth resolution from saying that interfering with the peculiar institution in Washington, D. C. would be an attack on the South to simply discouraging such involvement with slavery. The sixth resolution, that an effort to block a territory's entrance into the Union because of its potential to become a slave state violated the rights of the slave states, ended up on the table. For a complete discussion of these resolutions, see Bartlett, John C. Calhoun, 240. After Congress approved the "twenty-first rule," which forbade discussion of slavery, debate on these resolutions died down. John B. Edmunds, Francis W. Pickens and the Politics of Destruction (Chapel Hill: University of North Carolina Press, 1986), 72 discusses the passage of the "twenty-first rule."

[10]Wilson, ed., Papers of John C. Calhoun, 14: 56-63.

[11]Charleston Mercury, 28 November 1839.

[12]House of Representatives, South Carolina General Assembly, Journal of the Proceedings of the Senate and House of Representatives of the General Assembly of South Carolina, at its Regular Session of 1839 (Columbia: A. H. Pemberton, State Printer, 1839), 61. "Mr. Burt" is most likely Armistead Burt, a representative from Abbeville District. The Journal does not contain a comprehensive roster of representatives for 1839.

[13]Ibid., 110. The Journal does not note how the representatives voted. For the final draft of the resolutions, see Noble to Van Buren, 25 January 1840, Van Buren Papers.

[14]House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1839, 165. The Journal notes on page 133 that the Senate began discussing its Committee on Federal Relations report on 17 December 1839. The Journal does not list individual votes on any of these resolutions.

[15]Laura A. White, Robert Barnwell Rhett: Father of

Secession (Gloucester, MA: Peter Smith, 1965), 120 discusses cooperation of the slave states, as opposed to separate state action.

[16]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1837 (Milledgeville: P. L. Robinson, State Printer, 1838), 404-413. This was a set of resolutions Georgia passed regarding the Maine controversy.

[17]The Charleston Mercury supported nullification in the early 1830s. An account of the paper's position during these years appears in Ford, Origins of Southern Radicalism, 162.

[18]Charleston Mercury, 12, 13 December 1839.

[19]Ibid., 12 December 1839.

[20]Ibid., 14 December 1839. Georgia began discussing policies of non-intercourse with Maine, as well as taxation of Maine residents' property in Georgia, in 1837. See House of Representatives, Georgia General Assembly, Journal of the House of Representatives, 1837, 404-413.

[21]Charleston Mercury, 23 December 1839.

[22]Ibid., 14 December 1839.

[23]In 1839, Georgia approved a set of resolutions requesting Congress to involve itself in the controversy. The resolutions called for amendment of the Fugitive Slave Law of 1793. See House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1839 (Milledgeville: P. L. Robinson, State Printer, 1840), 445; Senate, Georgia General Assembly, Journal of the Senate of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1839 (Milledgeville: William S. Rogers, State Printer, 1840), 361. The Georgia General Assembly approved these resolutions on 21 December 1839, shortly after South Carolina approved its resolutions relative to the Georgia controversy on 13 December 1839. Congress took no action on the Georgia resolutions because Georgia's Whig congressional representatives in the United States House opposed the measures. See Noble to Van Buren, 25 January 1840, Van Buren Papers; Columbus [Georgia] Enquirer, 1 April 1840.

[24]Charleston Courier, 31 December 1839.

[25]Charleston Mercury, 1 January 1840.

[26]Ibid., 16 January 1840.

[27]Ibid., 8 January 1840.

[28]Ibid., 16 January 1840.

[29]Ibid.

[30]Ibid., 8 January 1840.

[31]Ibid., 21 February 1840.

[32]Ibid., 26 February 1840.

[33]Ibid., 4 March 1840.

[34]Ibid., 2, 4 March 1840.

[35]Ibid., 18 March 1840. There had been recent incidents of British authorities in Bermuda seizing and emancipating United States slaves.

[36]Ibid., 13 April 1840.

[37]Senate and House of Representatives, General Assembly of South Carolina, Journal of the Proceedings of the Senate and House of Representatives of the General Assembly of South Carolina, at its Regular Session of 1840 (Columbia: A. H. Pemberton, State Printer, 1840), 17-18.

[38]The General Assembly did not discuss the extradition matter in its 1840 session, which met in November and December of 1840. See the 1840 volume of the Journal of the Senate and House of Representatives.

[39]Charleston Mercury, 6 January 1841. The paper supported the Georgia Whigs' proposal for quarantine restrictions against Maine. The Charleston Mercury claimed that such an act was a way to "awaken the northern states to the consequences of thrusting their suction pipes into our waters."

[40]Ibid., 16 January 1841.

[41]Ford, Origins of Southern Radicalism, 169.

[42]Charleston Mercury, 24 December 1840.

[43]Charleston Courier, 2 March 1841.

[44]Charleston Mercury, 23 March 1841; House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this

Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, 1840-1841 sess., Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 79-82.

[45]Charleston Mercury, 23 March 1841.

[46]Ibid., 25 March 1841.

[47]Aaron V. Brown to James K. Polk, 7 December 1839, Correspondence of James K. Polk, ed. Wayne Cutler, 9 vols. (Nashville: Vanderbilt University Press, 1979), 5: 330-331. In this communication, Brown, a congressional representative from Tennessee, informed Polk, then governor of Tennessee, of statements which Calhoun made about the Virginia case. The South Carolina senator believed "the administration ought to make much out of the case, and that the legislatures ought to move in the matter everywhere." Encouraging President Van Buren to denounce Seward's stand was in accord with Calhoun's proposed resolutions for protecting slavery, which maintained that the federal government had a duty to resist efforts on any part of the Union to interfere with slavery. See Bartlett, John C. Calhoun, 240 for discussion of the Calhoun resolutions.

[48]John C. Calhoun to Armistead Burt, 28 November 1841, Fourth Annual Report of the Historical Manuscripts Collection: Correspondence of John C. Calhoun (Washington, D. C.: Government Printing Office, 1900), 495-497.

[49]Senate and House of Representatives, South Carolina General Assembly, Journal of the Proceedings of the Senate and House of Representatives of the General Assembly of South Carolina, at its Regular Session of 1841 (Columbia: A. H. Pemberton, State Printer, 1841), 10.

[50]Ibid.

[51]House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 30.

[52]Ibid., 34. The bill's official title was A Bill to Prevent the Citizens of New York from Carrying Slaves out of this State, and to Prevent the Escape of Persons Charged with the Commission of any Crime.

[53]Ibid., 40.

[54]Senate, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 77. The Senate report opened with a statement that the upper house of the legislature should deal with the extradition controversy. House of Representatives, South Carolina

General Assembly, Journal of the Senate and House of Representatives, 1841, 80 notes that the House discharged the House Committee on Federal Relations of the extradition issue. Although conceding control of the matter, the House did not cease its own deliberations. It referred the issue to the House Judiciary Committee.

[55]Senate, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 77; Charleston Courier, 13 December 1841.

[56]Senate, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 97.

[57]Ibid.

[58]The Senate passed its bill for an inspection law and referred the bill to the House. See ibid.; House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 102. The Journal does not note how the legislators voted.

[59]Charleston Courier, 20 December 1841. Pendleton [South Carolina] Messenger, 23 October 1840 notes that A. G. McGrath was a Democrat. McGrath represented the city of Charleston, which was in St. Philip's and St. Michael's District.

[60]House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 130. The Journal does not say how the representatives voted on approving the report and resolutions.

[61]Ibid., 163; Senate, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 165. The Journal does not say how the senators voted on the report and resolutions.

[62]House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 130.

[63]Senate, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 135. See Charleston Courier, 13 January 1842 for a complete copy of the South Carolina Inspection Law. The act required all boats and ships which New Yorkers commanded in whole or in part to undergo inspection before leaving South Carolina. Any ship departing from South Carolina for New York had to undergo an identical search unless a citizen of South Carolina owned the vessel.

[64]Ford, Origins of Southern Radicalism, 157.

[65]Ibid., 169. Pendleton [South Carolina] Messenger,

16, 23, 30 October, 6 November 1840 provides much statistical information on the South Carolina state elections of 1840. The paper names eleven Whigs being elected to the Senate and House of Representatives. Senate and House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1840, 3-5 provides a list of senators and representatives who took their seats at the 1840 legislative session. These rosters named 37 senators and 108 representatives, but are not complete because there were several contested elections. Nonetheless, these figures show that the Whigs' strength in South Carolina was insignificant. Ford notes on page 169 that the Whigs had some support in Charleston and Columbia, but seven of the ones elected, one senator and six representatives, came from Pendleton District in the extreme northwest corner of the Upcountry. Ford notes that in this area, the Whigs gained some support from planters, farmers, and merchants who were interested in transportation improvements. During this time, South Carolina elected state senators for four years and state representatives for two years. For a discussion of apportionment in South Carolina, see pages 108-112 in Origins of Southern Radicalism.

[66]Ford, Origins of Southern Radicalism, 173.

[67]Freehling, Prelude to Civil War, 117. After South Carolina passed the Miller Resolutions in 1825, which embraced a strict construction of the United States Constitution and deemed tariffs and internal improvements unconstitutional, South Carolina's politicians had been leery of an expanded national government.

[68]House of Representatives, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 130; Pendleton [South Carolina] Messenger, 16, 23, 30 October 1840. The representatives from St. Philip's and St. Michael's District, the location of Charleston, were not united in opposition to the Inspection Law. While eight of this district's representatives voted against the act, seven of them voted for it. All fifteen representatives from St. Philip's and St. Michael's District who voted on the law were Democrats. The politically unidentified representative who opposed the act was Mr. Gourdin, whose name does not appear in the roster of representatives on pages 3-5 of the Journal of the Senate and House of Representatives. For a map of South Carolina during this time, see Freehling's Prelude to Civil War.

[69]Charleston Mercury, 20 December 1841.

[70]Ibid., 11 January 1842. For a copy of the Georgia law, see House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of Their Slaves, 1841 sess., Georgia Laws, 1841 (Milledgeville: State Printer, 1841),

125-128.

[71]Charleston Mercury, 18 December 1841. While the representatives from Charleston divided over the Inspection Law, the senator from St. Philip's and St. Michael's District voted against it. He was a Democrat. See Senate, South Carolina General Assembly, Journal of the Senate and House of Representatives, 1841, 135; Pendleton [South Carolina] Messenger, 23 October 1840.

[72]In its coverage of the Inspection Law's passage, the Charleston Courier did little but reprint speeches, reports, and legislative proceedings without comment.

[73]Clyde N. Wilson, ed., The Papers of John C. Calhoun, 24 vols. (Columbia: University of South Carolina Press, 1984), 16: 110-112 provides a third-person account of remarks Calhoun made in the United States Senate on the extradition issue. The senator made these statements on 7 February 1842. In John P. Richardson to Calhoun, 20 December 1841, ibid., 9, Governor Richardson of South Carolina had asked Calhoun to present the South Carolina report and resolutions, as well as the South Carolina Inspection Law, to the United States Senate.

[74]Wilson, ed., Papers of John C. Calhoun, 16: 110-112.

[75]Ibid.

[76]Charleston Courier, 19 February 1842. The message was from Seward to the New York legislature, dated 11 February 1842.

[77]Ibid. Seward's letter to Richardson is dated 10 February 1842.

[78]Charleston Mercury, 22 February 1842.

[79]Ibid., 4, 8 March 1842. The [Washington, D. C.] National Intelligencer reprinted the editorial by "Justice."

[80]Both Virginia's and South Carolina's Inspection Laws went into effect on 1 May 1842. Georgia began enforcing its act on 1 January 1842. See Charleston Mercury, 30 April, 3, 7 May 1842.

[81]Ibid., 18, 25 April 1842.

[82]Ibid., 3 May 1842.

[83]For a complete discussion of the Prigg case, see Paul Finkelman, An Imperfect Union: Slavery, Federalism, and Comity (Chapel Hill: University of North Carolina Press,

1981), 10.

[84]Senate, South Carolina General Assembly, Journal of the Senate of the State of South Carolina, Being its Annual Session of 1842 (Columbia: A. H. Pemberton, State Printer, 1842), 17. This was Richardson's annual message to the General Assembly.

[85]House of Representatives, South Carolina General Assembly, Journal of the House of Representatives of the State of South Carolina, Being the Annual Session of 1842 (Columbia: A. H. Pemberton, State Printer, 1842), 36.

[86]The House originated a bill called A Bill to Amend an Act Entitled "An Act to Prevent the Citizens of New York From Carrying Slaves or Persons Held to Service out of this State, and to Prevent the Escape of Persons Charged with the Commission of any Crime. The House sent this bill to the Senate on 15 December 1842, and the Senate approved it on 17 December 1842. Both houses ratified the bill on 20 December 1842. To trace the bill's passage through the General Assembly, see House of Representatives, South Carolina General Assembly, Journal of the House of Representatives, 1842, 48; Senate, South Carolina General Assembly, Journal of the Senate, 1842, 43, 82, 95, 116. The title of the petition, which reached the Senate on 2 December 1842, was The Petition of the Shipping Merchants of Georgetown, Praying Amendment of the New York Inspection Law. Virginia made minor alterations in its Inspection Law as well. At the 1842-1843 session of the Virginia legislature, the Old Dominion changed the provisions of its act to exempt Virginia citizens from having to pay the required inspection tax on ships they owned. See House of Delegates, Virginia Legislature, Journal of the House of Delegates of Virginia, 1842-1843 Session (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1843), 119, 170, 269. The South Carolina Journals fail to note the way in which the legislators voted on the amending act. Also, the Journals do not specify the exact nature of the amendments. They were slight and affected neither the basic provisions of the act nor the conditions under which the governor could repeal it. The amendments did not exempt Charleston from the law's provisions.

[87]Albany [New York] Argus, 4 January 1843.

[88]Paul Finkelman, "The Protection of Black Rights in Seward's New York," Civil War History 34 (September 1988): 234. Virginia repealed its Inspection Law in 1846.

[89]Senate, South Carolina General Assembly, Journal of the Senate of the State of South Carolina, Being its Annual Session of 1843 (Columbia: A. H. Pemberton, State Printer, 1843), 31. Ker Boyce was from St. Philip's and St. Michael's District.

[90]Ibid., 35.

[91]House of Representatives, South Carolina General Assembly, Journal of the House of Representatives of the State of South Carolina, Being the Annual Session of 1845 (Columbia: A. G. Summer, State Printer, 1845), 11. The petition's title was The Petition of Sundry Citizens of Charleston, Praying a Repeal of the Law Passed the Seventeenth Day of December, A. D. 1841, entitled "An Act to Prevent the Citizens of New York From Carrying Slaves or Persons Held to Service out of this State and to Prevent the Escape of Persons Charged with the Commission of any Crime."

[92]Ibid., 59.

[93]Senate, South Carolina General Assembly, Journal of the Senate of the State of South Carolina, Being the Annual Session of 1845 (Columbia: A. G. Summer, State Printer, 1845), 80.

[94]Finkelman, "Seward's New York," 234. While Virginia retained its Inspection Law until 1846, Georgia modified its act to exempt the port of Savannah in 1842.

[95]House of Representatives, South Carolina General Assembly, Journal of the House of Representatives of the State of South Carolina, Being the Annual Session of 1847 (Columbia: A. G. Summer, State Printer, 1847), 49-50. The petition's title was The Memorial of Sundry Citizens of Charleston, Praying a Repeal of the Act of the General Assembly, Passed 17th December 1841, and Commonly Known as the Law for the Inspection of Vessels Trading to New York.

[96]Ibid., 109.

[97]Ibid., 163.

[98]Senate, South Carolina General Assembly, Journal of the Senate of the State of South Carolina, Being the Annual Session of 1847 (Columbia: A. G. Summer, State Printer, 1847), 40, 117. The Senate received its own copy of the memorial.

[99]Ibid., 131.

[100]House of Representatives, South Carolina General Assembly, Journal of the House of Representatives of the State of South Carolina, Being the Annual Session of 1848 (Columbia: I. C. Morgan, State Printer, 1848), 62, 108. The petition's title was The Petition of Henry Missroon, J. W. Caldwell, and others, Praying the Repeal of an Act Passed A. D. 1841 entitled "An Act to Prevent the Citizens of New York From Carrying Slaves or Persons Held to Service

out of this State, and to Prevent the Escape of Persons Charged with the Commission of any Crime. The title of the bill was A Bill to Amend an Act Entitled "An Act to Prevent the Citizens of New York From Carrying Slaves or Persons Held to Service out of this State, and to Prevent the Escape of Persons Charged with the Commission of any Crime."

[101]Ibid., 188.

[102]House of Representatives, South Carolina General Assembly, Journal of the House of Representatives of the State of South Carolina, Being the Annual Session of 1850 (Columbia: I. C. Morgan, State Printer, 1850), 27-29. This was Governor Seabrook's annual message to the General Assembly of 1850.

[103]Ibid., 46.

[104]Ibid., 233.

[105]White, Robert Barnwell Rhett, 145 says that by 1858, some South Carolina politicians had come to believe that the slave states would never unite in defense of slavery, and that South Carolina should take the lead and leave the Union. These politicians argued that South Carolina should stop looking to Virginia for leadership, which the Palmetto State had done for two decades. Barnwell, Love of Order, 33, 40 claims that the slave states perceived South Carolina as radical after the Nullification Crisis, and that this perception hindered the Palmetto State's efforts to cooperate with the rest of the South. Edmunds, Francis W. Pickens, 114 notes South Carolina's efforts to work in accord with the other slave states in the 1850 crisis over California statehood. Mississippi called a state convention in Nashville, Tennessee to discuss the matter, but only did so after receiving the implied support of South Carolina. This tendency to defer to the lead of other states in defense of slavery existed in South Carolina during the extradition controversies. Not wanting to alienate the rest of the South, South Carolina avoided taking any initiative.

[106]Ford, Origins of Southern Radicalism, 143. Without a two-party system, South Carolina's leaders tended to identify all threats to the state's well-being as existing in Washington, D. C. or in the North.

[107]The resolutions for protecting slavery which Calhoun introduced in the United States Senate during 1837 stated that the federal government needed to resist all efforts by any part of the Union to use federal power against slavery. If Congress or the president of the United States had done this in the extradition controversies, it would have involved federal condemnation of both Seward and the existing means for providing extradition. Federal action to enforce

these sentiments is a logical corollary of this premise. See Bartlett, John C. Calhoun, 240 for the Calhoun resolutions.

[108]Ford, Origins of Southern Radicalism, 173.

CHAPTER VI

LOUISIANA:

FEDERAL INTERVENTION IN THE EXTRADITION CONTROVERSIES

Louisiana advocated federal intervention in the extradition matter. This state took note of both the dispute between Maine and Georgia and the controversy between New York and Virginia as these events unfolded. Louisiana's politicians treated the two cases separately, but proposed a decisive course of action to prevent similar disagreements. Although waiting a year after Virginia passed its Inspection Law to act, Louisiana actively involved itself in the the Old Dominion's dispute with New York. Louisiana called on Congress to change existing laws and require the return of individuals who allegedly removed slaves from southern states.[1]

Louisiana's leaders believed that the South should harness the power of the federal government and use it to protect southern interests. The state's legislators maintained that giving Congress control over extradition was the most effective way to protect slavery. With federal law defining the removal of slaves as theft, Seward's argument that absconding with a slave was not a crime would be invalid anywhere in the Union. Moreover, a national law would enable

any slave state to prosecute individuals who removed its human chattel. While Louisiana urged the southern states to work together in protecting their slave property, this state advocated a concession of power to the federal government in response to the extradition controversies.[2]

Louisiana took note of the dispute between Maine and Georgia in spring 1839, when Whig Governor E. D. White placed Georgia's 1837 resolutions before his state's legislature.[3] The Louisiana House of Representatives called for a joint committee to review these statements,[4] a measure the Louisiana Senate agreed to.[5] While Louisiana directed no legislation toward Maine,[6] the Louisiana legislators familiarized themselves with this controversy.

The Whig New Orleans Bee and the politically independent New Orleans Daily Picayune did not discuss involvement in the Georgia matter. Although the New Orleans Daily Picayune said little about the affair,[7] the New Orleans Bee mentioned the quarantine bill Georgia's legislature proposed in late 1840. Claiming that the dispute was at a "critical and highly interesting point," the New Orleans Bee described the Georgia bill as being of the "most severe character." Still, the paper made no call for Louisiana to take any sort of action in the affair.[8]

When discussing the extradition matter, the New Orleans Bee expressed a commitment to the Union. The paper insisted that the Maine dispute did not threaten the federal compact. In an exposition on international relations, the New Orleans Bee claimed that, despite Maine's refusal to grant Georgia's

request for extradition, the South supported Maine in a boundary dispute with Great Britain. Even with the Georgia and Virginia controversies unresolved, the paper maintained that southern support for Maine in the boundary matter was a "happy omen of the existence of an attachment to the Union" on the part of both North and South. This tendency to emphasize the United States as a nation heralded Louisiana's efforts to settle the extradition matter with federal measures.[9]

In his dealings with Governor Seward, Louisiana's Whig governor, Andrew B. Roman, avoided discussing the Virginia dispute as a conflict between two states.[10] When New Orleans authorities arrested a free black man from New York as a fugitive slave, the New York governor requested Roman to obtain the man's release. After the New Yorker, James Watkins Seward, furnished proof of his status, the officials released him and Roman wrote a letter of explanation to Governor Seward. The Louisiana governor confirmed James Watkins Seward's release, but disagreed with Governor Seward's statement that such arrests violated the Constitution's Privileges and Immunities Clause. Laws concerning free blacks fell exclusively to each state's legal prerogative. The budding abolitionist movement underscored the need for such acts because "criminal appeals made to the worse passions of the slaves" placed the lives of white southerners in danger. If the New York governor's argument were correct, blacks who moved from New York to Louisiana had a right to vote, a subject Roman refused to consider. While

defending the right of each state to pass laws within its own borders and extending a degree of comity to New York by releasing James Watkins Seward, Roman made no reference to the Virginia controversy. The Louisiana governor did not believe that a confrontation between states would redress the extradition issue.[11]

Throughout spring 1841, the New Orleans Bee continued to advocate harmonious relations among the states. The paper reported Virginia's Inspection Law with neither praise nor criticism,[12] but protested the refusal of Virginia's Governor Gilmer to extradite accused forger Robert F. Curry to New York. While maintaining that Seward based his denial of extradition on a faulty interpretation of the Constitution, the New Orleans Bee also claimed that Gilmer allowed motives of retaliation to affect his judgment. Refusing to return Curry not only lent credibility to the Empire State's position, but escalated tensions between New York and Virginia. Such a maneuver created "strong precedents for future aggression, injustice, or insult" on New York's part. The New Orleans Bee encouraged Virginians to repudiate Gilmer's tactics.[13]

Although retaining its commitment to good interstate relations, the New Orleans Bee argued that Seward was wrong to deny extradition of the three sailors to Virginia. The paper insisted that Virginia's claim was "founded upon a privilege guaranteed by the Constitution," and that the New York governor's position was an "erroneous construction" of that document. The New Orleans Bee noted that Gilmer's

replacement, John Mercer Patton, had requested extradition from Seward, and the paper hoped fervently that New York would "arrest the dangerous and unhappy collisions which must ensue from a perseverance in their assaults upon the rights of the state of Virginia and other southern states."[14]

The New Orleans Daily Picayune described the controversy as a matter of great importance to the entire South. Although it reported Virginia's debate on the Inspection Law and the Curry matter objectively,[15] the paper decried the "thieves and fanatics" who molested southerners' slave property. The New Orleans Daily Picayune observed that the extradition dispute was likely to affect slave owners travelling north with their slaves.[16]

The New Orleans Daily Picayune looked toward national institutions, rather than state laws, for a resolution to the extradition controversies. The paper countered Seward's argument by citing a passage from The Commentaries of Chancellor Kent, which claimed that the United States Constitution governed all interstate communications. The Constitution not only recognized slavery, but incorporated it into the determining of congressional representation. By claiming that all state governors had to accept the peculiar institution because the Constitution recognized slavery, the New Orleans Daily Picayune suggested the supremacy of the national government in state disputes.[17]

A committee in the Louisiana House of Representatives stressed that the New York governor's position should not become precedent.[18] A report from this body claimed that

the controversy was "of the greatest importance and of such a character as to demand the immediate and unified action of all the slave holding states." The constitutional provision on fugitives from justice dictated that cases involving "a person charged in any state with treason, felony, or other crime" warranted extradition. Removing a slave constituted a crime because it violated a state law, and, therefore, Seward's refusal to return the accused men was unconstitutional. In addition to infringing upon southerners' right to property in slaves, the New York governor's argument undermined all state laws. Geographic, economic, and regional differences made differing laws necessary in different parts of the country. If one state could determine arbitrarily which crimes deserved extradition, state laws would be much more difficult to enforce.[19]

The committee warned that Seward's position gave the growing abolitionist movement an opportunity to attack slavery. Antislavery activists used religious principles to argue their point of view and possessed sufficient political power to influence some state governments. If a northern state became a haven for emancipators who took slaves out of the southern states, abolitionists would exploit this and instigate massive slave escapes. Allowing northerners to go unpunished for violating a southern state law encouraged enemies of the South to disregard southern rights.[20]

These representatives concluded that the best means of redressing the matter lay with the federal government. The

report referred to the United States as a whole, saying that the framers drafted the Constitution to make the states into "one nation." When the people of the United States ensured each state the right to request extradition, they conferred the power to enforce such requests upon Congress. State governors handled extradition matters only because of the federal government's laxness in exercising its powers. To block Seward's dangerous doctrine, the South needed to restore the power of extradition to its proper sphere. The committee report advocated requesting Congress to transfer formally the power of extradition to the federal judiciary.[21]

The report maintained that state laws, including the inspection acts which Virginia, South Carolina, and Georgia passed, were an improper response to the controversies. The way in which the South handled the extradition matter would have "a great and permanent influence" on slavery, and the southern states needed to make sure that any action preserved the Constitution, as well as their slave property. Requiring inspection of ships interfered with congressional regulation of trade, while taxing citizens from offending states was not in accord with the Constitution's Privileges and Immunities Clause. Such measures would become appropriate only if the Union dissolved. Congressional action would avert interstate hostilities certain to occur if the states tried to resolve the issue among themselves.[22]

The committee claimed that the South needed to have a strong influence over the federal government. A principal objection to congressional intervention in the controversy

was the fear that raising the subject of slavery in Congress would give abolitionists an opportunity to denounce the peculiar institution. Even though antislavery agitators addressed Congress whenever possible, this idea was faulty. The southern states were sure to assume a minority status in the Union if they failed to voice their interests and concerns to the federal government. The national government, responsible for protecting the rights of all the states, would no longer act on behalf of the South, even in cases of foreign powers interfering with slaves.[23]

The Louisiana legislature approved the House committee's proposal. In a set of resolutions which the House and Senate easily passed,[24] the state informed its congressional representatives and other state governors that

> it is the duty of Congress to provide the means necessary for enforcing the rights of the several states under the provision of the Constitution relative to the delivery of fugitives from justice by the agency of our national magistrates.

Reiterating the unconstitutionality of Seward's argument, these resolutions urged the slave states to "act together in adopting and carrying out measures" to address the extradition issue. As the House report denounced state laws aimed at New York, this statement was a plea for the other slave states to support congressional intervention.[25]

The Louisiana legislature sought to facilitate southern control of the national government. The state's politicians believed that conflict among states acting as individual entities would not help Virginia, or the South, obtain satisfaction in the dispute. Although states retained the

right to pass laws inside their borders, state autonomy in extradition matters subordinated such cases to the arbitrary will of a state governor. Only a higher power could ensure protection of the rights which the Constitution guaranteed to all states. Far fewer reasons existed for a state to come into conflict with the federal government than with another state, and congressional action was the best way resolve interstate disputes. To ensure that such settlement of controversies would not compromise southern interests, the South needed to insist on federal legislation favorable to those interests.[26]

Louisiana took no further action on the controversy after issuing its opinion. As was the case with the resolutions Wilson Lumpkin of Georgia presented to the United States Senate in the spring of 1840, Congress declined to act on Louisiana's resolutions. The state's legislature did not discuss the matter in subsequent sessions.[27] The New Orleans Daily Picayune observed that Seward's successor, William C. Bouck, condemned Seward's position and also called for a repeal of New York's Trial-by-Jury Law. Claiming that this would "probably lead at once to a reconciliation of the difficulties between New York and Virginia," the paper made no mention of further action against New York.[28]

Louisiana's political culture compelled the state to advocate federal intervention in the extradition issue. In the twenty years before the extradition disputes began, a rivalry between French Creoles and settlers of British descent characterized state politics in Louisiana. The state

incorporated itself into the Second Party System during the mid-1830s, with the Creoles favoring the Whigs and the Anglo-Saxons supporting the Democrats. Louisiana's constitution allowed the Creole Whigs to control state politics because it enfranchised only white males who paid state taxes, and a majority of these individuals were of French descent. The Louisiana Whigs, who had ignored national politics throughout the 1830s, won victories at both the state and national levels in 1840.[29] Although the Whigs' control of state politics began to fade after 1840,[30] the Louisiana legislature had a Whig majority when the state passed its resolutions on the extradition matter in 1842. In accord with the national Whig policy of using an active, centralized government to encourage economic prosperity, Louisiana's legislators believed that the federal government was best suited to protecting the interests of southern slave owners.[31]

In Louisiana, neither the Whigs nor the Democrats expressed a states' rights ideology during the 1830s and 1840s. The Whigs, while avoiding national politics until 1840, supported followers of John Quincy Adams and Henry Clay at the state level, and adopted these politicians' beliefs. The Anglo-Saxon Democrats focused on the rivalry with the Creoles, and relied on ethnic loyalties when challenging the Whigs. The port city of New Orleans, where removal of slaves via ship was plausible, had a large Democratic majority, but no support for a state law against New York emerged.[32]

Louisiana adjusted its state laws concerning slaves and blacks during the extradition controversies. In spring 1839,

the state approved a law entitled An Act to Prevent the Carrying Away of Slaves, and for Other Purposes. Amended in 1840 and 1843, this law required shippers to ensure that they would not deprive southerners of their slave property by posting bond.[33] An act restricting the entrance of free blacks into Louisiana made it illegal for any black persons, including members of ships' crews, to arrive in the state. Authorities were to arrest any blacks entering Louisiana on ships and transport those individuals out of the state. Passed in 1842 and reapproved with minor amendments in 1843, the act required ships' captains to pay a fee for every person escorted out of Louisiana in this fashion.[34]

These laws differed from the acts which Virginia, South Carolina, and Georgia passed during the extradition controversies because the Louisiana state laws were not punitive in nature. They applied to individual ships and persons, rather than to entire states. Moreover, the purpose of the Louisiana acts did not involve coercion of other states. Rather, legislators intended for these laws to provide a degree of protection for Louisiana's slave property until Congress could resolve the extradition issue in the South's favor.[35]

In the extradition matter, Louisiana advocated the appropriation of federal power to enforce a constitutional construction beneficial to the South. This state concurred with Virginia, South Carolina, and Georgia that Seward's position endangered the legal status of slavery, but Louisiana's leaders did not believe state laws capable of

refuting the New York governor's arguments. Louisiana's politicians favored a federal law requiring extradition in all cases involving slavery, a measure which expanded the power of the federal judiciary while reducing the authority of state governors. To achieve this end, Louisiana sought to use the legislative power of Congress. Unlike the rest of the slave states, Louisiana's legislators united in support of an empowered federal government as a response to the extradition controversies.

ENDNOTES

[1]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, During the First Session of the Sixteenth Legislature of the State of Louisiana, 1842 (New Orleans: Bullitt, Gagne, and Company, State Printers, 1842), 10.

[2]Ibid.

[3]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, During the First Session of the Fourteenth Legislature of the State of Louisiana, 1839 (New Orleans: J. C. De St. Romes, State Printer, 1839), 5. The Louisiana legislature did not convene in 1838, so it began discussion of Georgia's 1837 resolutions in 1839. For White's party affiliation, see Robert Sobel and John Raimo, eds., Biographical Directory of the Governors of the United States, 1789-1978, 4 vols. (Westport, CT: Meckler Books, 1978), 2: 561.

[4]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1839, 17.

[5]Senate, Louisiana Legislature, Journal of the Senate, During the First Session of the Fourteenth Legislature of the State of Louisiana, 1839 (New Orleans: J. C. De St. Romes, State Printer, 1839), 30.

[6]The legislative journals make no reference to any further acts in specific response to the controversy between Maine and Georgia. Between 1839 and 1843 Louisiana did make revisions in its state laws concerning free blacks and slaves.

[7]The New Orleans Daily Picayune said nothing of any significance on the controversy between Maine and Georgia during 1839 and 1840.

[8]New Orleans Bee, 4 January 1841.

[9]Ibid., 22 January 1841.

[10]Sobel and Raimo, Governors of the United States, 2: 560 notes Roman's party affiliation.

[11]Andrew B. Roman to William Henry Seward, 3 June 1840, William Henry Seward Papers, University of Rochester,

Rochester, New York.

[12]New Orleans Bee, 1 March 1841.

[13]Ibid., 3, 5 April 1841.

[14]Ibid.

[15]New Orleans Daily Picayune, 27, 30 March 1841.

[16]Ibid., 24 March 1841.

[17]Ibid.

[18]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1842, 6-10. The House began discussion of the report and resolutions on 31 January 1842. The committee apparently was ad hoc because the Journal of the House of Representatives referred to it only as "The Committee to Whom was Referred the Communication from the State of Virginia, Relative to the Demand Made by the Executive of that State on the Executive of New York, for the Delivery of Three Fugitives From Justice, and to the Refusal of the Executive of the State of New York to Deliver them up." The representative who presented the report and resolutions to the House was Benjamin Winchester, a Whig from the Parish of St. James. The 1841 session of the Louisiana House of Representatives, which had a Whig majority of twenty-seven to twenty-three, postponed discussion of Virginia's request for cooperation on 13 January 1841. See New Orleans Daily Picayune, 26 July 1840 for party affiliations and New Orleans Bee, 14 January 1841 for discussion of the postponement.

[19]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1842, 6-10.

[20]Ibid.

[21]Ibid.

[22]Ibid.

[23]Ibid.

[24]Ibid., 29, 75; Senate, Louisiana Legislature, Journal of the Senate, During the First Session of the Sixteenth Legislature of the State of Louisiana, 1842 (New Orleans: J. C. De St. Romes, State Printer, 1842), 42-43. Governor Roman approved the report and resolutions on 18 March 1842. Neither the Journal of the House of Representatives nor the Journal of the Senate notes how the legislators voted on the report and resolutions, but the journals make no reference to any debate or disagreement.

[25]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1842, 10.

[26]Ibid.

[27]Louisiana did nothing more in regard to the controversy. See House of Representatives, Louisiana Legislature, Journal of the House of Representatives, During the First Session of the Seventeenth Legislature of the State of Louisiana, 1843 (New Orleans: A. C. Bullitt, State Printer, 1843) for an account of subjects affecting the state of Louisiana during this time.

[28]New Orleans Daily Picayune, 17 January 1843.

[29]Richard P. McCormick, The Second American Party System: Party Formation in the Jacksonian Era (Chapel Hill: University of North Carolina Press, 1966), 310-320.

[30]Ibid., 318. In 1842, a Creole Democrat defeated an Anglo-Saxon Whig in the election for the Louisiana governorship. The Whigs consistently nominated Creole candidates in the gubernatorial elections after this, but failed to recapture the governorship.

[31]Daniel Walker Howe, The Political Culture of the American Whigs (Chicago: University of Chicago Press, 1979), 16; New Orleans Bee, 13 December 1841. The sixteenth session of the Louisiana House of Representatives had a Whig majority of twenty-eight to twenty-two, while the sixteenth session of the Senate had a Democratic majority of nine to eight. The statistics the New Orleans Bee gives may contain a slight error because the paper claims that the composition of the House was identical to what it had been at the previous session. New Orleans Daily Picayune, 26 July 1840 says that the fifteenth session of the House had a Whig majority of twenty-seven to twenty-three. Still, the Whigs did have a small majority in the legislature when it passed the resolutions.

[32]McCormick, The Second American Party System, 310-320.

[33]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1839, 83; House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1843, 53; Senate, Louisiana Legislature, Journal of the Senate, 1839, 80; Senate, Louisiana Legislature, Journal of the Senate, During the First Session of the Seventeenth Legislature of the State of Louisiana, 1843 (New Orleans: A. C. Bullitt, State Printer, 1843), 37. The Journal of the Senate mistakenly refers to the 1843 session of the legislature as the sixteenth session on the page dated 19 January 1843. See also New Orleans Daily Picayune, 24 March 1840; New Orleans Bee, 18 March 1843.

The 1843 amendments to the bill required bankrupt individuals to renew their bonds if they desired to involve themselves in the shipping trade again. Neither the Journal of the House of Representatives nor the Journal of the Senate mentions any of the extradition controversies when discussing these acts.

[34]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1843, 48; Senate, Louisiana Legislature, Journal of the Senate, 1842, 10; Senate, Louisiana Legislature, Journal of the Senate, 1843, 39; New Orleans Bee, 2 April 1842, 31 March 1843. The act's official title was An Act More Effectually to Prevent Free Persons of Color From Entering this State, and for Other Purposes. Its amendment required blacks who immigrated to Louisiana before 1838 to register their names. Neither the Journal of the House of Representatives nor the Journal of the Senate mentions any of the extradition controversies when discussing this act and its amendment.

[35]House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1843, 48; Senate, Louisiana Legislature, Journal of the Senate, 1842, 10; Senate, Louisiana Legislature, Journal of the Senate, 1843, 39; New Orleans Bee, 2 April 1842, 31 March 1843.

CHAPTER VII

THE BORDER STATES:

INACTIVITY IN THE EXTRADITION CONTROVERSIES

The states bordering North and South, along with North Carolina and Arkansas, declined to act in the extradition controversies. Although many southerners denounced Maine's actions in its dispute with Georgia, the border states' legislatures typically ignored this controversy. They perceived no reason to act in the affair because Maine's position did not question slaves' legal status as property in the Union. Moreover, Georgia's delay in responding made cooperation with other states impossible. Virginia's request that the other slave states "cooperate in any necessary and proper measure of redress" in the Old Dominion's dispute with New York[1] compelled many southern states to examine the issue. While responses from Arkansas, Tennessee, North Carolina, Missouri, Kentucky, Delaware, and Maryland varied, none of these states took action against Maine or New York.

Arkansas, Tennessee, North Carolina, Missouri, Kentucky, Delaware, and Maryland were unwilling to commit themselves to a sectional dispute at this time. By 1840, stable two-party systems had evolved in these states, and they each functioned within the national two party system. Whigs and Democrats

throughout the border states focused on national and state matters, and these states avoided the burden of acting in support of Georgia or Virginia. Punitive state laws created the responsibility of enforcing those acts, and also were likely to start interstate conflicts. An appeal for congressional intervention was likely to increase sectional animosity as well. Appropriation of federal power on the South's behalf could have alarmed northerners about southern political influence. The border states, which concentrated on pursuing their individual interests within the Union during this time, did not desire any of these consequences. Rather than debate possible responses to the extradition controversies at length, these states' politicians said little about the issue. Missouri approved a set of resolutions denouncing Governor Seward's stand, and Delaware and Maryland passed statements urging New York and Virginia to reconcile their differences, but the rest of the border states were apathetic to the extradition matter. Arkansas, Tennessee, North Carolina, Missouri, Kentucky, Delaware, and Maryland refused to take action in the extradition controversies because these states concerned themselves with individual interests, rather than with a sense of southern solidarity.[2]

Arkansas was apathetic about the extradition issue. This state joined the Union in 1836 and concentrated on developing its own infrastructure during the extradition controversies.[3] In 1843, the Arkansas General Assembly approved an act to punish those who enticed away slaves,[4]

but this law applied only to individuals in Arkansas and made no reference to the extradition disputes.[5] The Democratic Arkansas State Gazette celebrated William C. Bouck's election to the New York governorship only because Democratic victories hurt Henry Clay's chances of becoming president.[6]

As governor of Tennessee, James K. Polk knew of the extradition controversies at an early date. In December 1839, Tennessee Congressman Aaron V. Brown informed Polk that South Carolina Senator John C. Calhoun urged both state and federal involvement in the Virginia case. Although believing it too early to propose a specific strategy in the extradition matter, Brown claimed that Georgia's position in its dispute with Maine was "a very strong one".[7]

Polk avoided pledging Tennessee's support to Virginia and expected his state's legislature to determine a course for Tennessee in the matter. In a letter to Virginia's Governor Gilmer, Polk agreed with the Old Dominion's position, but promised only to place the issue before the Tennessee General Assembly.[8] In his 1841 message, Polk did this in objective fashion. He offered no suggestions for proceeding and only mentioned the issue as one of many matters which other states had referred to him.[9]

The Tennessee General Assembly subsequently took no action on the extradition issue. Early in the legislative session, the House of Representatives voted to refer all communications from other states to the Committee on Federal Relations.[10] Two months later, the House asked the Senate for these documents so that the House Committee on Federal

Relations could begin examining them.[11] The House committee made no statement on the Virginia matter after receiving the communications.[12]

The Jonesborough Whig shared the Tennessee General Assembly's lack of concern with the issue. This paper noted the resignation of Virginia's Governor Gilmer, and maintained that Gilmer was wrong to deny a request from New York for extradition. The Jonesborough Whig claimed that, because the United States Constitution provided for the return of fugitives from justice, any denial of extradition was unconstitutional. While Seward violated the terms of the federal compact by not returning the accused individuals to Virginia, Gilmer was equally guilty of the same offense in an unrelated case.[13] In late 1842, the Jonesborough Whig lamented Bouck's ascension to the New York governorship for purely partisan reasons.[14]

In North Carolina, Whig Governor Edward B. Dudley discussed the Virginia and Georgia disputes as related cases.[15] Referring to Virginia's resolutions of March 1840 and South Carolina's 1839 resolutions on the Georgia case, Dudley claimed that the positions of Maine and New York presented "a matter to the southern states of the most delicate and important nature." The North Carolina governor maintained that these northern states acted in "bad faith" to the constitutional compact and the South, and blamed the positions of Maine and New York on an "influence of the most pernicious kind." Dudley presented the Virginia and South Carolina resolutions to the North Carolina General

Assembly.[16]

Despite Dudley's denunciation of Maine and New York, the North Carolina General Assembly did not act. At the next session of the General Assembly, Whig Governor J. M. Morehead again referred the documents on the cases to the Senate and House of Commons.[17] North Carolina's upper house did not begin discussion of the matter until after William C. Bouck replaced Seward as the governor of New York. Three days before the North Carolina General Assembly adjourned, the Senate tabled a motion to refer the communications from other states to the Committee on the Judiciary.[18]

The Whig Raleigh Register and North Carolina Gazette noted the extradition controversies, but did not advocate united southern action on the matter. In late 1840, the paper reported that Governor Arthur P. Bagby of Alabama had urged a southern convention to protect slavery, partly in response to the extradition issue. The Raleigh Register and North Carolina Gazette criticized the idea, saying that such a conference was in the worst interest of "the internal tranquility of the South" and "the safety of the Union."[19] Noting Alabama's 1841 resolutions on Virginia's dispute with New York,[20] the paper believed that a pragmatic solution was the best means for settling the controversy. The Raleigh Register and North Carolina Gazette favored the strategy of Virginia's Governor Gilmer, which was to deny an extradition request from New York until Seward returned the accused sailors to Virginia.[21]

Although Missouri was well aware of the dispute between

Maine and Georgia,[22] the Missouri General Assembly discussed only Governor Seward's denial of extradition and New York's law requiring a jury trial for accused fugitive slaves. In the Missouri House of Representatives, Speaker Sterling Price introduced a set of resolutions that addressed these antislavery actions. The resolutions, presented on 4 February 1841, criticized both the governor and the legislature of the Empire State. Price's statements maintained the Trial-by-Jury Law violated the United States Constitution and the 1793 law concerning fugitives from justice. Seward's refusal to honor Virginia's request was an equally grievous act, as his reasons were "frivolous." Pledging to "make common cause" with the rest of the slave states in opposing the "dangerous and alarming doctrines and principles" of New York, the resolutions proposed a punitive state law affecting the Empire State's commerce. Such a policy was to "make a discrimination unfavorable to goods, wares, and merchandise manufactured in the state of New York." Missouri was to retain the embargo until New York repealed its Trial-by-Jury Law and returned the fugitives to Virginia.[23]

In the Missouri House, a coalition of Whigs and Democrats rejected the economic restrictions, while a block of Democrats supported the idea. Louis V. Bogy, a Whig representative from Saint Louis, proposed deleting the resolution calling for an economic boycott of New York goods, and the House approved this suggestion with a vote of sixty-eight to twenty-five. Of the sixty-eight

legislators who supported the motion, thirty-eight were Whigs, twenty-four were Democrats, and six were not identified by party. Of the twenty-five desiring to retain the resolution, twenty-three were Democrats, one was a Whig, and one was unidentified by party.[24]

Missouri's General Assembly united to approve the rest of the resolutions, which provided nominal support to Virginia. Immediately after blocking the economic sanctions, the House approved the remainder of Price's resolutions with a vote of eighty-nine to three. The statements proclaimed that Seward's positions on the extradition matter and New York's Trial-by-Jury Law were unconstitutional and injurious to the South. Although the resolutions promised to cooperate with the other slave states in resolving the extradition issue, the statements made no mention of direct intervention in the dispute. The three representatives who voted against the resolutions were Whigs.[25] The Senate approved the resolutions two days later,[26] and Democratic Governor Thomas Reynolds passed them into effect.[27]

On 13 February 1841, the Missouri House Committee on Federal Relations stated that the Virginia controversy was capable of endangering the Union.[28] The committee, which consisted of five Democrats and two Whigs,[29] issued a report two days after the House approved most of Price's resolutions. In this statement, the committee members claimed that Seward's position intruded upon both state and federal jurisdictions, and constituted "the height of absurdity." The New York governor's argument that removing

a slave did not count as a crime in a free state endangered property rights and personal security in all the slave states. While noting that the outcome of the Virginia dispute was undetermined, the committee members concluded that

> certain we are that if those who feloniously take our property are to be shielded and protected by the authority of the non-slaveholding states from the punishment justly due for their offenses, the friendly relations existed between the North and the South must be severed. When the Constitution fails to afford us that protection which is guaranteed to us, we must protect ourselves. This is no less our right and our duty.

The House agreed to these statements,[30] but the Senate never discussed them. The Missouri General Assembly never officially proclaimed these sentiments.[31]

Throughout the extradition controversies, the Daily Missouri Republican opposed state laws against New York. While the Missouri General Assembly debated Price's suggestion for a boycott of New York goods, the Daily Missouri Republican described the proposal as "a sort of monster in legislation."[32] Moreover, the Daily Missouri Republican criticized the Inspection Laws of both Virginia and South Carolina. The paper reprinted articles from the Richmond Whig, the National Intelligencer, and the New York Journal of Commerce which questioned the constitutionality of the Virginia law and derided the South Carolina act as an unconstitutional alliance between two states.[33] Maintaining that Virginia and New York shared too many interests to become consumed with interstate conflict,[34] the Daily

Missouri Republican maintained that it preferred federal intervention as a means of resolving the controversy. Although the paper had no influence on Missouri's General Assembly, the Daily Missouri Republican reprinted an article from the National Intelligencer which claimed that federal "judicial interposition" should settle the matter.[35]

While Missouri passed no laws in response to the Virginia affair, the dispute influenced Governor Reynolds's handling of a request for a pardon. In early 1842, the Missouri executive received a petition from the members of the South Congregational Church in Middletown, Connecticut, asking the governor to pardon a man serving a prison sentence in Missouri. The Missouri court system had found the convict, Alanson Work, guilty of attempting to remove a slave. Reynolds declined the request, citing the extradition controversies as evidence of the need to protect slave property.[36]

Missouri's leaders wanted to protect slavery, but also wanted to preserve good interstate relations within the Union. Slavery existed throughout Missouri, and was the paramount economic staple in a longitudinal strip of counties in the middle of the state.[37] Efforts to remove slaves were of particular concern to Missouri's politicians because slave escapes were common in the state. The Missouri River provided an accessible escape route for fleeing slaves, and, since 1804, Missouri had enforced laws prohibiting captains of ships from transporting slaves without their owners' permission.[38] Still, both Whigs and Democrats in

the state possessed a strong loyalty to the Union. Missouri's politicians believed that the United States Constitution guaranteed a right to own slaves, and maintained that the Constitution was the best defense of the peculiar institution.[39] Accordingly, the Missouri General Assembly denounced Seward's argument that removing a slave was not a crime, and tried to establish a constitutional construction which recognized slavery. Believing that they had defended the peculiar institution by expressing a pro-slavery interpretation of the Constitution, Missouri's legislators declined to pass state laws against New York. To have done so could have jeopardized the Union, and the Constitution which Missouri's leaders believed condoned the institution of slavery.

In Kentucky, the Whig Louisville Daily Journal stressed the magnitude of both the Virginia and Georgia controversies. The paper noted the 1839 message of Virginia Governor David Campbell, saying that the Old Dominion's executive showed "no little exasperation" with the New York dispute.[40] The Louisville Daily Journal reported discussion of the Maine issue in both the Georgia and South Carolina legislatures,[41] and stated "citizens of Maine will do well to give Georgia a wide berth just for the present. A spirit is prevalent there, which they might not find it safe to encounter."[42] Although noting that the Maine governor's language on the Georgia issue was "very calm,"[43] the Kentucky paper quoted a statement from the Richmond Whig, which maintained that "the alternatives to us are plain and simple: either submit

to the wrong without a word of complaint, or take steps to redress it, without regard to the consequences."[44]

The Louisville Daily Journal sought to avoid making extradition a partisan issue. The paper acknowledged that Seward was a northern Whig, but noted that Democrats dominated the government of Maine. Making this statement repeatedly, the Louisville Daily Journal countered claims from both in and out of state that the Whig Party was friendly to abolitionists.[45]

The Kentucky Senate criticized Seward's position.[46] The Senate Committee on Federal Relations presented a report that addressed only the Virginia dispute and argued that Seward's stand rendered the United States Constitution's Fugitives from Justice Clause void. Permitting one state executive to determine what acts were crimes could "virtually destroy" the laws of all the other states. A resolution accompanying the report claimed that the New York governor's denial of extradition "will place all the slave-holding states in imminent jeopardy."[47]

Resolutions which the committee presented urged the slave states to work together in dealing with New York. Seward's reasons for declining Virginia's request were "wholly insufficient," and demanded the "solemn protest" of the southern states. If the New York governor failed to concede his position, the slave states were to "adopt measures for their own safety and preservation against the lawless acts of all slave-stealing felons."[48]

Senator Henry Pirtle, a member of the Committee on

Federal Relations, believed that it was wrong for the slave states to act in unison on the New York matter. Claiming that Kentucky should not let its opposition to Seward influence judgment, Pirtle argued that the southern states should never unite in a monolithic block for any reason. To do so was an act of aggression against the Union and a violation of the United States Constitution. Although agreeing with Virginia that New York needed to extradite the individuals, Pirtle denounced the Old Dominion's call for cooperation from the other slave states. A better way to handle the dispute was to amend the United States Constitution so that it provided adequate protection for slave property.[49]

The Senate ignored Pirtle's suggestions and accepted a sectionalist view of the dispute. Pirtle proposed amending the resolutions to say simply that if New York declined to return the fugitives, it was violating the United States Constitution and the rights of the other states. When the Senate rejected his proposal with a vote of twenty-one to ten, Pirtle considered amending the resolutions to say that each state could pass whatever constitutional measures it deemed necessary to protect its slave property. Kentucky's upper house also rebuffed this propsal. Twenty-nine senators then voted to approve the resolutions in their original form, and only three senators, including Pirtle, dissented. The Senate passed the report condemning Seward's position with a nearly unanimous vote of thirty-two to one.[50]

Despite the passage of the Senate report and

resolutions, Kentucky took no action on the extradition matter. The Senate sent its statements to the House of Representatives, which referred the report and resolutions to the Committee for Courts of Justice. The House took no further action on the matter.[51]

The Louisville Daily Journal offered little advice on how to proceed, other than to discourage vindictive action on the part of the southern states. The paper noted Mississippi's resolutions on the disputes and Virginia's Inspection Law with little commentary, but maintained that it was wrong for Virginia's Governor Gilmer to deny an extradition request from New York. While Seward's stand was unconstitutional, Gilmer's was equally so because the Constitution required the return of fugitives from justice.[52] The Louisville Daily Journal assailed South Carolina's Inspection Law. Regardless of whether one agreed with Virginia's law for inspection, the Palmetto State's act was unconstitutional because the United States Constitution forbade the states from forming alliances with other members of the Union.[53]

In Delaware, Whig Governor C. P. Comegys noted that the Virginia controversy placed his state in a difficult position. The governor expressed his views in a January 1841 message to the General Assembly. While "the number of slaves has so far diminished in Delaware, that the habit and feelings of the people have, in some measure, become assimilated to those of our northern brethren," the governor insisted that it was in the best interest of the Union to

respect the domestic institutions of other states. Delaware's relations with the North and the South were equally strong, and the people of that state identified with the positions of both New York and Virginia. These conflicting loyalties created an "anxious desire" for a rapid resolution of the controversy.[54]

Comegys asked the Delaware General Assembly to present a formal opinion on the Virginia dispute. The governor claimed that because slavery was legal in Delaware, and also as a matter of comity to Virginia, the Delaware General Assembly had an obligation to consider the case. Seward had turned the matter into a question of whether removing a slave constituted a crime, and the state needed to make a statement on the matter. A main issue was whether each state possessed an obligation to respect the relationship between master and slave. Moreover, Comegys believed that the United States Constitution required the governors of the free states to protect such relationships from citizens of their own states.[55]

The Delaware General Assembly urged New York and Virginia to settle the dispute amicably among themselves. Initiating discussion of the matter on 8 January 1841, the Delaware House of Representatives appointed an ad hoc committee to analyze the extradition issue.[56] The committee issued a report and resolutions ten days later, which maintained that New York should return the three sailors to Virginia. Although claiming that loyalty to the federal compact required Seward to grant extradition, the resolutions

also expressed concern for New York's rights as a state. The statements claimed to "deprecate the resort by the state of Virginia to extreme measures of redress, such as are calculated to disturb the peace and harmony of the Union." Claiming that a speedy resolution of the controversy was in the best interest of both New York and Virginia, as well as the Union, the resolutions urged the New York governor to end the dispute by complying with Virginia's request. Rather than treating the controversy as a matter affecting all slave states, the committee proposed sending the report and resolutions only to New York and Virginia.[57] The House and Senate approved the report and resolutions, including the provision for sending these statements only to the Empire State and the Old Dominion.[58]

Delaware's leaders sought to protect both slave and non-slave interests in the state by urging a quick end to the New York dispute. The peculiar institution declined drastically in Delaware between 1790 and 1840, and, by the time of the extradition controversies, slaves comprised only about 3 percent of the state's population. While the number of slaves in Delaware decreased, the number of free blacks grew dramatically. The state lifted legal restrictions against manumission in 1819, and, by 1840, free blacks represented 22 percent of Delaware's population. The state's free blacks found economic opportunities, partly because the strong Quaker influence in Delaware impeded discrimination, and also because the state had developed many manufacturing industries by 1840. While industry strengthened commercial ties to the

North and lessened dependence on labor-intensive agriculture, slavery remained legal in Delaware. Not wanting to upset the existing social order, and, moreover, seeking to avoid interstate conflicts capable of disrupting commerce, Delaware urged New York to return the accused sailors because this seemed the easiest way to resolve the controversy.[59]

Maryland Governor William Grason bided time as he hoped for a peaceful settlement of the Virginia controversy. Maryland's House of Delegates had received Georgia's resolutions on the Maine dispute,[60] and Grason presented Virginia's request for cooperation to both houses of the Maryland General Assembly in December 1840. In his 1840 annual message to the General Assembly, the governor claimed the legislators "will no doubt perceive the advantage of postponing legislative action upon" the controversy. Grason noted that the United States Supreme Court was deliberating the case of Prigg v. Pennsylvania, and, because this affair touched on all constitutional issues dealing with slavery, it was best to hear the federal judiciary's decision before issuing any statement on matters of comity.[61]

The politically-independent Baltimore Sun described the Virginia matter as being of more importance to the Union than the Prigg case. The Prigg affair resulted from an episode in which Maryland slave owner Nathan Bemis organized an expedition to recover a slave who had escaped into Pennsylvania. The party captured the slave without permission from Pennsylvania authorities, an action which violated a Pennsylvania law of 1826. Maryland agreed that

those involved should be extradited, and the Pennsylvania Supreme Court convicted Edward Prigg, an agent of Bemis's, who appealed the decision to the United States Supreme Court. This matter concerned only the recovery of property, while those accused in the Virginia case had allegedly committed theft.[62]

The Baltimore Sun criticized Governor Seward. The paper maintained that removing a slave was an offense against the entire nation, as it transgressed against the laws of a member of the Union. To argue that such action did not warrant extradition was a "most weak and impotent conclusion."[63] The Baltimore Sun blamed Seward for the resignation of Virginia's Governor Gilmer, saying that New York's attack on Virginia's rights was throwing the Old Dominion into a state of upheaval. Virginia had to protect its interests, and internal debate over ways to do this caused Virginians to fight among themselves. The paper concluded that the South possessed "rights which may not be invaded without danger."[64]

Maryland's General Assembly agreed with Grason's policy of postponing action. In February 1841, the House of Delegates received Alabama's resolutions on the dispute between Maine and Georgia, and referred these documents to the Committee on Grievances and Courts of Justice.[65] After the passage of Virginia's Inspection Law, William H. Tuck, a Whig delegate from Prince George County, presented a report and resolutions on the New York case to the House. These statements, which the House Committee on Grievances and Courts of Justice

drafted, argued that the United States Constitution provided for the return of fugitives from justice. Absconding with a slave in any state constituted a crime and warranted extradition of those accused. While the report presumed that the slave states would support Virginia in its stand against New York, the committee hoped that both the Old Dominion and the Empire State valued the Union enough to preserve good relations among the states. The report asserted that Maryland should take no action until the United States Supreme Court handed down a ruling in the Prigg case. Moreover, it was "inexpedient" to offer Virginia advice on negotiating with New York.[66] Maryland passed the report and resolutions.[67]

The Whig Baltimore American and Commercial Advertiser emphasized the common bonds between New York and Virginia while wishing for a reconciliation of the two states. Saying that the national parties had wisely avoided making the controversy a political issue, the Baltimore American and Commercial Advertiser took no stand, other than urging an "amicable termination" of the dispute.[68] Referring to Maryland's willingness to extradite Nathan Bemis's agents in the Prigg case, the paper maintained that no loss of honor could result from returning the accused sailors to Virginia. The Baltimore American and Commercial Advertiser appealed to interstate loyalty, asking if New York knew that it could trust the justice of Virginia.[69]

As the controversy progressed, the Baltimore American and Commercial Advertiser became frustrated with both Seward

and Virginia for using states' rights arguments in the dispute. After the Old Dominion approved its act requiring inspections of New York ships, the Maryland paper lamented that both Virginia and New York were "proceeding as though no Union existed." Urging compromise, and insisting that all the states had renounced absolute sovereignty when they ratified the United States Constitution,[70] the paper criticized the Virginia Inspection Law, saying the act could "hardly be regarded as the most judicious and constitutional mode of redress" in the matter.[71]

The Baltimore American and Commercial Advertiser ultimately advocated federal involvement in the extradition controversies. The paper noted that Georgia and South Carolina contemplated state laws, and argued that such measures were incapable of resolving the controversy. The acts themselves were unconstitutional, and South Carolina's proposed measure also violated constitutional provisions against state alliances because it was identical to Virginia's. The only effect state acts could have was to unravel the Union, because New York was sure to retaliate against the non-intercourse laws. Asking why there had been no appeal to Congress in the Virginia matter, the paper praised the Virginia legislators who had opposed the Inspection Law.[72] Reacting with horror to South Carolina's Inspection Law, the Baltimore American and Commercial Advertiser questioned "can the Supreme Court of the United States do nothing in the case at issue?"[73]

Maryland's reluctance rendered the state inactive

during the extradition controversies. The United States Supreme Court did not deliver an opinion on the Prigg case until spring 1842, when Maryland's General Assembly was well into its session.[74] After Democrat William C. Bouck replaced Seward as the governor of New York, the Baltimore American and Commercial Advertiser praised Bouck's denunciation of Seward's position. Although New York did not return the three accused individuals to Virginia, Bouck's statement alleviated Maryland's concerns in regard to the extradition matter.[75]

Maryland's politicians avoided involvement in the controversy because of the state's diverse economic interests. Slavery had declined in Maryland during the early decades of the nineteenth century, but continued to be an economic pillar in the state until 1865. While Maryland's agricultural economy did well during the 1840s, tremendous economic diversification had occurred in the state by that time. Agricultural interests, as well as some types of industry, depended on slavery, but commerce and manufacturing relied on ties to the northern states.[76] Maryland's legislators tried to protect slavery in their state by refuting Seward's claim that removing a slave did not count as a crime. The Maryland politicians attempted to do this by sending copies of their resolutions to every state in the Union.[77] After having made this effort to protect their state's slave-related interests, Maryland's leaders refused to take any action in support of Virginia. To have done so could have jeopardized important aspects of Maryland's

economy. Restrictive or punitive state laws would have complicated interstate relations with the North that were vital to commerce. An appeal to the federal government also could have threatened commercial interests by inflaming sectional tensions. Efforts to usurp federal authority for the sake of the South were likely to increase northern concerns about southern political influence, and the sectional mistrust resulting from such a situation could have disrupted intercourse between many states.[78] Although denouncing Seward's position, Maryland's leaders made clear that they were not going to endanger their state's commercial relations with the North by actively taking part in the controversy between New York and Virginia.[79]

Arkansas, Tennessee, North Carolina, Missouri, Kentucky, Delaware, and Maryland declined to involve themselves in the extradition controversies for differing reasons. Missouri and Maryland both sought to reaffirm the legality of slavery by denouncing Seward's position in New York's controversy with Virginia. After formally proclaiming that the United States Constitution recognized slaves as property, the leaders of Missouri and Maryland believed that their states' slave-related interests were secure, and declined to involve themselves directly in any of the extradition disputes. Maryland had special reason to avoid interstate conflicts because they were capable of harming the state's commercial interests. Like Maryland, Delaware had many economic ties to the North. Delaware's legislators sought to prevent interstate disputes capable of disrupting the state's

commercial relations. In an effort to mediate the dispute between New York and Virginia, the Delaware General Assembly sent resolutions to both the Empire State and the Old Dominion, which lamented the Virginia Inspection Law and urged New York to return the sailors. When Seward failed to change his position, Delaware took no further action. While Maryland and Delaware were coastal states from which the removal of slaves via ship was plausible, these states' geographic locations allowed them to carry on extensive commerce with the North. Because of these economic interests, both Maryland and Delaware retreated from conflicts capable of disrupting interstate relations. Arkansas, Tennessee, North Carolina, and Kentucky never issued formal statements on the extradition controversies. With the exception of the Kentucky Senate, these states' politicians spent virtually no time discussing the extradition matter. Rather than voting to remain uninvolved in the disputes, the states' legislatures simply avoided the issue. The leaders of Arkansas, Tennessee, North Carolina, and Kentucky were apathetic about the extradition issue, and concentrated on pursuing their own interests within the Union at both the state and national levels.

ENDNOTES

[1]Thomas Walker Gilmer to James K. Polk, 12 November 1840, James K. Polk Papers, Tennessee State Library and Archives, Nashville, Tennessee.

[2]For information concerning the development of political parties in each of these states, see Richard P. McCormick, The Second American Party System: Party Formation in the Jacksonian Era (Chapel Hill: University of North Carolina Press, 1966), 154, 165, 208, 221, 235, 308. For discussion of the national parties' platforms, see Daniel Walker Howe, The Political Culture of the American Whigs (Chicago: University of Chicago Press, 1979), 16; William G. Shade, Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861 (Charlottesville: University of Virginia Press, 1996), 9-15; J. Mills Thornton III, Politics and Power in a Slave Society: Alabama, 1800-1860 (Baton Rouge: Louisiana State University Press, 1978), 57. At the national level, the Whigs wanted to extend affluence and sought to achieve this goal through federal intervention. Although Whigs opposed excessive government control, they believed that a limited degree of federal action could benefit industry and commerce. Democrats concentrated on preserving the ideal of economic independence. The Whigs, including a majority of Whigs in the border states, tended to favor a more active federal government.

[3]The Arkansas General Assembly met biennially during this time. The 1838, 1840, and 1842 journals for the Arkansas Senate and House of Representatives do not discuss the extradition controversies. See Senate and House of Representatives, Arkansas General Assembly, Journals of the Second Session of the General Assembly of the State of Arkansas, which was Begun and Held in the Capital, in the City of Little Rock, on Monday, the Fifth Day of November, One Thousand, Eight Hundred and Thirty-Eight, and Ended on Monday, the Seventeenth Day of December, One Thousand Eight Hundred and Thirty-Eight (Little Rock: Woodruff and Pew, Printers to the State, 1839); Senate and House of Representatives, Arkansas General Assembly, Journals of the Third Session of the General Assembly of the State of Arkansas, Begun and Held at the Capital, in the City of Little Rock, on Monday, the Second Day of November, in the Year of our Lord One Thousand Eight Hundred and Forty, and of American Independence the Sixty-Fifth Year, and Ended on Monday, the Twenty-Eighth Day of December, of the Same Year (Little Rock: Woodruff and Pew, Printers to the State, 1841);

House of Representatives, Arkansas General Assembly, Journal of the House of Representatives for the Fourth Session of the General Assembly of the State of Arkansas, Begun and Held at the Seat of Government, in the City of Little Rock, on Monday the Seventh Day of November, in the Year of our Lord Eighteen Hundred and Forty-Two, Being the Fourth Session of the General Assembly, Held under the Constitution of the State, and in the Sixty-Seventh Year of the American Independence (Little Rock: Eli Colby, 1843); Senate, Arkansas General Assembly, Journal of the Senate for the Fourth Session of the General Assembly of the State of Arkansas, Begun and Held at the Capital, in the City of Little Rock, on Monday the Seventh Day of November, in the Year of our Lord One Thousand Eight Hundred and Forty-Two, and of American Independence the Sixty-Seventh Year, and Ended on the Fourth Day of February, Eighteen Hundred and Forty-Three (Little Rock: Eli Colby, 1843). Governor Archibald Yell did criticize abolitionists in his 1840 message to the General Assembly. See House of Representatives, Arkansas General Assembly, Journals of the Third Session, 272-279.

[4]House of Representatives, Arkansas General Assembly, Journal of the House of Representatives for the Fourth Session, 306; Senate, Arkansas General Assembly, Journal of the Senate for the Fourth Session, 257. Neither the House nor the Senate journal identifies how the legislators voted on this law.

[5]House of Representatives, Arkansas General Assembly, Journal of the House of Representatives for the Fourth Session, 74, 124, 234, 299, 306. The act defined encouraging a slave to abscond from any Arkansas owner as a misdemeanor punishable with a prison sentence lasting between two and five years. The law's official title was An Act to Punish Persons for Enticing Away Slaves.

[6][Little Rock] Arkansas Gazette, 30 November 1842.

[7]Aaron V. Brown to Polk, 7 December 1839, Correspondence of James K. Polk, ed. Wayne Cutler, 9 vols. (Nashville: Vanderbilt University Press, 1979), 5: 330-331. Brown was a Democratic member of the United States House of Representatives from Tennessee. For his party affiliation, see Wayne Kelley, ed., Congressional Quarterly's Guide to Congress, Second Edition (Washington, D. C.: Congressional Quarterly, Inc., 1976), 18-A.

[8]Polk to Gilmer, 10 December 1840, James K. Polk Papers. Tennessee's legislature met biennially. The session following Polk's correspondence with Gilmer convened in fall 1841.

[9]House of Representatives, Tennessee General Assembly, Journal of the House of Representatives for 1841-1842 (Knoxville: James Williams, E. G. Eastman, Donald Cameron,

and A. H. Roseborough, Printers to the State, 1841), 27.

[10]Ibid., 39.

[11]Ibid., 376.

[12]No further discussion of the controversy appears in the Journal of the House of Representatives for 1841-1842. A session of the General Assembly in fall 1842 also made no reference to the matter. See House of Representatives, Tennessee General Assembly, Journal of the House of Representatives of the State of Tennessee, at the Called Session of the Twenty-Fourth General Assembly, Begun and Held at Nashville on the Third Day of October, 1842 (Knoxville: James Williams, E. G. Eastman, Donald Cameron, and A. H. Roseborough, Printers to the State, 1842). Governor Polk received Alabama's resolutions on the dispute between Maine and Georgia in January 1841. See Arthur P. Bagby to Polk, 11 January 1841, Polk Papers.

[13]Jonesborough [Tennessee] Whig, 7 April 1841.

[14]Ibid., 30 November 1842.

[15]For Dudley's party affiliation, see Robert Sobel and John Raimo, eds., Biographical Directory of the Governors of the United States, 1798-1978 (Westport, CT: Meckler Books, 1978), 3: 1129.

[16]Raleigh Register and North Carolina Gazette, 24 November 1840. The 1840-1841 session of the North Carolina legislature convened on 16 November 1840.

[17]Ibid., 25 November 1842. North Carolina's legislature met biennially, and the 1842-1843 session convened on 21 November 1842. The journals for North Carolina's Senate and House of Commons are at the University of North Carolina at Chapel Hill, but the journals for 1842-1843 are unavailable for library use, interlibrary loan, or copying because they are in poor condition. The Raleigh Register and North Carolina Gazette provides complete weekly transcripts of the proceedings of the legislature.

[18]Ibid., 31 January 1843.

[19]Ibid., 1 December 1840.

[20]Ibid., 11 May 1841.

[21]Ibid., 26 March 1841.

[22]Articles detailing the controversy between Georgia and Maine appear in the Whig [St. Louis] Daily Missouri Republican, 7, 13 January 1841. These accounts are reprints of essays appearing in the Whig Louisville [Kentucky] Daily

Journal, 4, 9 January 1841. Governor Thomas Reynolds, a Democrat, transmitted Alabama's 1841 resolutions on the dispute to the Missouri House of Representatives on 8 February 1841. See House of Representatives, Missouri General Assembly, Journal of the House of Representatives of the State of Missouri, First Session of the Eleventh General Assembly, Begun and Held at the City of Jefferson, on Monday, the Sixteenth Day of November, in the Year of our Lord, One Thousand Eight Hundred and Forty (Jackson: Office of the Southern Advocate, 1841), 375.

[23]House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 357-358. Governor L. W. Boggs had referred Virginia's communications on the extradition controversy to the Missouri General Assembly earlier in the session. Price was a Democrat from Chariton County. For county affiliation, see page one of the House Journal. Party affiliation for the 1840-1841 session of the Missouri General Assembly appears in [St. Louis] Daily Missouri Republican, 28 August 1840.

[24]House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 401-402, 455-456; [St. Louis] Daily Missouri Republican, 28 August 1840.

[25]House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 401-402, 455-456.

[26]Senate, Missouri General Assembly, Journal of the Senate, at the First Session of the Eleventh General Assembly, of the State of Missouri, Begun and Held at the City of Jefferson, on the Third Monday, Being the Sixteenth Day of November, in the Year of Our Lord, One Thousand, Eight Hundred Forty (Jackson: Office of the Southern Advocate, 1841), 372. The Journal of the Senate does not note how the senators voted on the resolutions.

[27]House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 451.

[28]The committee had been reviewing Virginia's documents on the New York controversy.

[29]House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 27, 455-456; [St. Louis] Daily Missouri Republican, 28 August 1840. Of the committee members, all the Whigs and two Democrats voted for the economic restrictions against New York. Three Democratic members voted against the measures.

[30]House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 426, 531, 532. The Journal does not note the way in which the representatives voted on the report.

[31]The Journal of the Senate never mentions the report.

[32][St. Louis] Daily Missouri Republican, 10 February 1841.

[33]Ibid., 29 March, 10 April 1841, 3 March, 16 December 1842.

[34]Ibid., 29 March, 10 April 1841.

[35]Ibid., 3 March 1842.

[36]Ibid., 18 February 1842.

[37]R. Douglas Hurt, Agriculture and Slavery in Missouri's Little Dixie (Columbia, MO: University of Missouri Press, 1992), x. The seven counties were Clay, Lafayette, Saline, Cooper, Howard, Boone, and Callaway.

[38]Ibid., 254-255.

[39]Ibid., 273.

[40]Louisville [Kentucky] Daily Journal, 11 December 1839.

[41]Ibid., 21, 28 December 1839.

[42]Ibid., 9 January 1840.

[43]Ibid., 22 January 1840.

[44]Ibid., 18 January 1840.

[45]Ibid., 5, 11 February 1840, 7, 16, 21 January, 5, 11, 16 February 1841. The paper noted that Democratic Governor McDonald of Georgia vetoed the 1840 bill for a quarantine law.

[46]Whig Governor Robert Perkins Letcher presented Virginia's 1840 resolutions and Thomas W. Gilmer's request for cooperation to the Kentucky General Assembly in 1840. See ibid., 9 December 1840. For Letcher's party affiliation, see Sobel and Raimo, Governors of the United States, 2: 518.

[47]Senate, Kentucky General Assembly, Journal of the Senate of the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort, on Monday the Seventh Day of December, in the Year of Our Lord, 1840, and of the Commonwealth the Forty-Ninth (Frankfort: A. G. Hodges, State Printer, 1841), 264-266.

[48]Ibid.

[49]Louisville [Kentucky] Daily Journal, 4, 5 February

1841.

[50]Senate, Kentucky General Assembly, Journal of the Senate, 266-268. Louisville [Kentucky] Daily Journal, 25 August 1840 notes that the 1840-1841 Kentucky Senate had a Whig majority of twenty-three to fourteen. Neither this paper nor the Journal of the Senate identifies individual party affiliations of the senators.

[51]House of Representatives, Kentucky General Assembly, Journal of the House of Representatives of the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort, on Monday, the Seventh Day of December, in the Year of our Lord, 1840, and of the Commonwealth the Forty-Ninth (Frankfort: A. G. Hodges, State Printer, 1840), 386. The Journal of the House of Representatives makes no further mention of the resolutions, and Senate and House of Representatives, Kentucky General Assembly, Acts of the General Assembly of the Commonwealth of Kentucky: Passed at Called Session, August, 1840, and at December Session, 1840 (Frankfort: A. G. Hodges, State Printer, 1841), 7-8 does not list the resolutions as being among those approved. Senate and House of Representatives, Kentucky General Assembly, Acts of the General Assembly of the Commonwealth of Kentucky: Passed at December Session, 1841 (Frankfort: A. G. Hodges, State Printer, 1842), 1-8 also makes no mention of any legislation on the extradition controversies. In 1841, the Kentucky House of Representatives had a Whig majority of seventy-six to twenty-four. See Louisville [Kentucky] Daily Journal, 25 August 1840.

[52]Louisville [Kentucky] Daily Journal, 29 January, 23, 31 March, 2 April 1841.

[53]Ibid., 25 February 1842.

[54][Wilmington] Delaware Gazette, 8 January 1841. Delaware's General Assembly convened biennially. At the 1839 session, Whig Governor C. P. Comegys transmitted Georgia's resolutions on the Maine dispute to the Delaware legislators. See House of Representatives, Delaware General Assembly, Journal of the House of Representatives of the State of Delaware, at a Session of the General Assembly, Commenced and Held at Dover, on Tuesday the First Day of January, in the Year of our Lord 1839, and of the Independence of the United States of America the Sixty-Third (Dover: S. Kimmey, Printer, 1839), 11. Comegys's party affiliation appears in Sobel and Raimo, Governors of the United States, 1: 223.

[55][Wilmington] Delaware Gazette, 8 January 1841.

[56]House of Representatives, Delaware General Assembly, Journal of the House of Representatives of the State of Delaware, at a Session of the General Assembly, Commenced and

Held at Dover, on Tuesday the Fifth Day of January, in the Year of our Lord 1841, and of the Independence of the United States of America the Sixty-Fifth (Dover: S. Kimmey, 1841), 122.

[57]Ibid., 287-288.

[58]Ibid., 457. In 1841, the Delaware House of Representatives was entirely Whig. It contained twenty-one representatives. For party affiliations, see Journal of the House of Representatives, 1841, 3-4; [Wilmington] Delaware Gazette, 17, 24 November 1840.

[59]John A. Munroe, History of Delaware, 2d ed., (Newark: University of Delaware Press, 1984), 96-104. In 1790, Delaware's population was approximately 16 percent slave, and in 1840, it was about 3 percent slave. The number of free blacks in the state grew from approximately 7 percent of the population in 1790 to almost 22 percent of the population in 1840. Two-thirds of Delaware's free blacks lived in Kent County, where most of the Quaker leaders resided. New Castle County had a large Quaker population, and there were many Methodists in Sussex County. The influence of these religious groups curbed racial discrimination in the state. Industrial development in Delaware had begun by 1810.

[60]Baltimore Sun, 28 February 1840. The Maryland House of Delegates received the Georgia documents on 26 February 1840. These included Georgia's 1837 resolutions, and also the 1839 resolutions requesting congressional intervention. The Sun took note of the dispute between Maine and Georgia, but did little more than objectively state the facts of the controversy. On 14 January 1840, the paper claimed that desire to interfere with slavery was subsiding in Maine.

[61]Ibid., 31 December 1841. Grason referred Virginia's resolutions of March 1840 and Governor Gilmer's request for cooperation to the Maryland General Assembly. Grason was a Democrat. See Sobel and Raimo, Governors of the United States, 2: 662. The governor referred to the Prigg case as "the case of Bemis and others."

[62]Baltimore Sun, 2, 5 February 1841. For a complete discussion of the Prigg case, see Stanley W. Campbell, The Slave Catchers: Enforcement of the Fugitive Slave Law, 1850-1860 (Chapel Hill: University of North Carolina Press, 1970), 11-12.

[63]Baltimore Sun, 23 January 1841.

[64]Ibid., 24 March 1841.

[65]Ibid., 13 February 1841.

[66]Governor Grason sent copies of the report and resolutions to all the states. A complete copy appears in William Grason to Polk, 17 April 1841, James K. Polk Papers. Tuck was a representative from Prince George County. For his county and party affiliations, see [St. Louis] Daily Missouri Republican, 23 October 1840; House of Delegates, Maryland General Assembly, Journal of Proceedings of the House of Delegates of the State of Maryland, Extra Session, March the Twenty-Fourth, 1841 (Annapolis: J. Hughes, 1841), 3.

[67]House of Delegates, Maryland General Assembly, Proceedings of the House of Delegates, 1841, 66; Senate, Maryland General Assembly, Journal of Proceedings of the Senate of Maryland, at the Extra Session, March 24th, 1841 (Annapolis: William M'neir, Printer, 1841), 43. The House of Delegates approved the report and resolutions unanimously. The Proceedings of the Senate does not note how the individual senators voted.

[68]Baltimore American and Commercial Advertiser, 8 January 1841.

[69]Ibid., 1 February 1841.

[70]Ibid., 22 March 1841.

[71]Ibid., 11 December 1841.

[72]Ibid., 21 December 1841.

[73]Ibid., 19 February 1842.

[74]Baltimore Sun, 3 March 1842.

[75]Baltimore American and Commercial Advertiser, 11 January 1843.

[76]James S. Van Ness, "Economic Development, Social and Cultural Changes: 1800-1850," in Maryland: A History, 1632-1974, ed. Richard Walsh and William Lloyd Fox (Baltimore: Maryland Historical Society, 1974), 218-221; Ronald L. Lewis, Coal, Iron, and Slaves: Industrial Slavery in Maryland and Virginia, 1715-1865 (Westport, CT: Greenwood Press, 1979), 234. Although slavery existed throughout the state of Maryland, the state's coastal and southern regions had the highest concentration of slaves. Agricultural interests in these parts of Maryland had adapted slavery to crops other than tobacco after depletion of the soil took place in the early decades of the nineteenth century.

[77]House of Delegates, Maryland General Assembly, Proceedings of the House of Delegates, 1841, 66.

[78]Van Ness, "Economic Development, Social and

Cultural Changes," 220.

[79]House of Delegates, Maryland General Assembly, Proceedings of the House of Delegates, 1841, 66. The resolutions stated that Maryland was in no way going to advise Virginia on how to proceed in the New York dispute because this was "inexpedient."

CHAPTER VIII

CONCLUSION

The southern response to the extradition controversies proves that a tremendous diversity in political and constitutional thought existed in the antebellum South. The position that removing a slave was not a crime warranting extradition threatened the institution of slavery, and yet the slave states were unable to work together in defending this institution, which was vital to the economic interests of the entire South. The slave states could not act in unison on the matter because the strategies these states' leaders proposed varied widely and were often incompatible. Many southern politicians accepted a traditional states' rights view, which maintained that the states commanded all powers not delegated expressly to the federal government. Accordingly, these politicians advocated state laws in response to the extradition disputes. An equally large number of southern politicians believed that entrusting the national government with responsibility for extradition was the best method for refuting the positions of Maine and New York. Inconsistencies in the policies of both the Whigs and the Democrats across the South further complicated efforts for southern unity on the extradition controversies.

Perceptions concerning interstate relations differed

greatly among the slave states. While one slave state advocated a coordinated southern response to the extradition matter, most declined to act directly in the controversies. Several southern states attempted to protect slavery inside their own borders by expounding a pro-slavery construction of the Constitution, but others believed issues involving slavery in one state were irrelevant to slavery's security in another state. All of the slave states retained a commitment to the Union during the extradition controversies, but the South was incapable of acting collectively against Maine or New York because of the incompatible views present in the slave states. Examination of the ways in which the slave states reacted to the extradition issue provides an understanding of the contradictory political and constitutional views which existed in the South during the late 1830s and early 1840s.

William C. Bouck, Seward's Democratic successor to the New York governorship, relieved southern concerns over the extradition matter. Bouck said little about the controversies, other than that he believed absconding with a slave to be a crime, and that New York should repeal its Trial-by-Jury Law.[1] While he did not extradite the sailors, Bouck effectively prevented a precedent dangerous to slavery. By denouncing Seward's argument that removing a slave was not a crime in the North, Bouck confirmed slaves' legal status as property everywhere in the Union.[2] The Prigg v. Pennsylvania decision rendered New York's Trial-by-Jury Law obsolete,[3] and, with Bouck's denunciation of Seward's

position, southern apprehensions dissipated. Although Virginia kept its Inspection Law in place until 1846,[4] the Old Dominion never requested the return of Johnson, Smith, or Gansey after Bouck became governor of New York.[5] In late 1842, after Bouck won election to the New York governorship, Georgia modified its shipping restrictions to exempt Savannah. This was the only major port in Georgia and was the only area of the state which the Georgia Inspection Law affected.[6]

Southern concerns during the extradition controversies were largely theoretical. Maine never complied with Georgia's request for extradition, and yet the Maine governors consistently based their positions on legal technicalities, rather than on a constitutional construction which questioned slaves' status as property.[7] For this reason, the dipsute between Georgia and Maine never precipitated as much concern in the South as the disputes involving New York. While Seward and the Maine governors made no effort to cooperate in the matter,[8] the argument that removing a slave did not constitute a crime threatened slavery throughout the country. This position could have undermined slaves' status of property before the law. Southerners' principal objection in the extradition controversies was the reasoning Seward used in defending his refusal to return the sailors. Many southerners sought the return of the accused individuals to Georgia and Virginia, but did so in an effort to rebut the argument that it was not a crime to remove a slave.

The slave states were unable to exert a strong influence on either Maine or New York during the extradition controversies because the South could not unite in responding to the disputes. Most of the slave states denounced refusal to grant extradition as unconstitutional, but many declined to involve themselves directly. Internal partisan division rendered Georgia inactive, so the slave states could not imitate its position. After Virginia requested cooperation from the rest of the South, the other slave states evaluated their perceived roles and responsibilities in protecting the shared interest of slavery. While Georgia, Virginia, and South Carolina enacted punitive state laws, and Louisiana advocated congressional intervention, many states offered only nominal support to Georgia and Virginia. Still others failed to express any official stand. Without a united southern effort to apply a consistent method of coercion, Maine and New York had little reason for pressuring their executives to concede southern demands.

Most slave states responded to Virginia's plea for cooperation individually. Although informing one another of the positions they adopted, the southern states rarely communicated with each other while debating what stand to take. Many southern states passed resolutions which maintained the legality of slavery and the unconstitutionality of Seward's position, but declined to involve themselves in the dispute. These resolutions enacted no laws or restrictions, made no request for federal involvement, and in no way interfered with interstate commerce. While they

pledged moral support to Virginia, these states' objective was to protect their own interests within the Union. By proclaiming a pro-slavery construction of the United States Constitution, each of these states attempted to protect slavery within its borders from an antislavery precedent. Even the states that passed laws did not act in unison. Virginia and South Carolina sought to bring state power to bear against New York, but Georgia approved restrictions which it could apply to any northern state.[9]

Although Virginia, South Carolina, Georgia, and Louisiana shared the goal of compelling northern states to comply with southern demands, the methods these states used were incompatible. Virginia, South Carolina, and Georgia sought to exert the power of their states' legal systems on the North by enabling state officials to search northern ships. Moreover, the laws for inspection and quarantine were a method of controlling commerce, and, therefore, applying economic pressure. Louisiana, a state in which political culture emphasized ethnic differences and ignored states' rights ideology,[10] favored appropriating the power of the federal government for coercing the northern states into granting extradition. There were two possible ways in which federal involvement could have achieved this. Congress could have passed a federal law requiring extradition in all slave-related cases, or transferred the power of extradition to the federal judiciary. In either instance, the national government would have usurped a power which the states had held previously by stripping state governors of the ability

to exercise discretion in extradition matters. Appropriating powers of individual states exceeded the authority which the Constitution of the United States delegated to Congress. Such a measure violated the traditional southern perception of states' rights, which maintained that the federal government was supreme in exercising powers which the Constitution expressly stated, but insisted that no branch of the federal government could increase the scope of its authority. While the actions of Virginia, South Carolina, and Georgia strengthened state governments and perpetuated the decentralization of governmental authority, Louisiana's suggestion required an expansion of the federal government's powers.[11]

Ideological differences prevented Virginia, South Carolina, Georgia, and Louisiana from adopting a common strategy. Although the concept of states' rights had much support in the South, many southern leaders believed it possible to broaden the authority of the federal government, and use that power to protect southern ends. Although John C. Calhoun called for both state laws and an appeal to the federal government at an early stage of the Virginia controversy,[12] very few southern politicians encouraged a pragmatic approach to the problem. The legislators of Virginia, South Carolina, Georgia, and Louisiana viewed state and federal action on the matter as contradictory because of previous conceptions about the role of government in society. Apprehensions concerning an excessive or oppressive national government lingered for decades after the American

Revolution. In the South, this sentiment took the form of states' rights ideology. As the issues of the national bank, internal improvements, and aid to manufacturing emerged in the antebellum era, many politicians in the United States considered expanding and appropriating the power of the federal government. This ideology, an extension of Alexander Hamilton's loose construction of the Constitution, gained support in the state and national political arenas during the Second Party System. Although the Whigs tended to favor more government intervention, this tendency was more than a political platform, and it was relatively common for Whigs throughout the nation to adopt states' rights positions on some issues. The tendency toward a more active federal government was an interpretation of the Constitution which became more prevalent in the 1830s and 1840s. As United States citizens, southerners incorporated these ideological developments into their policies. During the extradition controversies, many politicians in the South sought to apply the concept of an expanded federal government to the regional interest of slavery. An equally large and vocal group of southern politicians retained a mistrust of the federal government and believed that the best way to deal with the disputes was through state laws.[13]

In Virginia, Georgia, and Missouri, partisan division occurred during consideration of the extradition controversies. A block of Virginia Whigs favored appealing to Congress, while a coalition of Whigs, States' Rights Whigs, and Democrats passed the Old Dominion's Inspection

Law. Georgia divided strictly along partisan lines, with the Democrats favoring federal involvement and the Whigs urging state legislation. In Missouri, a group of Democrats wanted to enact an economic embargo against New York, but the Whigs prevented this with the support of some Democrats. The political disunity resulting from these differing opinions was severe enough to delay Georgia's response for five years and produce protests against the Virginia Inspection Law in the Old Dominion's Senate and House of Delegates.[14]

Antebellum politics fostered disagreement on the extradition issue in Virginia, Georgia, and Missouri. Throughout the Second Party System, politicians from both parties and all regions tried to identify threats to perceived liberty, and win support by showing themselves as having solutions to these threats.[15] Northern violations of southern states' slave laws appeared menacing, and many southerners reacted to the matter with a sincere desire to protect southern interests. State legislators expressed differing ideologies when contemplating a response to the situation, and both advocates of state laws and federal intervention argued that their ideas were in the best interest of slavery. In Georgia and Virginia, the main concern was not whether to react to the controversies, but internal disagreement over how to respond. The legislators of these two states acted in accord with the rhetoric of the time by arguing that their strategies were the best means of protecting their state's interests from an antislavery position.[16] Missouri's leaders disagreed

over whether or not they could protect their state's interests by acting in Virginia's controversy with New York. While many Democrats believed that Missouri should act in accord with Virginia, the Whigs discouraged interstate conflict. These politicians maintained that the United States Constitution provided the best means of protecting slavery in Missouri, and so they opposed any measure they perceived as endangering the federal compact.[17]

Discussion of the extradition controversies perpetuated existing two-party division in Virginia, Georgia, and Missouri. The party systems in each of these states developed during the Jacksonian period, and the political culture of each state reflected distinct peculiarities resulting from personal rivalries and settlement patterns of the states' founders. During the 1820s and 1830s, political rivalries at the state level caused many states' legislators to join the national parties for reasons of pragmatism and expediency. Because of this, ideologies varied from state to state within each national party.[18] While the ideological disagreement in Virginia, Georgia, and Missouri was a simple dichotomy of decentralized government as opposed to a commitment to the Union and a tendency toward federal authority, there was little consistency between the states' Whigs or between the states' Democrats. In Virginia and Missouri, many Whigs and Democrats reflected the tendencies of the national parties, although some states' rights Whigs in Virginia continued their established patterns of behavior by voting with the Democrats. In Georgia, the ideological

positions of the Whigs and Democrats were opposite of those associated with the national Whig and Democrat parties. The legislatures of Virginia, Georgia, and Missouri each debated possibilities for responding to the extradition disputes within a unique two-party context. Few legislators in these states bolted from the established platforms of their states' parties over the matter.[19]

Of the slave states that involved themselves in the controversies, the ones that acted without internal disagreement assumed the most belligerent postures toward the North. South Carolina and Louisiana exhibited the political tendency of identifying perceived threats to liberty, but demonized northerners instead of dividing over policy. Because a two-party system never developed in antebellum South Carolina, and also because little political division existed in Louisiana,[20] these two states each united in opposing a threat to their livelihoods. The diametrically opposed strategies of collective state action and increasing the power of the federal government were incompatible as policies for individual states or the entire South, but as responses from two states, they represented a dual, although uncoordinated, assault on New York. While South Carolina urged the slave states to unite in passing laws against New York, Louisiana wanted to ensure that the South could use the federal government's power to enforce southern laws.[21]

These two states displayed the strongest sense of sectionalism in the extradition matter. The same commitment

to state autonomy which South Carolina expressed during the Nullification Crisis caused the Palmetto State to reject federal intervention in the extradition disputes. Simultaneously, South Carolina's loyalty to slavery compelled the state to seek solidarity from the other southern states during the extradition controversies. Louisiana concentrated on its role in the Union because neither of its political parties expounded a states' rights ideology.[22] This state's agenda for expanding the power of Congress and the federal judiciary made the extradition issue a national affair. Broadening the authority of the federal government to protect southern interests was likely to increase northern concerns about southern political influence.[23]

Mississippi, Alabama, and Missouri took no further action in the controversies than to proclaim that removing a slave constituted a crime anywhere in the Union. While some Alabama legislators favored a southern convention, and some Missouri Democrats favored a state law against New York, these three states did not possess the same degree of regional commitment which existed in South Carolina. Mississippi, Alabama, and Missouri wanted to protect slavery within their borders, and worked toward this objective by expressing a constitutional construction which recognized slaves as property. After attempting to protect their own interests by refuting Seward's argument, and, therefore, an antislavery constitutional interpretation, Mississippi, Alabama, and Missouri perceived no need to act further. These three states sought to safeguard their slave property, but were

unwilling to put themselves at risk by acting in support of another state.[24]

Sectionalism was minimal in Mississippi, Alabama, and Missouri. These states' social caste systems were relatively mobile, and a spirit of autonomy and independence prevailed in these states. The only bond they had with the rest of the South was dependence on slavery, and even this economic pillar did not depend on the eastern slave states. Mobile served as a market for labor-intensive crops, so Mississippi, Alabama, and Missouri had little interest in the ports of Georgia, South Carolina, or Virginia. As relative newcomers to the Union, Mississippi, Alabama, and Missouri concentrated on pursuing their own interests within the federal compact. After safeguarding their own prosperity by reaffirming the Constitution's approval of the peculiar institution, these states avoided involvement in other state's disputes. The leaders of Mississippi, Alabama, and Missouri cared more about their own interests than about presenting a united front against Seward.[25]

Concern for the Union prevailed in Delaware and Maryland. As border states between North and South, both Delaware and Maryland desired harmonious relations among the states. These states had economic and geographic ties to both the slave and free states which sectional conflict could disrupt. Although the number of slaves had declined dramatically in Delaware by 1840,[26] this state's leaders knew that if Seward's position set a precedent, sectional animosities could result. This state officially denounced

the New York governor's handling of the matter, but also stated that it opposed the shipping restrictions Virginia had enacted.[27] Maryland urged both New York and Virginia to avoid antagonistic measures. Declining to take a stand in the matter, Maryland claimed that it was inexpedient to adopt a position on the extradition issue until the United States Supreme Court delivered an opinion in the Prigg case.[28]

Arkansas, Tennessee, North Carolina, and Kentucky remained apathetic in the extradition controversies. Arkansas had joined the Union in 1836, and at the time of the extradition disputes, this state concentrated on establishing its own infrastructure. The state was too new to have developed any loyalties to the other slave states. Governor James K. Polk of Tennessee acknowledged the Georgia and Virginia controversies, but Tennessee's General Assembly ignored the issue. In North Carolina, Governor Edward B. Dudley criticized Seward's position in the New York affair, but the North Carolina legislature took no action. In Kentucky, the Senate approved resolutions opposing Seward's stand, but there was not enough support in the Kentucky House of Representatives to pass these statements. Arkansas, Tennessee, North Carolina, and Kentucky could have protected their interests in slaves by proclaiming the unconstitutionality of Seward's position in the same manner as Mississippi, Alabama, and Missouri. If preventing sectional tension had been the objective of Arkansas, Tennessee, North Carolina, and Kentucky, these states could have approved resolutions requesting a solution to the

disputes as Delaware and Maryland had done. While the Kentucky Senate discussed the matter, neither concern about northern actions in the extradition controversies nor apprehensions about growing sectional unrest existed in Arkansas, Tennessee, or North Carolina. The legislatures of Arkansas and Tennessee did not even debate the issue, and the North Carolina legislature merely placed the matter on the table. In the early 1840s, these states' politicians were too concerned with economic development, commerce, internal improvements, the country's foreign relations, political campaigning, and administrative duties to make any effort in defense of slavery.[29]

Southerners' views on government were too diverse for the South to unite on the extradition issue. The states that acted in the matter were unable to follow a common policy because of incompatible constitutional constructions. While most of these states ultimately retained a commitment to decentralized government, one state and vocal minorities in two others advocated congressional intervention and an increase in the federal government's power. Most of the slave states attempted to use the Constitution in defense of their individual slave interests, but some border states concentrated on preserving good relations within the Union. Ideologies throughout the South were so diverse that cooperation was impossible in the early 1840s, even for the purpose of protecting slavery.[30]

Slave states' perceptions of their roles within the Union limited southern unity on the extradition matter. Only

Virginia and South Carolina considered the possibility of states acting concurrently against the North. Little sectionalism emerged from the controversies because so few states considered cooperation. The controversies had no impact on several states' existence within the Union, and, although others tried to protect their individual state interests with a pro-slavery constitutional interpretation, these efforts confirmed loyalty to the federal compact. To use a constitutional argument in defending slavery, states had to maintain loyalty to the Constitution and assume that the federal compact bound all members of the Union. This tendency to look to the Constitution, instead of to other states, for protection confirms that the concept of southern cohesion was not prevalent throughout the South. Moreover, many of the slave states did not view Maine and New York as cooperating in the extradition matter. Georgia's shipping restrictions applied to all northern states, and Mississippi's resolutions addressed both Maine and New York, but most slave states discussed the controversies separately. Most southern states' politicians did not believe that the northern states were uniting to infringe upon southern interests, and did not advocate southern unity.[31]

Little southern unity existed in the late 1830s and early 1840s. Although the rise of political and moral antislavery raised concerns throughout the South,[32] southerners possessed neither the ability nor the willingness to cooperate in defense of slavery. When a constitutional interpretation dangerous to the peculiar institution emerged

in the extradition controversies, most slave states refused to involve themselves in the disputes. The border states and the states of the upper South remained uninvolved in the controversies, and so did two deep South states. The only slave states that acted directly in the matter were the ones in which the controversies originated, and two others where political debate did not occur along partisan or ideological lines.[33] Although the slave states unanimously defined slaves as property, diversity in political ideology and constitutional theory prevented the southern states from acting collectively to protect the institution of slavery during the extradition controversies.

ENDNOTES

[1]Albany [New York] Evening Journal, 3 January 1843 reprinted Bouck's 1843 annual message to the New York legislature.

[2]In March 1843, the lower house of the New York legislature, the Assembly, passed a resolution asking Bouck if Virginia had requested extradition of the sailors after Seward left office. Bouck responded that Virginia had made no such request. See Assembly, New York Legislature, Journal of the Assembly of the State of New York, at their Sixty-Sixth Session, Begun and Held at the Capital, in the City of Albany, on the Third Day of January, 1843 (Albany: Carroll and Cook, Printers to the Assembly, 1843), 517-518, 580.

[3]In 1842, the New York Senate approved a bill for repealing the Trial-by-Jury Law, but the legislature adjourned before the Assembly could act. The next year, after Bouck became governor, the Assembly agreed to repeal the law, but the Senate ignored the bill for repeal. The 1843 session of the New York Senate adjourned with the Trial-by-Jury Law in place. See Senate, New York Legislature, Journal of the Senate of the State of New York, at their Sixty-Fifth Session, Begun and Held at the Capital, in the City of Albany, on the Fourth Day of January, 1842 (Albany: Thurlow Weed, Printer to the State, 1842), 509, 537-538; Albany [New York] Evening Journal, 27, 28 April 1843; Paul Finkelman, "The Protection of Black Rights in Seward's New York," Civil War History 34 (September 1988): 228.

[4]Finkelman, "Seward's New York," 234.

[5]Assembly, New York Legislature, Journal of the Assembly of the State of New York, 1843, 517-518, 580.

[6]Senate, Georgia General Assembly, Journal of the Senate of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1842 (Milledgeville: William S. Rogers, State Printer, 1843), 282; House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1842 (Milledgeville: P. L. Robinson, State Printer, 1843), 473; Finkelman, "Seward's New York," 234.

[7]House of Representatives, Georgia General Assembly, Journal of the House of Representatives of the State of Georgia, at an Annual Session of the General Assembly, Begun and Held in Milledgeville, the Seat of Government, in November and December, 1837 (Milledgeville: P. L. Robinson, State Printer, 1838), 405, 407. Maine Governor Robert P. Dunlap argued that the individuals Georgia sought were not fugitives from justice because they returned to Maine from Georgia in an orderly fashion, rather than fleeing.

[8]Seward never wrote to any of the Maine governors about the controversies. See William Henry Seward Papers, University of Rochester, Rochester, New York.

[9]House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, and to Prevent the Escape of Persons Charged with the Commission of any Crime, 13 March 1841, 1840-1841 sess., Acts and Joint Resolutions of the General Assembly of the Commonwealth of Virginia (Richmond: Samuel Shepherd, Printer to the Commonwealth, 1841), 79-82; House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of their Slaves, 1841 sess., Georgia Laws, 1841 (Milledgeville: State Printer, 1841), 125-128; House of Representatives, Mississippi Legislature, Journal of the House of Representatives of the State of Mississippi, at an Adjourned Session Thereof, Held in the City of Jackson, 1841 (Jackson: C. M. Price, State Printer, 1841), 217; Senate, Alabama General Assembly, Joint Resolution of the General Assembly of the State of Alabama, Approved 27 April 1841, Acts of Alabama, 1841 (Catawba, AL: Allen and Brickell, State Printers, 1841); House of Representatives, Missouri General Assembly, Journal of the House of Representatives of the State of Missouri, First Session of the Eleventh General Assembly, Begun and Held at the City of Jefferson, on Monday, the Sixteenth Day of November, in the Year of our Lord, One Thousand Eight Hundred and Forty (Jackson: Office of the Southern Advocate, 1841), 357-358, 401-402, 455-456; Charleston [South Carolina] Courier, 13 January 1842; House of Representatives, Louisiana Legislature, Journal of the House of Representatives, During the First Session of the Sixteenth Legislature of the State of Louisiana, 1842 (New Orleans: Bullitt, Gagne, and Company, State Printers, 1842), 29.

[10]Richard P. McCormick, The Second American Party System: Party Formation in the Jacksonian Era (Chapel Hill: University of North Carolina Press, 1966), 317.

[11]House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, 79-82; House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of their

Slaves, 125-128; Charleston [South Carolina] Courier, 13 January 1842; House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1842, 29.

[12]A communication from Tennessee congressional representative Aaron V. Brown to Tennessee Governor James K. Polk stated that Senator John C. Calhoun of South Carolina advocated both federal intervention and state laws in response to the Virginia crisis. See Aaron V. Brown to James K. Polk, 7 December 1839, Correspondence of James K. Polk, ed. Wayne Cutler, 9 vols. (Nashville: Vanderbilt University Press, 1979), 5: 330-331.

[13]Daniel Walker Howe, The Political Culture of the American Whigs (Chicago: University of Chicago Press, 1979), 83-85.

[14]House of Delegates, Virginia Legislature, An Act to Prevent the Citizens of New York from Carrying Slaves out of this Commonwealth, 79-82; House of Representatives, Georgia General Assembly, An Act the Better to Secure and Protect the Citizens of Georgia in the Possession of their Slaves, 125-128; House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 357-358, 401-402, 455-456.

[15]Anthony Gene Carey, Parties, Slavery, and the Union in Antebellum Georgia (Athens: University of Georgia Press, 1997), xv.

[16]For a discussion of southerners' belief that slavery promoted liberty, equality, and economic opportunity among whites, see J. Mills Thornton III, Politics and Power in a Slave Society: Alabama, 1800-1860 (Baton Rouge: Louisiana State University Press, 1978), xviii, 57; William L. Barney, The Secessionist Impulse: Alabama and Mississippi in 1860 (Princeton: Princeton University Press, 1974), 44.

[17]R. Douglas Hurt, Agriculture and Slavery in Missouri's Little Dixie (Columbia, MO: University of Missouri Press, 1992), 273. From the 1830s until the start of the Civil War, Missouri's leaders supported slavery, but also placed a great emphasis on the union. Missouri's politicians believed that the United States Constitution condoned slavery, and that they could use the Constitution to defend the peculiar institution.

[18]McCormick, The Second American Party System, 196, 244, 308.

[19]Thornton, Politics and Power in a Slave Society, 57; Lacy K. Ford, Jr., Origins of Southern Radicalism: The South Carolina Upcountry, 1800-1860 (New York: Oxford University Press, 1988), 173; Thomas E. Schott, Alexander H.

Stephens: A Biography (Baton Rouge: Louisiana State University Press, 1988), 41-42; Howe, Political Culture of the American Whigs, 83-85 discuss the Whig tendency toward a more active federal government. William G. Shade, Democratizing the Old Dominion: Virginia and the Second Party System, 1824-1861 (Charlottesville: University of Virginia Press, 1996), 5, 14 states that the national Whig Party tended to represent nonagricultural interests, while the national Democracy was consistently the party of states' rights and rural, agricultural interests. Along with Carey, Antebellum Georgia, 79, these books provide a good account of the Second Party System's functioning at the state and national level.

[20]Ford, Origins of Southern Radicalism, 173; McCormick, The Second American Party System, 317.

[21]Charleston [South Carolina] Courier, 13 January 1842; House of Representatives, Louisiana Legislature, Journal of the House of Representatives, 1842, 29.

[22]McCormick, The Second American Party System, 317. In Louisiana, political division occurred along ethnic lines, with citizens of French descent supporting the Whigs, and citizens of Anglo-Saxon descent supporting the Democrats. Few of the state's politicians focused on states' rights.

[23]Howe, Political Culture of the American Whigs, 63-68 discusses John Quincy Adams's denunciation of southern political influence in Congress. Adams frequently derided the congressional "Gag Rule" on slavery, as well as efforts to annex Texas, as evidence of a southern conspiracy to control the nation. While debating the ban on abolitionist petitions, Adams referred to the extradition controversies. Claiming that the positions of Georgia and Virginia were not merely attempts to preserve the peculiar institution where it already existed, the representative stated that the southern states were trying to "force their detested principles of slavery into all the free states." See Blair and Rives, eds. The Congressional Globe, Containing Sketches of the Debates and Proceedings of the Second Session of the Twenty-Seventh Congress (Washington, D. C.: Globe Office, 1842), 11: 170 for Adams's remarks on the extradition controversies. If Congress had intervened on behalf of the southern states, and northern state governors had lost the power of extradition in cases concerning northern citizens, Adams's claims would have gained much credence.

[24]House of Representatives, Mississippi Legislature, Journal of the House of Representatives, 1841, 217; Senate, Alabama General Assembly, Joint Resolution of the General Assembly of the State of Alabama [no page number appears on pages]; House of Representatives, Missouri General Assembly, Journal of the House of Representatives, 1840, 357-358, 401-402, 455-456.

[25]Barney, The Secessionist Impulse, 40-45; Ruth Ketring Nuermberger, The Clays of Alabama: A Planter-Lawyer-Politician Family (Lexington: University of Kentucky Press, 1958), 16. In Missouri, slavery was an economic pillar in a longitudinal group of counties in the central part of the state, although the institution existed throughout the state. See Hurt, Agriculture and Slavery in Missouri's Little Dixie, xi, 254, 273.

[26]John A. Munroe, History of Delaware, 2d ed., (Newark: University of Delaware Press, 1984), 96-104; James S. Van Ness, "Economic Development, Social and Cultural Changes: 1800-1850," in Maryland: A History, 1632-1974, ed. Richard Walsh and William Lloyd Fox (Baltimore: Maryland Historical Society, 1974), 219-220. Manufacturing increased in Delaware during the antebellum era, while slavery declined. In 1790, slaves composed 16 percent of the states' population, while in 1840, they composed only 3 percent. Slavery was a means of economic livelihood throughout Maryland, but was predominant in the southern and coastal regions of the state. Economic diversification occurred in some of these areas in the 1840s.

[27]House of Representatives, Delaware General Assembly, Journal of the House of Representative of the State of Delaware, at a Session of the General Assembly, Commenced and Held at Dover, on Tuesday the Fifth of January, in the Year of our Lord 1841, and of the Independence of the United States of America the Sixty-Fifth (Dover: S. Kimmey, 1841), 287-288.

[28]House of Delegates, Maryland General Assembly, Journal of the Proceedings of the House of Delegates of the State of Maryland, Extra Session, March the Twenty-Fourth, 1841 (Annapolis: J. Hughes, 1841), 65-66.

[29]After Virginia's request for cooperation, Arkansas, Tennessee, Kentucky, and North Carolina declined to take a stand in the extradition matter. See Senate and House of Representatives, Arkansas General Assembly, Journals of the Third Session of the General Assembly of the State of Arkansas, Begun and Held at the Capital, in the City of Little Rock, on Monday, the Second Day of November, in the Year of our Lord One Thousand Eight Hundred and Forty, and of the American Independence the Sixty-Fifth Year, and Ended on Monday, the Twenty-Eighth Day of December, the Same Year (Little Rock: Woodruff and Pew, Printers to the State, 1841); House of Representatives, Arkansas General Assembly, Journal of the House of Representatives for the Fourth Session of the General Assembly of the State of Arkansas, Begun and Held at the Seat of Government, in the City of Little Rock, on Monday the Seventh Day of November, in the Year of Our Lord Eighteen Hundred and Forty-Two, Being the Fourth Session of the General Assembly, Held Under the Constitution of the State, and in the Sixty-Seventh Year of the American Independence

(Little Rock: Eli Colby, 1843); House of Representatives, Tennessee General Assembly, Journal of the House of Representatives for 1841-1842 (Knoxville: James Williams, E. G. Eastman, Donald Cameron, and A. H. Roseborough, Printers to the State, 1841); House of Representatives, Tennessee General Assembly, Journal of the House of Representatives of the State of Tennessee, at the Called Session of the Twenty-Fourth General Assembly, Begun and Held at Nashville on the Third Day of October, 1842 (Knoxville: James Williams, E. G. Eastman, Donald Cameron, and A. H. Roseborough, Printers to the State, 1842); Senate, Kentucky General Assembly, Journal of the Senate of the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort, on Monday, the Seventh Day of December, in the Year of our Lord, 1840, and of the Commonwealth the Forty-Ninth (Frankfort: A. G. Hodges, State Printer, 1841); House of Representatives, Kentucky General Assembly, Journal of the House of Representatives of the Commonwealth of Kentucky, Begun and Held in the Town of Frankfort, on Monday, the Seventh Day of December, in the Year of our Lord, 1840, and of the Commonwealth the Forty-Ninth (Frankfort: A. G. Hodges, State Printer, 1841). North Carolina's first legislative session after Virginia's request for cooperation convened in November 1842. The legislative journals for this session are at the University of North Carolina at Chapel Hill, but are unavailable because they are in poor condition. The Raleigh Register and North Carolina Gazette provides complete weekly transcripts of the North Carolina legislature's proceedings. For a summary of the major political issues in the states of the upper South at this time, see Shade, Democratizing the Old Dominion, 9-16.

[30]Larry Gara, "The Fugitive Slave Law: A Double Paradox," Civil War History 10 (September 1964): 229-240 discusses debate among southerners over expanding the federal government's power in regard to the Fugitive Slave Law of 1850. These contradictory ideologies manifested themselves years earlier during the extradition controversies.

[31]Joel H. Silbey, The Partisan Imperative: The Dynamics of American Politics Before the Civil War (New York: Oxford University Press, 1985) claims that social and cultural issues were more important politically in the 1840s and 1850s than slavery. John McCardell, The Idea of a Southern Nation: Southern Nationalists and Southern Nationalism, 1830-1860 (New York: W. W. Norton and Company, 1979) claims that while unique sectional interests existed for many years in the antebellum South, a sense of unity among the slave states developed gradually between 1830 and 1860.

[32]Glyndon G. Van Deusen, William Henry Seward (New York: Oxford University Press, 1967), 65.

[33]Michael F. Holt, The Political Crisis of the 1850s (New York: John Wiley and Sons, 1978), 6 notes that antebellum sectional tensions tended to be most pronounced in areas and times in which partisan competition did not exist. For further information on the way in which national political issues became sectional, see William E. Gienapp, The Origins of the Republican Party, 1852-1856 (New York: Oxford University Press, 1987), 365. Gienapp maintains that after the demise of the national Whig Party, sectional parties emerged at the national level. The Republicans focused on northern opposition to southern political influence on the federal government, which they derided as a "slave power." Although southern politicians were too disparate in their views to unite on responding to the extradition controversies, many southern politicians favored conceding control of extradition to Congress or the federal judiciary in response to the situation. For this reason, Governor Seward's stand on the extradition matter may be seen as facilitating the development of a "slave power" among some southern politicians. For further discussion of northern opposition to southern political power, see Larry Gara, "Slavery and the Slave Power: A Crucial Distinction," Civil War History 15 (March 1969): 10.

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Dissertations

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VITA

David Lee Amstutz

Candidate for the Degree of

Doctor of Philosophy

Thesis: SOUTHERN RESPONSE TO THE "SLAVE-STEALERS" AND EXTRADITION CONTROVERSIES

Major Field: History

Biographical:

Personal Data: Born in Lincoln, Nebraska, On August 28, 1969, the son of David Leroy and Polly E. Amstutz.

Education: Graduated from Kearney Catholic High School, Kearney, Nebraska in May 1987; received Bachelor of Science degree in History and Master of Arts in Education with Thesis Option degree in History from The University of Nebraska, Kearney in December 1991 and August 1993, respectively.

Experience: Employed by the Oklahoma State University History Department as a graduate assistant, 1993-1994, 1996-1997; employed by the Oklahoma State University History Department as a teaching associate, 1995; Oklahoma State University, Department of History, completed the requirements for the Doctor of Philosophy degree at Oklahoma State University in May, 1999.

Professional Membership: Phi Alpha Theta International Honorary Society in History.