States for want of room. But lest this might occur, and to relieve the slave States from the terrible necessity, as is alleged, of executing the barbarous and cruel laws which some of them have enacted for the re-enslavement of negroes now feee, the Republicans will urge the adoption of the proposition introduced by my friend, the honorable Senator from Wisconsin, [Mr. Doolittle,] to procure for the negro a home and an abiding place, outside of the United States, within the tropics, where it is claimed that he may flourish and prosper. Let him there, as in the colony of Liberia, demonstrate to the world his capacity for self-government. Let him there build up for himself a country, and embellish a home, free from the prejudice and injustice of a race that has dominated over him for centuries, and extend over him the temporary protection of the stars and stripes of the Union.

The fancied temporary interests of the few, who might desire to import slaves into the Territories, should not be suffered to divert the National Legislature from that line of policy demanded by justice and the permanent interests of the nation, of the white race, and of the whole human family.

But if the nation should return to the Territorial policy abandoned in 1850 and 1854, and apply it to all the Territories of the Republic, which in its results would throw them open to the free enjoyment of every citizen of the United States, residing East, West, North, and South, and exclude none except those whom you say are not citizens, and cannot become citizens—an enslaved nation of aliens—more than four millions strong, whom you of the South retain, in chains, in your midst, you declare your purpose to "dissolve the Union." You declare that the Union cannot be maintained unless men are permitted to coerce the emigration of negro slaves to the Territories! Well, sir, this threat produces no terror; as far as my knowledge extends, nobody in the Northwest is frightened by it, although it originates in a high quarter. We understand that it is your interest to stay in the Union, and that you have not the power to dissolve it; that a dissolution of the Union would bring on you, in tenfold strength, every evil of which you complain.

With this impotent threat "to dissolve the Union" if a Republican should be elected President of the United States, you not only demand the disbanding of the Republican party, and, by a logical sequence, the repeal of all laws in the free States disparaging the institution of slavery, and prohibiting its existence within their jurisdiction, but you attempt to coerce our consciences and judgment, and require us to approve slavery as morally right—a humane and Christian institution. In this you will never succeed. The people of the free States will never approve slaveholding, when not required by imperious circumstances, as either just, humane, or Christian. The Senator from Virginia, [Mr. Mason,] in his expression of regret that the people of the free States, which he was pleased to denominate "servile States," could not have slaves, will find very few sympathizers. In this I speak the opinions of all parties in Iowa, and I think I may say in the whole North.

On this point, the Senator from Alabama [Mr. Clay] demanded to know if the people of the free States, entertaining these views, did not necessarily "hate slaveholders?" For one, I answer frankly: That depends on our conception of the motives that prompt a man to hold slaves. If one man holds another, however inferior, in bondage for selfish and sordid purposes of gain, I loathe his character in my inmost heart. If, on the other hand, he is held for the purpose, entertained in good faith, of bettering his condition and elevating his character, the owner will not be hated by anybody, in any place. But, in our estimate of these motives, you must not suppose us either idiotic or ignorant of your laws and usages, and the actual condition of slave society. Neither vehement threats of a dissolution of the Union, nor any other mode of coercion, will be likely to change our opinions of either the morality or expediency of slaveholding. The laws of the human mind cannot be changed; perception, memory, conscience, and judgment, will continue. Conscience may be stupefied for a time, but it will again rally and assert its right to control the conduct of men. The people of the whole North, almost without a solitary exception, believe that slavery is in itself wrong, and may be maintained temporarily only, in consequence of the necessities that may surround the parties which sustain this relation to an inferior race. Whenever these necessities cease, they maintain that it will be the duty of each to dissolve the relation. Nobody in the North, however, maintains that this can ever be effected, only by the action of the people of the States where the relation exists. The Republicans maintain that Congress has no power whatever over this subject within their limits.

You admonish us, however, that if a gentleman who entertains the doctrines originally maintained by Washington, Jefferson, and the other illustrious men who lived during the earlier period of the Republic, from which, as was admitted on yesterday by the honorable Senator from Virginia, [Mr. Mason,] the Democracy has swerved, should be elected President of the United States, in accordance with the Constitution and the laws, you will destroy the Government. When analyzed, could a proposition be more insulting to freemen? We must surrender our own reasoning faculties, and our consciences and judgments, and follow your behests! We must change, because you have changed! We must repudiate, because you have discarded, the opinions of the fathers! When we approach the polls, we must represent your opinions, and not our own, by our votes! That is, we must cease to be freemen, and become your political slaves! If your political opponents will destroy their platform and dissolve their organization; if the free States will destroy their Constitutions and repeal their laws on the subject of slavery; if a majority of the freemen of the country will stultify their own judgments, and trample under foot their consciences; give up freedom of speech and of the press, and cease to exercise the rights of freemen at the polls, you will graciously permit the Union to be continued! Well, sir, this mode of preserving the Union would cost us too much. We have the hearts and heads and hands and will to preserve it in a cheaper manner, let the criris come when it may.

SPECIAL MESSAGE

OF

GOVERNOR SAMUEL J. KIRKWOOD,

IN REPLY TO A

RESOLUTION OF INQUIRY,

PASSED BY THE

HOUSE OF REPRESENTATIVES,

MARCH 2D, 1860, IN RELATION TO THE REQUISITION OF THE GOV. OF VIRGINIA, FOR ONE BARCLAY COPPIC.

DES MOINES, IOWA.
JOHN TEESDALE, STATE PRINTER.
1860.

SPECIAL MESSAGE

OF

GOVERNOR SAMUEL J. KIRKWOOD,

In reply to a resolution of Inquiry passed by the House of Representatives, March 2d, 1860, in relation to the requisition of the Gov. of Virginia for one Barclay Coppoc.

EXECUTIVE OFFICE,
MARCH 3d, 1860.

Gentlemen of the House of Representatives:

I have received your resolution of yesterday, requesting me to communicate to you all the facts and correspondence connected with or in any way growing out of the demand made upon me for the arrest of Barclay Coppoc, and his surrender to the State of Virginia, as a fugitive from justice, and my reasons for refusing that demand.

The Special Message of the Governor of Virginia referred to in the preamble to your resolution, is of such extraordinary character as in my judgment to render proper the publicity of the information asked for by your resolution. All the papers and correspondence connected with, or in any way growing out of this matter, are the requisition of the Governor of Virginia, a copy of which I transmit, marked A.; the affidavit upon which said requisition is based, which I copy in the body of this communication; my letter to the Governor of Virginia, dated January 23d, 1860, a copy of which I transmit, marked B; and my letter to him dated January 24th, 1860, a copy of which I transmit, marked C. I have not

received from the Governor of Virginia a reply to either of my letters to him, and I have not had correspondence upon this subject with any other person.

The facts touching that requisition were these: On the 23d day of January last, an agent of Virginia called upon me and presented his commission from the Governor of that State, as such agent, to receive Coppoc, who was demanded in the same commission as a fugitive from justice, as appeared by an annexed document, of which the following is an exact copy:

"City of Richmond, and State of Virginia, to-wit:

"Andrew Hunter maketh oath and saith, that from information received from several of the prisoners recently condemned and executed at Charleston, Jefferson county, Virginia, and from other facts which have come to his knowledge, he verily believes that a certain Barclay Coppoc was aiding and abetting certain John Brown, and others, who on the sixteenth and seventeenth days of October, in the year 1859, did feloniously and treasonably rebel and commit treason against the commonwealth of Virginia, at a certain place called Harper's Ferry, in said county of Jefferson, and who did then and there feloneously conspire with and advise certain slaves in the county aforesaid to rebel and make insurrection against their masters, and against the authority of the laws of said Commonwealth of Virginia—and who did then and there feloniously kill and murder certain Hayward Sheppard, a free negro, and George W. Turner, Fontaine Beckham, and Thomas Barclay—and affiant further states that from information recently received, he verily believes that said Barclay Coppoc is a fugitive from justice, now escaping in the State of Iowa.

"Sworn to before me, a Notary Public in and for the City of Richmond, in the State of Virginia, this ninth day of January, 1860.

"S. H. BOYKIN, N. P."

Upon examination of this paper, I declined to issue my warrant for the arrest of the alleged fugitive, because, in my judgment, no authority so to do was conferred upon me by law, in a case resting on such a basis.

It is a high prerogative of official power in any case, to seize a citizen of the State and send him upon an exparte statement, and without any preliminary examination, and without confronting him with a single witness, to a distant State for trial. It is a prerogative so high that the law tolerates its exercise only on certain fixed conditions, and I certainly shall not exercise that power to the peril of any citizen of Iowa, upon the demand of the State of Virginia, or of any other State, unless these conditions are complied with.

The act of Congress provides that besides the Executive demand for the fugitive, there shall be produced "the copy of an indictment found, or an affidavit made before a magistrate of any State or Territory, as aforesaid, charging the person so demanded with having committed treason, felony or other crime, certified as authentic by the Governor," &c., &c., upon the presentation of which it becomes my duty to cause the arrest to be made. There was not any "copy of an indictment found" presented to me, and of course the case rested upon the affidavit.

I refused the order of arrest in this case for the following reasons:

1st—The affidavit presented, was not made before "a magistrate," but before a Notary Public.

2d—Even had the law recognized an affidavit made before a Notary Public, the affidavit in this case was not authenticated by the Notary's seal.

3d—The affidavit does not show, unless it be inferentially, that Coppoc was in the State of Virginia at the time he "aided and abetted John Brown and others," as stated therein.

4th—It did not legally "charge him" with commission of "treason, felony or other crime."

I will consider the first and second reasons in connection. It will not be pretended that a Notary Public, an officer unknown to the common law, and equally unknown to the administration of justice, and never charged directly or indirectly with any step from first to last in the trial of criminal offenses, is "a magistrate within the meaning of the term" as used here or elsewhere. The Governor of Virginia does not so pretend, but seeks to avoid the force of this objection by citing an act of Congress, passed September, 1850. He says:—"But the Governor of Iowa has failed to see that by an act of Congress, passed on the 16th day of September, 1850, it is provided that in all cases in which, under the laws of the United States, oaths or affirmations, or acknowledgements may be taken before any Justice of the Peace of any State or Territory, such oaths, affirmations or acknowledgments may

hereafter be also taken or made by or before any Notary Public duly appointed in any State or Territory." "This act," he adds, "completely overthrows the reasons assigned by the Governor of Iowa, and makes the case so plain that argument and illustration can add nothing to it." It is true, I had not seen this act when I refused the warrant for Coppoc's arrest; but if I had seen it, my action would have been the same. In answer to my objection that the seal of the Notary was not attached to the affidavit, he says: "The Notary before whom the affidavit was made, was duly appointed in pursuance of the laws of this Commonwealth, (Virginia) *and his signature was accompanied by a scroll*, in precise conformity with established usage and the decisions of our courts, which recognize scrolls as seals."

If the Governor of Virginia has not "failed to see" the "act of Congress, passed September 16th, 1850," he has certainly failed to read it. To suppose that he had read it would be to suppose that he had quoted just so much of said law as tended to support the position he had taken, and suppressed so much of it as showed that position to be untenable—a supposition which my sense of "comity" forbids my entertaining for a moment. I supply that portion of the law which he has, doubtlessly through inadvertence, omitted. The last words quoted by him, the words "State or Territory," are in the law as printed, followed by a comma, and then in immediate connection follow these words: "*and when certified under the hand and official seal* of such Notary, shall have the same force and effect, as if taken or made by or before such justice or justices of the peace. [See 9th U. S. Statutes at large, page 458.] From this it appears by express provision of the law of Congress, an affidavit made before a Notary Public, shall have "force and effect" *only* when "*certified under his hand and official seal.*" Now, the affidavit made in this case before a Notary Public, is *not* certified under his hand and official seal, and I regret to be compelled to add that the statement of Governor Letcher, that the signature of the Notary to the affidavit, "was accompanied by a scroll" is wholly unfounded in fact. So far is this from being correct, that to this document received from him and still in my possession, there is neither seal, nor scroll, nor mark, nor device whatever. "Comity" requires that I shall express my belief that in so radical an error of fact, the Governor of Virginia was misled by the information of others, or by a defective memory, rather

than by a desire to support his argument by a misrepresentation.

To recapitulate upon these points: The law of 1793 provides that when in this class of cases, an affidavit is used, such affidavit must be made "before a magistrate." The Governor of Virginia does not pretend that a Notary Public is "a magistrate" within the meaning of that law, but claims that by the law of 1850, the law of 1793 was so modified as to permit the use of affidavits made before Notaries Public. But the same law of 1850 which modifies the law of 1793, expressly and in terms provides that such affidavits, made before a Notary Public, "shall have force and effect" only when "*certified under his hand and official seal*," and the affidavit in this case was *not* so certified. Not being so certified, it did not have "force and effect," and not having "force and effect" no warrant could issue upon it. It will be observed that the official seal of the Notary is expressly required by the act of Congress, and being so required, I could not waive it if I would. It appears to me that upon these points "the case is so plain that arguments and illustration can add nothing to it."

I leave this part of the discussion here, waiving the question whether this law of 1850, so general in its terms, can be construed as repealing or amending the specific requisites of the special act providing in all respects the mode by which fugitives from justice are to be surrendered to another sovereignty for trial. I am advised that this construction would not be admitted by the Courts, and is altogether untenable and is without precedent in this State.

My third and fourth reasons, (which I shall also consider in connection) are that the affidavits did not show otherwise than by inference that Coppoc was in Virginia at the time he "aided and abetted" John Brown and others, as stated; and did not legally charge him with crime. What is the substance of the affidavit? Stripped of all verbiage, it is this and this only: Andrew Hunter swears "that John Brown and others on certain days and at a certain place in the State of Virginia, committed certain crimes," and "that from information received from several persons" recently condemned and executed in Virginia, and "from other facts that have come to his knowledge," he "*verily believes*" that Barclay Coppoc, "aided and abetted" said John Brown and others in the commission of said crimes, and that from other information more

recently received, he "*verily believes* said Baclay Coppoc is a fugitive from justice now escaping into the State of Iowa."

Now what is the law? I quote a note from Brightly's Digest of the laws of the United States, page 293: "The affidavit, when that form of evidence is adopted, must be at least so explicit and certain that if it were laid before a magistrate it would justify him in committing the accused to answer the charge: 6 *Penn. Law Jour.* 414, 418. It must state *positively* that the alleged crime was committed in the State from which the party is alleged to be a fugitive, and that the party is actually a fugitive *from that State.* "*Exparte Smith*, 3 *McLean* 121, 122, *Fetters case* 3 *Zabr.* 311. In the matter of Hayward, 1 *Sandf. S. C.*, 701; *Degant vs. Michael*, 2 *Carter*, 396. I quote further from 3 *McLean* 135: "Again the affidavit charges the shooting on the 6th of May in the County of Jackson and State of Missouri, *that he believes and has good reason to believe from evidence and information now (then) in his possession, that Joseph Smith was accessory before the fact, and is a resident or citizen of Illinois.*" The Court go on to say: "There are several objections to this. Mr. Boggs, [the affiant in that case] having the evidence and information in his possession, should have *incorporated it in the affidavit*, to enable the Court to judge of their sufficiency to support his belief. Again he swears to a legal conclusion, when he says Smith was an accessory before the fact. What constitutes a man an accessory is a question of law, and not always easy of solution. Mr. Boggs' opinion then is not authority. He should have given the facts. He should have shown that they were committed in Missouri, to enable the Court to test them by the laws of Missouri, to see if they amounted to a crime. Again, *the affidavit is fatally defective in this, that Boggs swears to his belief.*"

Let us apply these rules to the affidavit under consideration. Andrew Hunter does not swear *positively* that Coppoc was ever in Virginia. He says certain persons other than Coppoc committed certain crimes at certain places in that State, and that Coppoc "aided and abetted" them, leaving to be inferred that he was with them in Virginia; but he might have furnished arms from Ohio, or ammunition from Pennsylvania, or aid and comfort from Maryland; thus "aiding and abetting" the crime committed in Virginia, without being there in person, and yet not be liable to be tried in Virginia for so doing. Mr. Hunter says Coppoc is "a fugitive from

justice, escaping in the State of Iowa." From what State? From Virginia, or Maryland, or Pennsylvania, or Ohio? It may be *inferred* the escape was from Virginia; but it is not "positively" so stated, nor is there on either point that "certainty that would justify a magistrate in committing an accused party." Again, Mr. Hunter "having the evidence and information in his possession, should have incorporated it in the affidavit." He swears to a legal conclusion when he says, "Coppoc *aided and abetted.*" What constitutes *aiding and abetting* "is a question of law and not always of easy solution." Mr. Hunter's "opinion is not authority. He should have sworn to the facts." "The affidavit is fatally defective in this, that Hunter swears to his belief." The whole case is this. A paper was presented to me purporting to be an affidavit made under a law of Congress, but not made before an officer recognized by that law—or if the law of 1850 applies to this class of cases, lacking to its authenticity an essential requisite prescribed by that law. That paper was made the basis of a demand that I should arrest and surrender for trial for crime, in a distant State, a citizen of this State while it contained only the statement of a person wholly unknown to me, *that he believed* the citizen was guilty of a crime; which crime if committed at all, might for aught appearing in the paper, have been committed in any other State as well as Virginia. I refused the demand made upon me, and now after a more full and careful consideration of the matter than I then gave it, I am content with the decision then made.

My action in this matter is not without precedent in our own State. My immediate predecessor refused a warrant for a citizen of this State, upon a requisition from the State of Indiana, upon the ground that the affidavit upon which the requisition was based, although sufficient in substance, was made before a Notary Public. The Governor of Indiana did not, as I am advised, consider this refusal as evidence that the people or authorities of Iowa were unwilling to perform their constitutional obligations, or a matter of sufficient importance to be the subject of a special message to the General Assembly of that State.

The Governor of Virginia complains that I did not cause Coppoc to be arrested and held until another requisition in proper form could have been sent to me. The law of the State provides the manner in which such provisional arrest shall be made, (Code, Sec. 3284, and the remaining sections of that Chapter.) I called

the attention of the agent of Virginia specially to this law, read it to him and placed it in his hands, and requested him to advise with counsel in relation thereto, and act upon that advice. For some reason, doubtless satisfactory to himself, but wholly unknown to me, he did not, so far as I have learned, act under the provisions of that law. If the Governor of Virginia has cause for complaint against any person on this point, it is against his own agent, and not against me.

The Governor of Virginia also complains that the first of my letters to him was published in the papers of this State before it had reached him. This is probably true. During the afternoon of the day on which the requisition was presented to me, and after that fact had become public, many inquiries were made of me, touching the matter, and great desire expressed to know my reasons for refusing the warrant. It would have been useless and absurd in me to have affected secrecy in regard to the matter, when the agent of Virginia had himself made it public; and I answered inquiries by stating the facts, and for my reasons referred to my letter, a copy of which I had kept. Some of the gentlemen who read the letter, suggested that, as the matter would probably excite some public interest, it would be well to publish the letter; and not being able to see how under the circumstances, any possible injury could result from its publication, I allowed copies to be taken for that purpose. It is to me a matter of profound regret that the Governor of Virginia did not, in his special message, content himself with an examination of the legality of the documents sent by him to me and of my official action thereon, without attempting to convert a question of official power and duty into a question of personal motives. Not satisfying himself, apparently, that he had a good cause of complaint against me upon the law or the facts of the case, he repeats some hearsay, some suspicions of his own or his agents, some broken extracts from my inaugural address, and from all these, attempts to justify his insinuations of my sympathy with the crimes lately committed in Virginia, and of my desire, perhaps efforts, for the escape of this alleged fugitive. I repel all such suggestions coming from him or from others, with the scorn they deserve; and I would not dignify them by any notice, were it not for this consideration. Right-minded men in other States may well suppose that the chief magistrate of Virginia could not make charges so grossly violative of the courtesy due by him to the chief

magistrate of a sister State, unless he knew the charges to be sustained by the facts, and might construe my silence into an admission of their truth.

The fact that an agent of Virginia was here, with a requisition for Coppoc, became publicly known in this place, solely through the acts of that agent himself. I denied myself what I greatly desired, the privilege of consultation with gentlemen in whose opinions I had confidence, touching the legality of the papers submitted to me, lest the matter might thereby, through inadvertance, become known. After I had communicated to him my determination not to grant the warrant demanded, he sat in my office conversing freely with me on the subject. During our conversation, other persons came in on business with me, and to my surprise he continued the conversation in their presence. I said to him, that I had supposed he did not wish his business to be made public; to which he replied, that as the warrant had been refused, he did not care who knew his business, and continued the conversation. In this manner the fact that a requisition had been made for Coppoc became known in this place; and I am credibly informed that it was well known in Iowa City to many persons there, that the agent of Virginia was on his way to this place with such requisition, before he reached here.

The insinuation that I had anything to do, directly or indirectly, with sending information to Coppoc, that a requisition had been made for him, is simply and unqualifiedly untrue; nor have I any means of knowing whether such information was sent by others; or if so, by whom sent, other than that common to all persons then at the Capital—common rumor.

Were I disposed to follow the course pursued by the Governor of Virginia, I might perhaps find in this matter sufficient to justify the conclusion, that he has been throughout more anxious to lay a foundation for complaint against Iowa, for the purpose of inflaming sectional prejudice, than to procure the return of Coppoc to Virginia. The facts that the papers transmitted are so grossly defective; that the agent sent with them was so careless to keep secret his mission, that when his demand for a warrant was refused on the ground that his papers were insufficient, he failed to make use of the law pointed out to him for the provisional arrest of the alleged fugitive until new papers could be procured; and that the Governor of Virginia, without answering my letters or asking any

explanations, has seen fit to promulgate his extraordinary special message, might justify that conclusion to those who are astute to discover, and deem it consistent with fair dealing to impute bad motives for all acts done by others—and the same process of reasoning might lead me to conclude that his declarations of attachment to the Union, are but a cover to conceal on his part the design openly proclaimed by many with whom he fraternizes politically, to destroy that Union if they cannot control it.

The people of Iowa need no defense at my hands. They love the Union and are determined it shall be preserved. Their fealty to it is not determined by the fact whether or not they control its policy, and enjoy its honor and emoluments, and although they may believe at times that that policy is controlled for improper purposes, and those honors and emoluments placed in unworthy hands, they will still quietly wait until a change shall be made, in a legitimate and constitutional way; and when that time shall have come they will see to it that the Union shall still be preserved.

Permit me to say in conclusion, that in my judgment, one of the most important duties of the official position I hold, is to see that no citizen of Iowa is carried beyond her border, and subjected to the ignominy of imprisonment and the perils of trial for crimes in another State, otherwise than by due process of law. That duty I shall perform. Whenever the Governor of Virginia, or of any other State, shall transmit to me papers properly executed, and containing proper proof, demanding the surrender of any one of our people, I shall promptly issue a warrant for his rendition—and not till then.

SAMUEL J. KIRKWOOD.

A.

THE COMMONWEALTH OF VIRGINIA, TO THE EXECUTIVE AUTHORITY OF THE STATE OF IOWA:

Whereas it appears by the annexed document, which is hereby certified as authentic, that Barclay Coppoc is a fugitive from justice from this State, charged with the crime of treason, conspiring with and advising slaves to rebel and make insurrection, and with murder perpetrated at the town of Harper's Ferry, in this Commonwealth, on the sixteenth and seventeenth days of October, in the year 1859: Now therefore I, John Letcher, Governor of the State of Virginia, have thought proper, by virtue of the provisions of the Constitution of the United States, in such cases made and provided, and of the laws of Congress in pursuance thereof, to demand of the Executive authority of Iowa, the arrest and surrender of Barclay Coppoc, and that he be delivered to C. Camp, who is hereby appointed the agent to receive him on the part of this Commonwealth.

Given under my hand as Governor, and under the { L. S. } Great Seal of the State, at Richmond, this 10th day of January, 1860, and in the eighty-fourth year of the Commonwealth.

JOHN LETCHER.

B.

EXECUTIVE CHAMBER, IOWA, { Des Moines, January 23d, 1860. }

To His Excellency, the Governor of Virginia:

SIR:—Your requisition for Barclay Coppoc, alleged to be a fugitive from justice from the State of Virginia, was this day placed in my hands by Mr. Camp. Having carefully considered

the same, I am of opinion that I cannot, in the proper discharge of my duty as Executive of this State, grant the requisition, because it does not, in my opinion, come within the provisions of the Constitution of the United States, and of the laws of Congress, passed in pursuance thereof. The certificate of the Notary Public, that the paper purporting to be the affidavit of Andrew Hunter, was sworn to, is not authenticated by his Notarial Seal, and for that reason, is no higher evidence of that fact, than would be the statement of any other citizen. Were this the only difficulty, I would, as it is in its nature technical, feel disposed to waive it in this case; but there is a further defect, which in my judgment is fatal, and which my duty will not allow me to overlook.

The law provides that the Executive authority of a State demanding any person as a fugitive from justice, shall produce to the Executive authority of the State on which the demand is made "the copy of an indictment found, or an affidavit made before a magistrate" of the State by which the demand is made. In this case, there is not a copy of any indictment produced, and the affidavit produced, is made before a Notary Public, who is not, in my judgment, a magistrate, within the meaning of the law of Congress.

This is a matter in which, as I understand, I have no discretionary power. Had the application been made to me in proper form, charging the offense charged in this case, the requisition must have been granted; and as it is, I have not any more authority to surrender the person demanded, than if requested to do so by a private letter.

Very Respectfully,
SAMUEL J. KIRKWOOD.

C.

EXECUTIVE OFFICE, IOWA,
Des Moines, January 24th, 1860.

To His Excellency,
the Governor of Virginia :

On yesterday, Mr. Camp, of your State, presented to me a requisition for Barclay Coppoc, which I declined to grant, for reasons stated in a letter to you, which I handed to him, (Mr. Camp).

I have since examined more carefully the body of the affidavit of Andrew Hunter, and beg leave to call your attention to it. Mr. Hunter states that from information received by him from certain persons condemned and executed in your State and from other facts which have come to his knowledge, he believes that Coppoc was aiding and abetting John Brown and others, who on certain days, in Virginia, committed certain crimes, and that from information recently received, he verily believes Coppoc is a fugitive from justice, escaping in this State. It is not stated, unless it be inferentially, that Coppoc committed the acts charged, in the State of Virginia, nor are any of the facts upon which affiant bases his belief of Coppoc's guilt stated.

It seems to me very desirable that in case you shall deem it your duty again to demand Coppoc from the Executive authority of this State, that no question may arise upon the sufficiency of the papers upon which the demand shall be made, and I have therefore deemed it proper to make to you the above suggestions.

Very Respectfully,
SAMUEL J. KIRKWOOD.