

elty, to deliver up to a severe, perhaps to a fatal, punishment, such as, in the estimation of the citizens of that state, with whom they seek to identify themselves, are but venial offenders — This argument might be carried to a great length, and illustrated by a variety of supposed cases; I will only adduce one. — A man who has stolen a single sheep, the punishment of which, I believe, in no state of the Union, exceeds six months imprisonment, is necessarily subjected, in this country, to the sentence of death. Could it, by possibility, be consistent with humanity, with Christianity, nay, with national policy, deliver up a man as a victim to the sanguinary laws of a neighbouring barbarous country, who, according to the principles of that in which he has found refuge, has only committed such an offence as may be expiated by a short incarceration, after which he may become an useful, perhaps a valuable, member of the society to which he is restored. Forgery stands in a similar predicament. That offence, although, from the modern introduction of a paper currency, as a circulating medium, it has become a high political crime, can not, in any sense, be said to be a greater moral crime than fraud. Both in the States, and under the British law, it is, however, severely visited, but, nevertheless, very dissimilarly; death being the invariable and unavoidable sentence here, and imprisonment for a protracted period, there. Now, supposing that I had been guilty of forgery, than which no infamously false charge was ever made, and even had I been formally required to have been given up by this government, instead of having been kidnapped, as I was, I contend that it would not have become the government of the United States to have complied with the requisition. Moreover, it is held and, in my opinion, most justly, by *Barbeyrac*, the learned commentator on *Grotius*, (*Book II, ch. 21, sect. 4, note 1.*) that no one, not even such atrocious malefactors as all writers on the subject agree ought to be given up upon requisition, should be delivered over, *unless their crime be proven* — it is not mere accusation that is required, but *proof* of crime. I am ready to allow that this proof need not be such as is required upon a trial, but such *prima facie* proof, in the nature of that which is laid before a grand jury, as will warrant so sufficient a presumption of the guilt of the party that he ought to be put upon his defence."

I will only add, that in a recent case, an attempt to take by force three British deserters, who were at Champlain Landing, in the state of New-York, and who were stated to have been also guilty of theft, and the stolen property found upon them; was resisted and resented by the inhabitants of that place, who appear to have had a more just sense of the inviolability of a sovereign territory, and the respect due to the jurisdiction of a foreign state, than the British officer who sanctioned the pursuit,