

of Bangor 7th March 1861

My dear Sir

I learned yesterday that my opinion in relation to the Constitutionality of certain sections of the Revised Statutes had not yet been received. I forwarded it - signed by Judge Kent & myself to the Chief Justice a week last Monday. I had yet received I will draw up another one - if I am telegraphed, so that it may be forwarded by Monday next if possible.

If it should be received today, I will thank you to insert the paragraph here with on the last page but one - ^{of my opinion} next after a quotation from an Opinion of Judge Story.

I am, yours truly
John A. Phelps

It is very common to insert in an act a sweeping clause, the object of which is to guard against any accidental omission. Such general words are never allowed to extend further than was clearly intended by the legislature. The expression "nor aid in his arrest, detention or surrender" was used to guard against any call action by ~~the~~ magistrates by virtue or under color of office. So far as they might act officially in any way, they are prohibited from so acting. If there was any official action which had not been prohibited by what precedes, these words were inserted to supply the omission. This construction is strictly in analogy with that adopted by this Court in *Pulston v. Drew* 37 Mass 558 in which the generality of the Statute that "no action of any kind shall be had or maintained in any court for the recovery or possession of intoxicating liquors or the value thereof" was restricted to actions for such liquors as were intended for

unlawful sale.

The same reasoning is equally applicable to the similar prohibition R S C 80553, which has already been considered.