

that he was miserable in the extreme, and was very anxious to return to this country to make every reparation and atonement in his power for his conduct; that he hoped to be able to make explanations of many matters which now appeared most unfavorable, and to arrange his affairs, and make such settlement of his interests in certain property, particularly as connected with his investments in the coal mines of Maryland, as would greatly lessen, if not entirely liquidate the claims of the United States against him. These representations, or the substance of them, continued to be made after I took my seat at the board, and resulted in the correspondence, as shown by the accompanying copies of letters, which I send, chiefly because I understand it has been represented that *we, as commissioners*, had advised and recommended Mr. Swartwout's return.

"By letters received in this city, it appears Mr. Swartwout had intended to have returned in the *Great Western*, which arrived yesterday, but had not time to make his arrangements, and that he proposed to come out in the next steamer, *via* Halifax and Boston.

"Anticipating Mr. Swartwout's return in the *Great Western*, the late marshal, as you have been informed, intended to have arrested him, and, it is generally understood, will certainly do so on his arrival by virtue of the authority which he claims to possess under a warrant still remaining in his hands unexecuted. Although you are no doubt fully informed as to all the particulars under which process was originally issued against Mr. Swartwout, allow me, if you please, to state the facts, as I understand them, in explanation of the views which I take of the subject."

The writer then proceeds to relate the facts respecting the issuing of the warrant directing "William Coventry H. Waddell, the marshal of the United States for the southern district of New York, commanding him to levy, take, and sell the estate of the said Samuel Swartwout and of his sureties," under the command of which, the marshal from the twelfth of November, 1838, to the twentieth of December, 1838, "did levy on a large amount of property," which, at the time of the writing of this letter, was, in part, still unsold, and as stated by the writer, *no returns of sales having been made, left unascertained what balance would eventually remain due from Samuel Swartwout and his sureties*. Then he quotes from the act of congress, approved September 2, 1789, section 28, that "every marshal or his deputy, when removed from office, or when the time for which the marshal is appointed shall expire, shall have power, notwithstanding, to execute all such precepts as may be in his hands, respectively, at the time of such removal or expiration of office." And he further remarks that it had been decided that no marshal after removal from office could proceed to sell land levied upon by virtue of an execution